

LEGISLATORS

Rep. Ed Blackmon, Mississippi House of Representatives
Sen. Gray Tollison, Mississippi Senate

GOVERNOR'S OFFICE

Paul Hurst, Office of Governor Haley Barbour

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Rev. Stan Buckley, First Baptist Church Jackson
Rev. Hosea Hines, College Hill Baptist Church

MEDIA

Ricky Mathews, The Biloxi Sun Herald

LEGAL COMMUNITY

Reuben Anderson, Phelps Dunbar
Martha Bergmark, Mississippi Center for Justice
Sam Buchanan, Mississippi Center for Legal Services
Jayne Buttross, Mississippi Legal Services Foundation
Ben Cole, North Mississippi Rural Legal Services
Jaribu Hill, Mississippi Workers' Center for Human Rights
Amanda Jones, Bradley Arant Rose & White, LLP
Ben Piazza, Mississippi Volunteer Lawyers Project
Carlton Reeves, Pigott Reeves Johnson
Constance Slaughter-Harvey, Attorney at Law

LEGAL EDUCATION

Dean Samuel M. Davis, University of Mississippi School of Law
Dean Jim Rosenblatt, Mississippi College School of Law

JUDICIARY

Judge Donna Barnes, Mississippi Court of Appeals
Judge Margaret Carey-McCray, Circuit Court District Four
Justice Jess Dickinson, Mississippi Supreme Court
Justice James E. Graves, Jr., Mississippi Supreme Court
Judge Denise Owens, Chancery Court District Five
Chief Justice Rae Nell Vaughn, MS Band of Choctaw Indians

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Bill Bynum, Enterprise Corporation of the Delta
John Hairston, Hancock Bank
Joy Lambert Phillips, Hancock Bank
Kenneth Williams, Coca-Cola Bottling Works
Blake Wilson, Mississippi Economic Council

OTHER COMMUNITY LEADERS

Mayor Betty Fowler, City of Sunflower
Derrick Johnson, Mississippi NAACP

November 12, 2008

Sent Via Email Only

Board of Directors
Federal Deposit Insurance Corporation
Washington, DC

To the FDIC Board of Directors:

As Co-Chairs of the Mississippi Access To Justice Commission, created and appointed by the Mississippi Supreme Court, we are writing to you on behalf of the Commission and its members to urge you to provide full FDIC insurance coverage for IOLTA accounts, regardless of dollar amounts. The Mississippi Access To Justice Commission is comprised of approximately 30 voting and non-voting members that include judges, attorneys, community leaders, legal service providers, and members of the business community. The Commission was created approximately 2-1/2 years ago and was charged by the Mississippi Supreme Court with investigating, developing and implementing strategies and policies to provide economically disadvantaged Mississippians with greater access to civil legal assistance. Funding from IOLTA accounts is an integral part of any strategy for providing greater access to civil legal assistance. The Mississippi Supreme Court only recently made participation in IOLTA mandatory; increasing participation from an opt- out practice to a mandatory requirement has increased IOLTA funding dramatically.

We applaud the FDIC's efforts to strengthen confidence and encourage liquidity by providing full coverage of non-interest bearing deposit transaction accounts regardless of the dollar amount; however, the unintended consequence of this interim rule is that a client's total funds in one financial institution, including the amount in an IOLTA account exceeding \$250,000, are eligible for unlimited insurance only if they are moved to a covered "non-interest bearing transaction account". These IOLTA accounts are effectively the same as the covered non-interest bearing deposit transaction accounts. They are no more than pooled client funds and interest is not earned for any individual client, nor does the attorney benefit from the account. In fact, almost 30 years ago the FDIC granted an exception to banking regulations to even allow the payment of interest on these types of accounts.

The interest generated from IOLTA accounts is paid to IOLTA programs that issue grants for the provision of civil legal aid to the poor, the administration

MISSISSIPPI **Access to Justice** COMMISSION

JUSTICE *for* ALL

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of justice and law related education, all of which are vital to our country's guarantee of equal access to justice for all. It is not practical to separate these funds to keep them below the \$250,000 coverage limit per client. While the need for IOLTA generated income is great, a lawyer's paramount responsibility is his or her fiduciary duty to maintain security of client funds. Mississippi lawyers that are holding significant client funds are now placed in a position of deciding whether to continue to use their IOLTA accounts, as mandated by Supreme Court rules, or to place their clients funds in fully insured non-interest bearing deposit transaction accounts, thus fully protecting the funds but violating Supreme Court rules. The Mississippi Bar and The Mississippi Bar Foundation have already received questions from attorneys seeking guidance on these ethical issues.

A revision by the FDIC Board to provide full coverage for IOLTA accounts would eliminate the ethical dilemma Mississippi attorneys face and would ensure that our IOLTA program, as well as those in other states, would not lose a primary source of funding for civil legal aid for the poor. We thank you for your consideration of this important matter and hope that you will recognize that IOLTA accounts share the same characteristics as non-interest bearing deposit transaction accounts for all intents and purposes. If we can provide any additional information we would be happy to do so.

Sincerely yours,



Joy Lambert Phillips
Co-Chair, Access to Justice Commission



Judge Denise Owens
Co-Chair, Access to Justice Commission