

November 4, 2008

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

ATTN: Comments RIN #3064-AD37

Dear Mr. Feldman:

The Massachusetts Legal Assistance Corporation urges the Federal Deposit Insurance Corporation to include Interest on Lawyers Trust Account (IOLTA) program accounts when it issues its final rule on the TLGP. Unless IOLTA accounts are included under the TLGP, there will be a devastating effect on the ability of low-income people in this nation to gain access to legal assistance on critical legal problems.

MLAC, the largest funding source for civil legal aid in Massachusetts, is projecting a 54 percent decrease in the income it receives from IOLTA this fiscal year, which began July 1. As a result, MLAC has been forced to reduce its general support grants to the 18 legal aid programs it funds by nearly 40 percent, from \$22 million last fiscal year to \$13.5 million this year. These are the most extreme cuts ever made in the 25-year history of MLAC.

The reduction in IOLTA income was created by an unfortunate confluence of circumstances. Due to the drop in the Federal Reserve benchmark interest rate, coupled with a decrease in real estate and corporate transactions, the funds derived from the IOLTA program have steeply declined. Established by the Supreme Judicial Court in 1985, the IOLTA (Interest on Lawyers' Trust Accounts) program requires lawyers holding funds on behalf of clients to deposit them in IOLTA accounts, if the funds are modest and are to be held only for a short time. The pooled interest from IOLTA accounts is used to fund civil legal aid for low-income people. The ability to pay interest on IOLTA accounts is based on an exception the FDIC and the Federal Reserve granted almost 30 years ago allowing banks to pay interest on demand accounts. As the interest earned on IOLTA accounts is paid for charitable purposes to a third party, in Massachusetts the IOLTA Committee of the Supreme Judicial Court, such accounts are non-interest bearing for the lawyers who establish them and their clients.

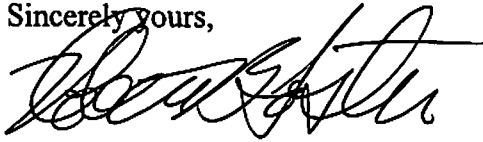
The IOLTA program is the largest single source of funding for civil legal aid in Massachusetts and the second largest source nationwide. Assuming there are no further funding cuts; MLAC anticipates that the reductions imposed in this fiscal year will result in a drop of at least 18 percent in client services statewide. That means approximately 20,000 low-income individuals and family members will be left without the legal help they need – including tenants losing their homes to landlord foreclosures, parents wrongly denied health coverage for their children and elders facing bankruptcy. These cuts and certainly any further cuts undermine the ability of

Massachusetts and the other states to assist in supporting our democratic system's guarantee of equal access to justice for all.

We recognize that lawyers have an ethical and fiduciary responsibility to maintain the security of client funds. Lawyers in Massachusetts holding significant amounts of client funds in IOLTA accounts for short periods of time should not be required to consider whether to continue to use their IOLTA accounts, as required by the rules of the Supreme Judicial Court, or to place those funds in a fully insured, non-interest bearing deposit transaction account. The current TLGP Interim Rule might encourage lawyers to move some or all of their trust accounts out of IOLTA accounts which would greatly reduce the interest income generated by the Massachusetts IOLTA program and further reduce funding for civil legal aid in the Commonwealth.

I urge the FDIC to include IOLTA accounts within the scope of the final TLGP regulation in order to carry out the intent of Congress and to maintain the availability of civil legal aid to at least some of the low-income residents of Massachusetts and the rest of the nation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert B. Foster", written in a cursive style.

Robert B. Foster
Chair, MLAC Board of Directors