IOLA Fund of the State of New York
Meeting of the Board of Trustees – New York, NY
September 27, 2024
FINAL

Present: Chair Davis, Trustees Dunham and Lindenauer

Public Videoconference: Trustees Cirando, Galowitz, Madigan, Ross and Villaverde

Staff: Fecko, Nyiendo and Agard

1. Call to Order.

The meeting was called to order by Chair Davis at approximately 12:05 p.m. Remarks by Chair Davis welcoming Ms. Fecko as the new Executive Director and Ms. Nyiendo as the new General Counsel.

2. Approval of the minutes of the meetings of the Board of Trustees held on June 5, 2024 and August 2, 2024.

The minutes of the above meetings were reviewed. Trustee Lindenauer moved to approve the minutes, seconded by Trustee Madigan, and the Board approved the motion unanimously.

3. Executive Report

Ms. Fecko reported on the completion of the search for General Counsel, noting that there were over 100 applicants. Ms. Fecko welcomed Ms. Nyiendo as the new General Counsel. Ms. Fecko noted that Ms. Nyiendo will generate a General Counsel report starting with the next Board meeting.

Ms. Fecko reported that the Transition Committee has been meeting monthly. Ms. Fecko reported that the Chair intends to convene a Strategic Planning Committee. Ms. Fecko requested the Board authorize up to $50,000 to retain a consultant to work with the Strategic Planning Committee. Trustee Lindenauer moved to approve the motion and Trustee Cirando seconded. Discussion ensued. Trustee Villaverde moved to amend the motion to authorize up to $45,000 for a consultant. Chair Davis seconded. Motion was approved unanimously.

Ms. Fecko discussed the pending grant contract modifications. For FY ’24 and ’25, there are 70 grants that have now been modified to provide an additional $10 million appropriation in FY ’25, eight grants that are in the process of being modified, and two that are on hold.

For FY ’26-’30, Ms. Fecko reported that an RFP has been released providing for up to $562.5 million over a five-year period. The applications are due on October 28. On October 2 at 10 a.m., we will be doing a Bidder’s Conference. To date, we have 140 pre-registrants. The Grants Committee is scheduled to meet on December 10, with final decisions on grant applications made by the Board at the

Board meeting on Dec 17. The Board has a new portal to access the applications and we will be training the Board on how to access the materials.

Ms. Fecko reminded the Board that, although we are not required to follow the lobbying prohibition under state law since grants are excluded, we nevertheless will so as to avoid an appearance of any impropriety and to promote fairness in the applications process. Moreover, once the application period has closed, Ms. Nyiendo will circulate to the Board a list of applicants for a conflicts check.

The upcoming 5 year grant cycle is dependent upon state budget considerations. DOB has approved us moving forward with a five year grant term, but advised that it could not approve an RFP that would exceed the annual funding already built into the current financial plan. We will continue conversations with DOB later in the Fall and during the appropriations process regarding the IOLA Fund's annual budget. We intend to advocate to DOB for a budget appropriation in line with our Board's grant authorization of an RFP up to $562.5 million over a five year period.

Ms. Fecko advised that she met recently with elected and other state officials, including Senators Krueger and Hoylman-Sigal, as well as the Secretary to the Assembly Ways & Means Committee, and the Director of Senate Finance. Ms. Fecko provided information to them on the IOLA Fund and a one-page overview of IOLA's concerns; as well as a graph depicting the volatility of interest rates over the last 20 years.

Ms. Fecko reported that the Office of Court Administration (OCA) reached out to her to discuss shifting the $18 million sub-allocation from IOLA back to OCA. Ms. Fecko and Ms. Nyiendo have a meeting with OCA in early October to discuss.

