

IOLA Fund of the State of New York
Meeting of the Board of Trustees – New York, NY
December 6, 2023
FINAL

Present: Chair Davis, Trustee Madigan
Public
Videoconference: Trustees Cirando, Galowitz, Lindenauer, Lopez-Soto, Ross, and Villaverde
Absent: Trustee Dunham
Staff: Agard, Fecko, and O'Malley

- 1. Call to Order.**
The meeting was called to order by Chair Davis at approximately 12:21 p.m.
- 2. Approval of the minutes of the meetings of the Board of Trustees held on September 27, 2023 and November 13, 2023.**
The minutes of the above meetings were reviewed. Trustee Cirando moved to approve the minutes, seconded by Trustee Villaverde, and the Board approved the motion unanimously.
- 3. Executive Session**
Chair Davis made a motion to enter into Executive Session to consider (1) matters relating to the employment of a particular corporation, (2) the employment of a particular person, and (3) the financial history of a particular corporation, which was seconded by Trustee Madigan and approved without objection. While in Executive Session, Trustee Galowitz made a motion to approve a Resolution relating to the application of Section 169 of New York Executive Law to the IOLA Fund, which was seconded by Trustee Madigan and approved by a vote of 6 in favor, 0 opposed, and 1 abstention (copy attached).
- 4. Resolution to Hire Executive Search Firm**
Upon return to open session, Trustee Cirando made a motion to authorize the IOLA Fund to contract with the first executive search firm (referred to by the Board as "A") that made a presentation to the Board during the prior executive session. The motion was seconded by Trustee Lindenauer and approved by a unanimous vote of 7-0.
- 5. Executive Report**
Mr. O'Malley provided an update on the Justice Infrastructure Project, as summarized in his written report. Mr. O'Malley then introduced Neil Steinkamp from Stout, the firm that will serve as the project manager for the Justice Infrastructure Project. Mr. Steinkamp first described his background and training, and then provided an overview of his substantial experience working on a range of civil justice projects in New York State, noting the strong relationships he has developed with leadership in the New York State Court system, legal services provider community, and non-profit, community-based organizations. Finally, Mr. Steinkamp discussed the stakeholder engagement plan, which will include

information gathering sessions in each of IOLA's geographic units. Trustee Lindenauer encouraged outreach to the Office on Indigent Legal Services, which Mr. Steinkamp agreed was a good idea and he encouraged other Board members to forward any other ideas for stakeholder engagement. Mr. O'Malley thanked Mr. Steinkamp for his presentation and stated that he expected to invite Mr. Steinkamp to report to the Board again at key points in the Project.

6. Administrative and Financial Report

Ms. Agard reported that the cash on hand as of October 1 was about \$301 million with preliminary interest earnings in October of \$19.3 million, grant expenses of \$1.9 million, and administrative expenses of \$148k, leaving over \$319 million on hand as of November 1.

Turning to administrative expenses, Ms. Agard noted that the total for October was \$143k and year to date was \$1.1 million, out of a total annual budget of \$1.984 million. Ms. Agard stated that we are on track with the annual budget.

Turning to the most recent, final interest data, Ms. Agard reported that the net yield in September was 2.66% with the average daily balances holding fairly steady at \$8.82 billion. The monthly revenue for October 2023 was \$19.3 compared with \$9.9 million in October 2022. Likewise, year to date revenue is \$135 million versus \$36 million last year.

7. Counsel's Report

Ms. Fecko referenced her written report and highlighted a few items. As to grantee matters, Ms. Fecko noted that she continued to devote significant time to the Justice Infrastructure Project. She reported on her presentation to the Attorney Emeritus Project Advisory Council, which included not only IOLA grantee's AEP work, but also provided an introduction to the IOLA data visualizations on the IOLA website. Several Council members congratulated IOLA on the improved and user-friendly data. Ms. Fecko noted her participation in weekly meetings of an ad hoc Newcomers Philanthropy Working Group, organized by the New York Community Trust, to share information about and coordinate support for recent migrants.

With regard to bar association matters, Ms. Fecko described her role in planning and leading sessions at the recent NAIP conference in Columbus, Ohio, a joint effort with the ABA Commission on IOLTA and the ABA Access to Justice Chairs. Ms. Fecko relayed that she had been contacted by the IOLTA programs in the US Virgin Islands and Vermont for guidance on improvements to their programs. Finally, Ms. Fecko announced NYSBA's release of the 5th edition of "Attorney Escrow Accounts," which includes a chapter on IOLA that she wrote.

Turning to bank compliance, Ms. Fecko reported on the latest round of compliance reviews, issued to 25 banks (those with over \$5 million on deposit and paying less than 1.00% interest). Fifteen banks have been completed with a total annual estimated annual interest increase of \$2.7 million. Overall, 2023

bank compliance efforts have yielded approximately \$12.5 million in annual interest increases.

Finally, Ms. Fecko referenced recent news articles in the Board packet that feature grantee work, including a class action settlement on government benefits wrongfully denied over ownership of cars with little equity (Empire Justice and Legal Services of Central New York), passage of the Clean Slate Act (a broad coalition that included many IOLA grantees), and legal assistance efforts to support recent migrants with asylum and work permits (New York Immigration Coalition, Immigrant ARC, and others grantees). Trustee Lopez thanked Ms. Fecko for drawing attention to the grantee work and announced a recent success by NYLAG and Arnold & Porter in a nationwide federal class action related to pandemic-related administrative errors that caused the Social Security Administration to improperly charge low-income recipients with overpayments.

8. Meetings

After discussion, the Board set its 2024 meeting schedule, at noon in IOLA's New York office, as follows:

March 13
June 5
September 27
December 4

There being no further business before the Board, the meeting was adjourned at approximately 3:01 p.m.

Respectfully submitted,
Christopher B. O'Malley
Executive Director