

November 13, 2008

Sheila C. Bair
Chair, Federal Deposit Insurance Corporation
550 17th Street, NW
Room 6028
Washington, D.C. 20429

Attention: Comments Re: RIN # 3064-AD37

Re: Clarification/Exception Needed to Temporary Liquidity Guarantee
Program (TLGP) To Protect Lawyer Trust Accounts

Dear Ms. Bair:

As Chair of the New York State Assembly Judiciary Committee I am writing to comment on the impact that the FDIC's Temporary Liquidity Guarantee Program will have on IOLA funding for civil legal services programs in New York State. A change is needed to expand this coverage to include Interest on Lawyer Account Funds (IOLA) as non-interest bearing accounts to protect this essential funding stream for non-profit organizations providing civil legal services to the poor.

In October of, 2008, the FDIC announced the Temporary Liquidity Guarantee Program to "strengthen confidence and encourage liquidity in the banking system by guaranteeing newly issued senior unsecured debt of banks, thrifts, and certain holding companies, and by providing full coverage of non-interest bearing deposit transactions accounts, regardless of dollar amount."

Unfortunately, by inadvertently excluding IOLA accounts from unlimited coverage, attorneys who place client funds in these special accounts are now in a quandary regarding their fiduciary duty. In a non interest bearing business account attorneys can be assured of the safety of these funds, whatever the amount. While it is true that funds worth up to \$250,000 are covered in IOLA accounts, that amount includes any funds held in separate accounts by the individual providing the IOLA funds that are also held at the same financial institution.

The statutory limit in coverage requires an attorney, as a prudent fiduciary, to inquire each time funds are received where the individual did their banking and how much was placed in each account. In the event that there is already an account holding funds at or near the statutory limit in the same bank that the IOLA account is located, another IOLA account would have to be opened by the attorney at a different financial institution. It is easy to see that this situation creates a logistical nightmare for attorneys who would

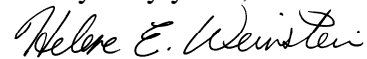
instead seek to protect client funds in a single non-interest bearing account providing unlimited coverage.

When IOLA accounts were first created by the New York State Legislature in 1983, the FDIC created an exception to Regulation D, to allow payment of interest on this type of account to IOLA, in recognition of the important public benefit provided by these funds. To date, IOLA has provided more than \$250 million in grants to not for profit providers of civil legal services. In these difficult financial times, civil legal service programs are already confronted with the harsh reality of proposed funding cuts as New York faces historic budget shortfalls. Therefore now, more than ever, it is essential to ensure the future of IOLA.

I urge you to act quickly to protect IOLA accounts by considering them non-interest bearing, as interest in this type of account does not inure to the benefit of the account holder. In the alternative, an exception should be made in the interim rules to provide unlimited deposit insurance to IOLA accounts.

Thank you for your time and consideration regarding this matter. I would be happy to provide further information at any time.

Very truly yours,

A handwritten signature in cursive script that reads "Helene E. Weinstein".

Helene Weinstein
Chair, Judiciary Committee
New York State Assembly

