

From: Suzanne Marria [mailto:phoenix1951@sbcglobal.net]
Sent: Friday, November 14, 2008 2:19 PM
To: Comments
Cc: jstrandlie@staff.abanet.org; Suzanne Murphy; snoero@worksafe-cosh.org
Subject: RIN # 3064-AD37

Dear Mr Feldman and Counsel:

I write to urge you to amend the current interim regulations to extend TLGP coverage to interest bearing accounts used by attorneys who hold client funds in trust. The interest from these accounts is used by state bar organizations to award grants of funding to organizations that provide legal support services to legal aid offices. The legal aid offices provide legal advice and assistance to the working poor and indigent population on a variety of legal problems - child custody, housing, health care matters, employment, victims of crime, occupational injury and toxic exposures, and more.

The current proposed regulations carry the unintended consequence of encouraging attorneys to move such trust fund deposits to non-interest bearing accounts in order to obtain the FDIC insurance security. There is no policy advantage to adopting the current proposed regulation when it will eliminate millions of dollars of funding across the country now used for this vital community legal service at no cost to taxpayers.

The FDIC and Federal Reserve granted an exception to the banking regulations that prohibited the payment of interest on demand accounts 30 years ago. This led states to create IOLTA rules and programs (programs allowing states to use the interest from such legal trust accounts to be paid for charitable purposes to a third party IOLTA program.) Thirty seven states, including California, require attorneys to deposit client funds that cannot earn net interest for the client into IOLTA accounts. IOLTA programs exist in all 50 states. The state bar organizations and agencies carefully review the grant applicants and monitor program awardee uses of the funding to ensure such funded programs provide valuable support services for the legal aid programs in the state.

As written the interim rule creates an ethical, fiduciary dilemma for attorneys holding significant client funds, i.e. whether to keep the funds in the interest bearing IOLTA account or move the funds in a fully insured non-interest bearing account. Surely after 30 years of providing an exception for IOLTA accounts, there is no sound policy reason to jeopardize this source of funding to support necessary legal aid services for the working poor and indigent.

Sincerely,

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