

MINUTES - June 16, 2011

THE WEST VIRGINIA STATE BAR
IOLTA ADVISORY COMMITTEE MEETING
STATE BAR CENTER - CHARLESTON
JUNE 16, 2011 - 11:00 A.M.

MINUTES

1. Call to Order - A meeting of the IOLTA Advisory Committee of The West Virginia State Bar was called to order by Chairperson Thomas V. Flaherty on June 16, 2011, at The State Bar Center in Charleston. Committee members present for the meeting were Thomas V. Flaherty, James Martin and Bren Pomponio. Professor Charles DiSalvo participated by conference call. Anne Werum Lambright, Sue Racer-Troy and State Bar Executive Director Anita Casey were also in attendance.

2. Approval of Minutes of March 17, 2011, IOLTA Advisory Committee Meeting - A motion was made to amend these Minutes to reflect that James Martin was in attendance. Following a short discussion, a motion was made to approve the Minutes, as amended. The motion received a proper second and, upon vote, passed unanimously.

3. Financial Report - Executive Director Casey introduced The West Virginia State Bar's new Finance Director, Sue Troy. She advised that Ms. Troy would be handling all financial matters for The West Virginia State Bar, including the IOLTA Program. Ms. Casey then provided the current balances in the IOLTA accounts with BB&T. The operating account, as of June 16, 2011, had a balance of \$82,230.68. The reserve account, as of May 31, 2011, had a balance of \$88,967.21. Ms. Lambright discussed the need to transfer the monies, previously accrued as a liability for administration of the IOLTA Program, from the IOLTA reserve account to The West Virginia State Bar by June 30, 2011. Thereafter, a motion was made to transfer said sums, and the remaining quarterly sum of \$7,5000, for a total sum of \$30,000, from the IOLTA reserve account to The West Virginia State Bar by June 30, 2011. The motion also directed The State Bar to distribute the monies contained in the operating account on said date to the grantees of the program. The motion, after receiving a proper second, passed unanimously. Thereafter, Mr. Martin requested that The State Bar provide the Advisory Committee with an accounting of the monies contained in both accounts on June 30, 2011.

4. Report From Legal Services Programs -

Legal Aid of West Virginia - Mr. Martin reported that the Congressional funding process was on-going. LAWV had recently received news that the newest funding proposal submitted would keep LSC funds stable, or increase the funding slightly, for the next fiscal year.

Mountain State Justice - Mr. Pomponio reported on the summer interns working for Mountain State Justice.

5. Report From Special Grantees - Professor Di Salvo discussed the West Virginia Access to Justice Foundation which had been created to raise funds for legal, and other, service programs in West Virginia. He reported that WV Senior Legal Aid was working with a coalition against domestic violence to update a handbook which was anticipated to be published by the end of the summer, that the organization's blog had been named to the top twenty elder law blogs in the United States and that a PIA fellow was updating a Question and Answer book for seniors. WV CASA Network was reported as having 291 volunteers serving children throughout the State. The State office recently did a self-assessment which was intended to strengthen CASA's programs. ChildLaw Services of Mercer County opened 78 new cases in 2011. According to information received by Professor DiSalvo from the program's director, the case load remains at 200 cases. Appalachian Center for Law and Public Service launched a "Street Law" program, which has been presented on two occasions. The Service is working with the law firm of Steptoe and Johnson's pro bono coordinator/program. WV Fund for Law in the Public Interest has sent 14 students into the field. This year their program will be able to fund another post-graduate fellowship.

6. Old Business

The amendment to Rule 1.15, proposed by the Supreme Court of Appeals adding an Unidentified Funds Procedure, was discussed by the Committee. Suggested revisions to the Rule, proposed by State Bar Board of Governors member Delby Poole, were also discussed. The Committee had no issues with the changes proposed by Ms. Poole to the Court's proposed amendment but was of the opinion that her proposed second amendment was not germane to the issues at bar and suggested that the same not be accepted by the Board of Governors. Thereafter, a motion was made requesting the Board of Governors to implement any changes the Board felt were needed to the Rule at the Board's next meeting. The Motion contained specific language directing that the Rule not be sent back to the Committee for further review but that it be approved, at the Board's discretion, and be sent to the Court for approval and implementation without further delay. Following a proper second the motion passed unanimously. Thereafter, a motion was made to immediately implement transfer of funds from the James Steptoe Estate, a transfer previously discussed by the Advisory Committee, by advising the Administrator of Estate, Robert Steptoe, that the transfer the funds had been approved by the IOLTA Advisory Committee, with the knowledge of both the Supreme Court of Appeals and the Office of Disciplinary Counsel. Following a proper second, the motion passed unanimously.

7. New Business

A. Ms. Casey advised of the possibility of a CLE related to IOLTA to be held in conjunction with an annual seminar put on by the banker's association, the CPA's association and The West Virginia State Bar. The concept of the CLE programs was favorably received by the Committee. Ms. Casey was directed to check further into the program and the possibility of obtaining funding to proceed with scheduling the same.

B. Ms. Casey reported on the contact she had received from a representative of BB&T

regarding an IOLTA account from One Valley Bank which had not properly been converted to a BB&T account when the banks transferred ownership approximately ten (10) years ago. Following a discussion of the matter, Ms. Casey was directed to contact Richard McCune and request that his office cooperate in determining what the actual interest amounts in the account would have been for the past ten years. Following that determination, Ms. Casey was requested to present the issue to the State Bar Board of Governors for a recommendation on the amount of interest which the Board/IOLTA Advisory Committee would accept in settlement of the matter. It was the recommendation of the Advisory Committee that the Board accept no less than the interest due for a period of seven years, i.e. \$788.07, but strongly suggested that the Board demand the full amount of interest which would have been paid during the ten year period.

C. Ms. Casey discussed a possible revision to the IOLTA Operating Rules which would provide that interest earned on trust accounts for suits and transactions handled within West Virginia be paid to the West Virginia IOLTA program and that the exception allowing for deposit of this interest into out of state accounts be eliminated. Ms Casey was asked to conduct further review of the issue and report to the Advisory Committee at its next meeting.

D. Ms. Casey advised of contacts she had received from two banks and one attorney regarding debit cards being issued on IOLTA accounts. The Committee was of the opinion that the practice was improper and banks and attorneys inquiring regarding the same be so advised.

8. Next Meeting - The next meeting of the IOLTA Advisory Committee will be held on September 15, 2011 at The State Bar Center in Charleston.

9. Adjournment - There being no further business, the meeting was adjourned by acclamation.