



NEVADA LAW FOUNDATION

Via e-mail

November 12, 2008

Sheila Bair
Chair, Federal Deposit Insurance Corporation

EXECUTIVE DIRECTOR:

Suzan Baucum, Esq.

Re: TLGP exception for lawyer trust accounts (RIN 3064-AD37)

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Dear Chairman Bair:

The Nevada Law Foundation fervently supports and joins the October 22, 2008 ABA position statement to the FDIC by Mr. Susman stating that for the purposes of the TLGP and its attendant protections, IOLTA accounts must be construed as non-interest bearing transaction accounts.

As the foundation responsible for administering IOLTA funds in Nevada, we concur that clearly there is precedent in the existing exceptions in federal regulations allowing payment of interest on these demand accounts (which inure only to the benefit of third-party, non-profit IOLTA programs assisting the poor and disadvantaged). The same thoughtful process which promulgated this exception to create IOLTA in principle in the 1980s must logically extend to the analysis applied to the emergency measures currently contemplated by the TLGP.

Nevada this year joined as one of the 37 states with a mandatory IOLTA program. The Foundation gave out almost one million dollars in grants last year from IOLTA, a great deal of which was emergency funding. This year, the Foundation and the Nevada Supreme Court Access to Justice Commission have devoted many hours and resources to negotiating with our banking industry to improve upon deplorable IOLTA interest, as low as .001 percent. If not remedied, the TLGP will unintentionally severely undermine those efforts in 2009.

The TLGP most certainly puts lawyers in direct conflict between the ethical initiatives of IOLTA and the ethical imperative to safeguard client funds in an unprecedented uncertain banking climate. By not extending the same exceptions currently provided to IOLTA under federal regulations to the TLGP, the result is potentially disastrous in a fiscal year that is already facing excruciating strain and uncertainly for our public service civil law programs around the country.

The very economic crisis the TLGP is created to address is causing a groundswell of new impoverished clients for the legal aid providers who rely on IOLTA funding. The guardians of these funds have a moral imperative to ensure the remedy for one crisis isn't contributing to a new class of victims.

Sincerely,

Carolyn Myers, Esq., Chairperson