

November 7, 2008

VIA EMAIL: (comments@fdic.gov)

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

ATTN: Comments RIN #3064-AD37A

Dear Mr. Feldman:

As a member of the Board of Governors of The Florida Bar I urge the FDIC to include IOLTA accounts within the unlimited insurance coverage of the Temporary Liquidity Guarantee Program (TLGP). Failure to do so will result in the loss of millions of dollars in IOLTA funds that are used for the provision of civil legal services to the poor, the administration of justice and law related education – all of which are vital to our democratic system's guarantee of equal access to justice for all.

IOLTA accounts act as clearing accounts for pooled client funds held in trust by a lawyer. Funds are placed in IOLTA accounts because they cannot earn interest for an individual client net of banking charges and administrative fees. Client funds pooled in an IOLTA account are either nominal in amount or significant amounts held only long enough for a check to clear or for the attorney to disperse the funds. Typical funds held by a lawyer on behalf of clients include court filing fees, real estate escrows, settlements and retainers.

Today, IOLTA programs have been established by the supreme courts or legislatures of all 50 states; 37 states *require* lawyers to deposit client funds that cannot earn net interest for the client in IOLTA accounts. While the need of legal services programs for IOLTA-generated income is great, the paramount responsibility of lawyers is their fiduciary duty to maintain security of client funds. Under the current TLGP Interim Rules, lawyers holding client funds for a short time exceeding \$250,000 must consider whether to continue to use their IOLTA accounts or to place their client funds in a fully insured, non-interest bearing deposit transaction account. Establishing multiple accounts at various financial institutions for amounts over \$250,000 is not a viable solution; the lawyer may not even know whether a client's cumulative funds deposited in a single institution exceed the \$250,000 ceiling for insured funds, and it is not practical to separate a large deposit that is simply in the IOLTA account just long enough for the check to clear.

If lawyers move their IOLTA-eligible trust account funds to non-interest bearing accounts, the interest income received by IOLTA programs would be greatly reduced. IOLTA programs nationwide provided more than \$212 million dollars in 2007 for the provision of civil legal services to the poor, making it the second largest source of such funding in the country. Therefore, it is critical that the FDIC extend the unlimited insurance coverage of the TLGP to IOLTA accounts.

For the above reasons, I respectfully request that the FDIC include IOLTA accounts in the full insurance available under the new TLGP. I appreciate your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John M. Stewart", with a horizontal line extending to the right.

John M. Stewart

JMS/kkg