

MINUTES – March 11, 2010

THE WEST VIRGINIA BAR FOUNDATION
IOLTA ADVISORY COMMITTEE MEETING
STATE BAR CENTER-CHARLESTON
March 11, 2010

MINUTES

The meeting of the West Virginia Bar Foundation's IOLTA Advisory Committee was called to order by Chairperson Tom Flaherty on March 11, 2010, at the State Bar Center in Charleston.

Members of the Committee in attendance were Roger Osborne, Steve Canterbury, Jim Martin and Bren Pomponio. Also in attendance were Jane Moran from Mountain State Justice and Bob Baker from Legal Aid of WV. Participating by telephone conference call were Professor Charles DiSalvo and Dean Joyce McConnell. Bar Foundation Executive Director Tom Tinder were also in attendance.

The first item on the agenda was a review of the Minutes of the last Committee meeting which was held on December 10, 2009. A motion was duly made, seconded and passed to approve the Minutes as presented.

Chairperson Flaherty requested a report on federal government funding for legal services programs. Mr. Martin stated that three new qualified persons had been appointed and approved to serve on the federal Legal Services Corporation Board of Directors. Initial federal regulations have been distributed relating to permitting legal services programs to receive attorney fees in legal services cases.

The next item on the agenda was a report from the legal services programs. Mr. Martin stated that Legal Aid of WV had a 20% increase in the number of cases handled in 2009 and a 50% increase in telephone guidance matters. Mr. Pomponio and Ms. Moran from Mountain State Justice informed the Committee about the legal work being done at the regional office in Clarksburg.

Chairperson Flaherty requested that Professor DiSalvo provide a report on the activities of the Special Grantees. He said that the CASA program had assisted 1,375 children in 2009 by using 320 volunteers and more than 1,400 volunteer hours. It is moving into two more counties. The Appalachian Center has partnered with Senior Legal Aid and has interns working on domestic violence cases. Senior Legal Aid is applying for a three year demonstration project from the federal government. ChildLaw has three lawyers on staff and is helping 550 children in more than 400 cases. The Public Interest project will have 16-17 law student summer interns and raised more than \$23,000 during its recent auction.

The Committee members reviewed the financial report for the IOLTA program. A chart had been distributed with IOLTA distributions for 2008 and 2009, as well as a comparison of IOLTA receipts from February, 2009 and February, 2010. A reduction from \$510,000 to \$410,000 had occurred from 2008 to 2009, as compared with

reductions of 70-80% in IOLTA funds in the surrounding states. The implementation of the IOLTA Comparability Rule and other administrative actions had helped during the current historically low interest rate environment.

Chairperson Flaherty then requested a financial report. There was a total amount of \$142,000 available for consideration for distribution. After some discussion, a motion was duly made, seconded and passed to set aside \$12,500 as another quarter of the annual administrative fee of \$50,000 to the WV Bar Foundation (the total set aside is \$37,500), increase the amount in the Rainy Day Fund by \$5,000 to a total of \$92,000 (the Committee had previously set a goal of \$200,000 for that Fund) and distribute the amount of \$100,000, in accordance with the Supreme Court Order.

In addition, a one page financial sheet was distributed which provided a proposed income statement that had been put together by Chairperson Flaherty and Committee Member Greear. After some comments were made, a motion was duly made, seconded and passed to use the income statement format in the future.

The next item on the agenda was the proposed Allocations Policy for the IOLTA program. Mr. Canterbury stated that the Supreme Court will be meeting soon with representatives from Mountain State Justice to get some additional information and then the Court will review the allocations policy and the administration of the IOLTA program.

The next item for discussion related to the Comparability Rule for the IOLTA program. Mr. Tinder reported that the initiation of the rule had gone smoothly with the banks and the law offices.

Under Other Business, there was lengthy discussion concerning unclaimed funds in IOLTA accounts that had been reported. The Unclaimed Property Division of the WV Treasurer's Office stated that there was approximately \$450 in seven WV Bar Foundation accounts. A motion was duly made, seconded and passed to request that the Bar Foundation make the formal request for the release of those IOLTA funds from the Treasurer's Office.

Mr. Tinder reported on three other IOLTA bank accounts where there were unclaimed funds based upon the deaths of solo practice lawyers. After some discussion, Chairperson Flaherty appointed My Martin and Mr. Tinder to review these situations with the Lawyer Disciplinary Counsel and the Supreme Court Clerk and report back at the next meeting with any recommended action.

Chairperson Flaherty then requested that Mr. Tinder put together a proposed charter/mission statement for the Committee to consider at the next Committee meeting.

Chairperson Flaherty announced that the next meeting of the Committee would be at 11:00 AM at the State Bar Center in Charleston on Thursday, June 10, 2010.

There being no further business to transact, the meeting was adjourned.