

The ALABAMA LAW FOUNDATION

newsletter

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MAKING A
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WORKING THROUGH THE DETAILS OF A NEW PROGRAM

SUPPORTING ALABAMA'S NEXT GENERATION OF LAWYERS

The Alabama Law Foundation, the only charitable tax-exempt organization affiliated with the Alabama State Bar, strives to make access to civil justice and education to all Alabama citizens a reality.

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ALABAMA LAW FOUNDATION

Winter 2009

INVESTING IN A BRIGHT FUTURE

WORKING THROUGH THE DETAILS OF A NEW PROGRAM

The beginning of 2008 marked a new era for justice in Alabama. In 2008, the Alabama Law Foundation hailed the implementation of mandatory IOLTA as a landmark event toward helping the many families in need of civil legal aid. As 2008 came to a close, the financial crisis propelled some changes in Federal Deposit Insurance for interesting bearing accounts that might have complicated IOLTA accounts. However, the FDIC took action to fully insure individual client funds deposited in IOLTA accounts regardless of the amount. Information and details of the program are important for all attorneys.

FDIC COVERAGE AND ALABAMA ATTORNEY TRUST ACCOUNTS

The Federal Deposit Insurance Corporation (FDIC) announced on November 21, 2008, that effective immediately, client funds deposited in IOLTA accounts at participating financial intuitions are eligible for unlimited deposit insurance coverage as part of the Temporary Liquidity Guarantee Program (TLGP). All funds in an IOLTA account, regardless of size, will now be insured in full by the FDIC and backed by the full faith and credit of the United States Government, as part of the Temporary Account Guarantee (TAG) provisions of the TLGP. Financial institutions opting out of the TAG coverage must display a notification to customers. Because they are fiduciary accounts, deposit insurance is based on the amount each client has in the account, not the overall balance of the account.

H. Thomas Wells, Jr., President of the American Bar Association and member of the Alabama State Bar, made the following statement:

“We applaud the Federal Deposit Insurance Corporation for clarifying the Temporary Liquidity Guarantee Program to include interest on Lawyer Trust Accounts. . . the FDIC has acted to protect client funds and assure continued funding for programs that provide legal aid to poor people when economic uncertainties made the need for legal guidance most critical.”

Wells expressed the importance of the ruling succinctly, “With today’s action by the FDIC, IOLTA programs can continue to make a real difference in the lives of low-income Americans.”

‘PROGRAM’ CONTINUED ON PAGE 2



WHAT CAN LAWYERS DO TO MAXIMIZE FDIC INSURANCE COVERAGE OF CLIENT FUNDS?

In order for client funds to be covered up to allowable limits, the fiduciary nature of the account must be disclosed in the bank's deposit records (i.e. John Q Attorney, IOLTA Account, Jane Doe Client Trust Account). Also, lawyers or law firms must keep good records on the names and ownership interest each client has in that account through their account records or by the deposit records maintained by the bank. See the following link for information: <http://www.fdic.gov/deposit/deposits/insured/faq3.html>

'PROGRAM' CONTINUED BELOW

THE ALABAMA LAW FOUNDATION IS THE ONLY 501 (C) (3) CHARITABLE, TAX-EXEMPT STATEWIDE ORGANIZATION WHOSE PRIMARY MISSION IS TO PROVIDE CIVIL LEGAL AID TO LOW-INCOME ALABAMA CITIZENS.

'PROGRAM' FROM ABOVE

Even before IOLTA existed, it was the responsibility of the lawyer to act in a prudent fashion when selecting a financial institution in which to place client funds. Lawyers can ask their banks for a copy of their ratings with one of the two chief rating services used by financial institutions. A list of bank rating services is also available on the FDIC's web site at <http://www.fdic.gov/bank/individual/bank/>

Check to see if their bank is participating in the TAG.

For additional information or questions contact the foundation at (334) 269-1515.

CERTIFICATION

The next important step in implementing the new trust account provisions is certification. The 2007 amendments to the Alabama Rules of Professional Conduct require annual certification to the Secretary of the Alabama State Bar that all IOLTA eligible funds are held in an IOLTA account(s), and the bank's name where the accounts are held. Firms may submit certification on behalf of all lawyers in a firm. IOLTA accounts may be certified online by signing into your

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The Alabama Law Foundation expresses deep appreciation to ABA president Tommy Wells for the ABA's efforts to have the FDIC extend unlimited deposit insurance in IOLTA accounts, ensuring that Alabama's new mandatory IOLTA program would continue to make justice a reality for all of Alabama's citizens. Many thanks also to bar members who contacted members of Congress and submitted comments to the FDIC. We are especially grateful to the following members of Alabama's Congressional delegation for submitting comments to the FDIC:

- * Senator Richard Shelby
- * Senator Jeff Sessions
- * Congressman Spencer Bachus
- * Congressman Artur Davis

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