



A Program of the Center for Civic Values

# IOLTA News

## Are YOU in Compliance?

**The Rules Governing Discipline and Professional Conduct require:**

If you are an attorney in private practice, you or your firm **MUST** maintain a trust account.

If you decline to participate in IOLTA, by January 10 every year you **MUST** send a letter to the Clerk of the Supreme Court, PO Box 848, Santa Fe NM 87504-0848.

Whether you participate in IOLTA or opt out, you **MUST** provide accurate information, including the account name, number and financial institution, for all trust accounts you hold on the annual certification included with your Bar dues form—see text of rules inside.

**REMEMBER:** When you enroll in IOLTA, you join hundreds of other lawyers and firms who have decided to direct earnings (on otherwise unproductive client funds) to nonprofits that provide law-related programs and services to people across New Mexico.

When you opt out of IOLTA, you're choosing, instead, to let your financial institution have "free" use of those funds. Call 764-9417 (or 800-451-1941, outside ABQ) to enroll today!

## What is IOLTA?

IOLTA is an idea that originated in British, Canadian and Australian jurisdictions in the 1960s. In the United States, IOLTA was pioneered in Florida and now exists in every state in the country.

The New Mexico IOLTA program was approved by the State Supreme Court in 1984 and is now one of the largest non-governmental funders of civil legal services for poor people in the state. Through IOLTA, attorneys and firms may pool otherwise unproductive client funds in interest-bearing accounts.

Only those funds that are either nominal in amount or held for a relatively short period of time (making investment on the client's behalf impractical) are eligible to earn interest for the IOLTA program. That interest is then paid to the Center for Civic Values, the administrator of IOLTA, for distribution to programs that provide civil legal services to poor people, public law-related education or improvements in the administration of justice.

**Participation in IOLTA is free and doesn't affect the administrative duties of managing a trust account.**

When converted to an IOLTA account, the *only* change that will occur is that the trust account will generate interest, and the bank statements for the account will reflect the interest earned and paid to the IOLTA program.

**There are no tax consequences for the financial institution, the law firm or the client.** Interest earned and paid on

IOLTA accounts is reported to the Internal Revenue Service via a Form 1099 generated by the financial institution and bearing CCV's taxpayer identification number.

**Enrolling in IOLTA is easy.** By completing a simple form, attorneys can instruct their financial institutions to convert their existing trust accounts to interest-bearing IOLTA accounts. If an attorney doesn't currently have a trust account, by completing the same easy form, s/he can establish an IOLTA account. Nearly all New Mexico financial institutions are cooperating partners in the IOLTA program.

However, if an attorney wants to open an IOLTA account at a non-participating institution, CCV's staff is happy to help.



In our last insert, the following IOLTA participants were incorrectly listed. We apologize and offer the accurate firm names below.

- Jones Snead Wertheim & Wentworth PA
- Little & Drantell PC

## Honor Roll of Financial Institutions

Sincere thanks to the financial institutions below. Because they **waive minimum balance** requirements, **waive processing charges** to CCV or **offer competitive interest rates**, several thousand additional dollars are available annually to help the nearly 1/2 million New Mexicans who benefit from services provided by IOLTA-funded organizations.

1st National Bank in Las Cruces  
Access Bank  
AmBank  
Bank 1st  
Bank of Albuquerque  
Bank of the Rio Grande  
Bank of the Southwest at T or C  
Century Bank of Santa Fe  
Charter Bank  
City Bank NM  
Community Bank of Santa Fe  
Community First National Bank  
Compass Bank  
First Bank of Clovis and Portales  
First Community Bank  
First Federal Bank  
First Financial Credit Union

First National Bank in Las Vegas  
First National Bank of Alamogordo  
First National Bank of Artesia  
First National Bank of New Mexico  
First National Bank of Santa Fe  
First Savings Bank of Deming  
First State Bank of Socorro  
Four Corners Community Bank  
Grants State Bank  
Ironstone Bank  
Lea County State Bank  
Los Alamos National Bank  
Matrix Bank  
New Mexico Educators Federal Credit Union  
Union  
Peoples Bank  
Pinnacle Bank of Gallup

Pioneer Bank  
Portales National Bank  
Ranchers Bank  
State National Bank of El Paso  
State National Bank of Las Cruces  
State National Bank of Ruidoso  
State National Bank of T or C  
Sunrise Bank of Albuquerque  
The Bank of Clovis  
Union Savings Bank  
US New Mexico Federal Credit Union  
Valley Bank of Commerce  
Valley National Bank  
VectraBank  
Wells Fargo Bank New Mexico  
Western Bank of Alamogordo  
Western Commerce Bank

## Court Approves Grants

The State Supreme Court approved distribution of \$195,000 in IOLTA grants to seven nonprofit organizations that provide a wide variety of services to the citizens of New Mexico. The 2006 distribution brings the total awarded by IOLTA to more than \$3.15 million since the first grants were given in 1987, and this year's budget represents a 21% increase over 2005.

