



THE STATE BAR
OF CALIFORNIA

HOLLY J. FUJIE
PRESIDENT

November 13, 2008

Mr. Robert E. Feldman
Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 – 17th Street, NW
Washington, DC 20429

Re: Comments RIN #3064-AD37

Dear Mr. Feldman:

I am writing on behalf of the State Bar of California, which is the mandatory bar for 161,000 active attorney members in California. The State Bar of California fully supports the request of the American Bar Association and the National Conference of Bar Presidents to include Interest On Lawyers' Trust Account ("IOLTA") in the unlimited insurance coverage offered under the Temporary Liquidity Guarantee Program ("TLGP"). I write this letter because this issue is critically important to the approximately 64,000 attorneys that hold 37,000 IOLTA accounts in California, and to ensure justice for California's most vulnerable residents.

Among other responsibilities, the State Bar of California administers the IOLTA program, which was first created by statute in 1981 to "expand the availability and improve the quality of existing free legal services in civil matters to indigent persons." The IOLTA statute, codified at Business & Professions Code Sections 6210 et seq., requires that an attorney who holds client funds that are too small an amount or on deposit for too short a period of time to earn interest for the client, be deposited in a pooled account, the interest or dividends of which is paid to the State Bar of California to be used to provide free legal aid to indigent people.

The IOLTA program is one of the cornerstones of the State Bar. Since inception of the IOLTA program in California 25 years ago, over \$300 million in IOLTA revenue has been granted to nonprofit organizations that provide civil legal aid to low income people. Currently, there are 97 legal aid programs that this year will be supported by almost \$13 million in IOLTA grants. These legal aid programs provide an impressive array of services from protecting

"To Improve the Justice System and Assure a Free and Just Society Under the Law"

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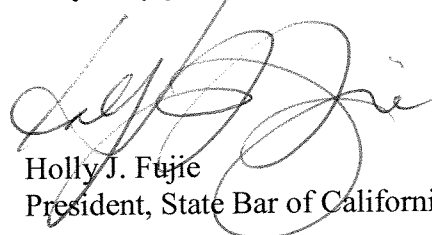
children from domestic violence, to creating economic development projects or ensuring that veterans obtain needed health benefits.

The news is full of stories of how the failing economy is impacting families. For example, in one day (November 12, 2008), the San Francisco Chronicle carried these headlines: "Homes 'Upside Down'" (20% of bay area homeowners who are "underwater" because they owe more on their mortgages than their homes are worth); "Homeless Vets' Tenderloin Treat" (2,100 homeless veterans in San Francisco). Another headline proclaims "Budget guru warns state deficit might be near \$28 billion." Thus, even as a failing economy exacerbates the legal needs of the 6.4 million poor people in California, the failing economy reduces the funds – government, foundation, private and IOLTA – available to serve those people. Sadly, the faces behind the statistics are real people with real needs. In 2006, the faces behind these statistics were 19% children (42% of children living in single-mother families), 20% African American and Latino, 31% of poor families supported by a full-time worker and another 39% of poor families supported by a part-time worker.

Because the State Bar is the entity responsible for regulating and disciplining attorneys, I also am concerned about the competing responsibilities that attorneys both safeguard client funds and comply with the statutory mandate to deposit short term and nominal funds into an IOLTA account, which under the current TLGP framework may not be fully covered by FDIC insurance. The only other option – establishing multiple accounts at various financial institutions for amounts over \$250,000 for a client – is not a viable solution. Not only is it not feasible because attorneys cannot know whether a client may have their own accounts at the same financial institution in which IOLTA is held, but also because funds may be on deposit for very short periods of time. In addition to the burden on attorneys, monitoring compliance with the legal and ethical obligations under this scenario will come at significant cost to State Bar staff.

Please help attorneys safeguard their client trust funds, and protect access to justice for vulnerable citizens in California and nationally, by including IOLTA accounts among those receiving full FDIC insurance coverage regardless of dollar amount under the TLG Program.

Very truly yours,



Holly J. Fujie
President, State Bar of California