Ms. Fecko advised that earlier in the week she and Ms. Nyiendo attended the biannual NYSBA Partnership Conference in Albany where we engaged with over 500 civil legal aid attorneys and advocates from the non-profit community. Ms. Fecko also conducted a CLE over the summer with the NYC Bar, and will be doing another one through NYSBA on September 30, as well as one sponsored by the Monroe County Bar Association later this year, and one sponsored by the Third Department. Ms. Fecko and Ms. Nyiendo will be attending the ABA Forum on Building Access to Justice For All in California on October 23-25. Ms. Fecko will be moderating two plenary sessions on IOLTA programs and supporting generative AI in legal aid projects.

Ms. Fecko advised that the annual report is in the process of being finalized and should be circulated to the Board and state partners in a few weeks.

Ms. Fecko reminded the Board that the annual ethics training is due on December 31. It can be conducted online and is a recorded video.

Ms. Fecko congratulated Trustee Villaverde for his election as the President of the Bronx County Lawyers Association.

4. Administrative and Financial Report

Ms. Agard provided an overview of the Administrative Report. Ms. Agard reported that the cash balance in the beginning of July was approximately $468 million with interest earnings in the month of July of approximately $20 million, grant expenses of approximately $8 million, and administrative expenses of $168,000. The STIP revenue in July was nearly $2.2 million, leaving over $483 million on hand as of August 1.

Turning to the interest data, Ms. Agard reported that 169 banks reported in June with a net yield of 2.60%. There were approximately $21.43 million in deposit revenue in June. The average daily balances of $9.4 billion are just above the 12-month average of $8.7billion.

The year-to-date interest revenue is approximately $84 million.

With respect to the state's FY '25 Budget transfer of $55 million from IOLA to other government programs, Ms. Agard reported that $40 million has already been reappropriated (to fund the Attorney General's homeowner protection program) with the remaining $15 million (to fund an OTADA eviction prevention program) still untouched in our fund.

Ms. Agard reported that the Federal Reserve met last week, and reduced interest rates by 50 basis points. We have sent letters to our Safe Harbor banks advising them of their obligations, and have started to receive requests from banks for rate changes to IOLA accounts. The benchmark rate will go down to 3.0% from 3.3%. The Fed has signaled that it will likely cut interest rates again by the end of the year as well as into the next year.

5. Justice Infrastructure Project

Ms. Fecko introduced Mr. Neil Steinkamp, IOLA Fund's consultant from Stout, who has been working with us on the Justice Infrastructure Project (JIP). Ms. Fecko and Mr. Steinkamp reported on the progress of the project.

Ms. Fecko advised that we posted on September 25 on our website three documents pertaining to the JIP: Phase I, Vision, and Phase II. Ms. Fecko and Mr. Steinkamp discussed the content of the three documents.

In brief, with respect to Phase I, Mr. Steinkamp discussed the broad listening sessions we engaged in with numerous stakeholders to hear where they felt the gaps in service lay and where the need remained. These stakeholders included legal and non-legal sources, and were in-person meetings, video meetings, as well as online website input.

With respect to the Vision and Phase II, Ms. Fecko relayed that we intend to create a statewide support function for legal services organizations; and a

statewide legal information and referral for the public. These functions include, but are not limited to, a coordinated knowledge management system, a call center, coordinated public outreach, tech support, and use of generative AI.

Ms. Fecko advised that she is continuing to solicit feedback on the Vision over the next few months. We intend to wrap up Phase II around February 2025.

Ms. Fecko spoke on two panels at the NYSBA Partnership Conference last week in Albany about the JIP, and it was well received by the non-profit community.

Mr. Steinkamp left the meeting.

5. Next Meeting

The next Board meeting is Tue December 17 at 4pm in the IOLA Fund offices. We will discuss grant applications at that time. The Grants Committee is meeting on December 10 at a time to be determined.

6. Executive Session

Chair Davis made a motion to enter into Executive Session to consider matters relating to financial matters on two organizations, and potential litigation, which was seconded by Trustee Lindenauer and approved without objection.

There being no further business before the Board, the meeting was adjourned at approximately 2:30 p.m.

Respectfully submitted,
Licha Nyiendo
General Counsel