Last September, New Mexico 501(c)(3) organizations that met the established IOLTA criteria were invited to apply for funding. Completed applications were due in October, and the grant committee met in November to review them. The group's recommendations were submitted first to the CCV Board of Directors for review and then to the New Mexico State Supreme Court for approval. The grant committee is composed of seven members who are appointed to three-year terms by the Supreme Court, the State Bar of New Mexico and CCV.

The grant committee is composed of seven members who are appointed to three-year terms by the Supreme Court, the State Bar of New Mexico and CCV: **Kathy Silva, Chair**, Sandia National Labs; **David M. Berlin, Esq.**, Duhigg, Cronin, Spring & Berlin; **John P. Hays, Esq.**, Cassut, Hays & Friedman; **Kim Griffith, Esq.**, Sheehan, Sheehan & Stelzner; **Edward T. O'Leary**, First National Bank of Santa Fe; **The Hon. John Pope**, 13th Judicial District Court; **The Hon. Patricio M. Serna**, Supreme Court of New Mexico.

Nationwide, IOLTA programs contribute more than \$120 million dollars each year to fund programs that provide civil legal services for the poor, law-related education for the public or improvements in the administration of justice.

Applications for 2007 funding will be available on the CCV website on October 1 and must be postmarked by November 1. Call 764-9417, extension 12, for more information about IOLTA grants or visit IOLTA on the web at [civicvalues.org](http://civicvalues.org).



### DID YOU KNOW . . .

- More than \$3.3 million in IOLTA grants has been distributed to New Mexico non-profits?
- More than 350,000 New Mexicans are assisted each year by IOLTA-funded programs?
- An average of 80% of all IOLTA funds distributed have gone to provide free civil legal services for those who cannot afford to hire an attorney?

## Are YOU in Compliance?

### 17-204. Required records.

**(B) Certificate of compliance.** On forms to be prescribed by the Disciplinary Board, every attorney subject to these rules shall annually submit to the state bar the attorney's certificate of compliance with this rule and Rule 16-115 of the Rules of Professional Conduct. Such certificate shall be submitted to the state bar with the registration statement filed pursuant to Rule 17-202. The state bar shall forward the original of each certificate of compliance to the Disciplinary Board and a copy of each certificate of compliance to the Center for Civic Values.

**(C) Applicability of rule.** This rule shall not apply to any attorney whose entire compensation derived from the practice of law during the year preceding the filing of any registration statement was received in the attorney's capacity as an employee handling legal matters of a corporation or an agency of the federal, state or local government. Any such attorney shall, in lieu of the required certificate, certify on the same form provided by the clerk that the attorney has not had in possession any funds, securities or other properties of the client.

### 16-115 (D) Safekeeping property.

**7. Every lawyer** subject to these rules shall include in the annual certificate of compliance required by Rule 17-204 of the Rules Governing Discipline that all clients' funds which are nominal in amount or to be held for a short period of time are deposited in an IOLTA account unless the lawyer or the law firm with which the lawyer is associated declines by January 10 of the calendar year to maintain an IOLTA account for the calendar year.

**8. A lawyer or law firm** may decline to maintain an IOLTA account by submitting in writing a letter to the clerk of the Supreme Court on or before January 10 of each calendar year the lawyer wishes to decline participation in the IOLTA program.

## 2006 Grantees

For 2006, IOLTA has awarded \$184,000 to New Mexico nonprofits that provide a wide variety of programs and services to citizens across the state.

### **Albuquerque T-VI Foundation \$5,000**

The Foundation will fund a position in the TVI Paralegal Law Center that will provide limited, high-quality legal assistance to low-income South valley residents.

### **Catholic Charities \$5,000**

Catholic Charities will advocate on behalf of battered immigrants seeking effective legal remedies.

### **Legal FACS \$15,500**

Legal FACS (Forms and Courthouse Services) will provide legal services to low-income civil litigants in Bernalillo, Sandoval, Torrance and Valencia counties through its "courthouse booth" and maintain its self-litigant website.

### **New Mexico Center on Law and Poverty \$83,500**

NMCLP will supply advocacy services for low-income persons throughout the state and will provide technical assistance and training to others who advocate for New Mexico's poor.

### **New Mexico Environmental Law Center \$10,000**

NMELC will offer free legal representation to low-income, minority communities that are facing environmental justice, degradation and health issues.

### **New Mexico High School Mock Trial \$35,000**

The Mock Trial program will educate high school students about domestic and teen dating violence.

### **New Mexico State Bar Foundation Bridge to Justice Legal Helpline \$10,000**

The Bridge to Justice Legal Helpline will assist the working poor of New Mexico by providing legal information, advice, issue assessment and brief services.

### **Senior Citizens' Law Office \$20,000**

SCLO will provide a Health Care Rights project by advocating for and educating senior citizens in managed health care plans in Bernalillo County.

*Equal justice is a vital part of the bright constellation that guides our political fates and our national life.*

Thomas Jefferson  
Third President  
United States of America

# Your IOLTA Dollars at Work



New Mexico State Bar Foundation  
Bridge to Justice Legal Helpline



Catholic Charities VAWA Immigration Project



Legal FACs (Forms and Courthouse Services)