

# IOLTA AND THE JUSTICE LEAGUE OF NEVADA

BY RANDY BOESCH

If the phrases IOLTA and Justice League of Nevada cause you to raise your eyebrow, or if you are just not sure what I'm referring to, you need to keep reading – both for your sake and the sake of many Nevadans, some of whom may be your clients.

As a senior vice president and private client services manager at City National Bank in Las Vegas, and as a Trustee of the Justice League of Nevada, I have more than a passing interest in Nevada's Interest On Lawyers Trust Accounts (IOLTA) Program. In this article, I hope to provide readers with my general perspective on IOLTA, financial institutions' interest in holding IOLTAs, and how financial institutions and attorneys work together to meet the legal needs of Nevadans.

As I am sure you are aware, most Nevada attorneys must have an IOLTA to hold certain client funds. Specifically, client money that will be held for too short a time, or is too nominal in amount to generate interest for the client, must be placed in an IOLTA. Pooled interest income on IOLTAs is used to help low-income Nevadans understand, and gain access to, the legal system.

Interest on IOLTAs is collected by the Justice League of Nevada (until recently, called the Nevada Law Foundation) as mandated by the Supreme Court of Nevada. The Justice League was founded in 1983, to address the significant need for legal services for poor and legally disadvantaged people in Nevada. As a result, the Supreme Court adopted rules to grant IOLTA interest to programs designed to educate and meet the legal needs of the less fortunate members of our society.

The mission of the Justice League, in brief, is to provide funding for the legally disadvantaged, including low-income people who may be from minority backgrounds, senior citizens, victims of domestic violence, children in need of protection by the juvenile court and to educate Nevadans about the law. Since its inception, the Justice League has distributed more than \$10 million in the form of direct grants to programs throughout Nevada.

The good work of the Justice League benefits both the community and the legal profession. Each time a person receives vital legal services funded by the Justice League, the community, and its confidence in the legal profession, is strengthened. Every day, hundreds of dedicated lawyers and legal staff bring justice to life for those who might otherwise be forgotten. The Justice League is able to carry out its mission, thanks to the dedication of its volunteers and the generosity of its supporters, including financial institutions and attorneys.

Supreme Court Rule 217 states that attorneys must place IOLTAs in financial institutions that meet the requirements set forth in sections one through five of SCR 217. The requirements include waiving service fees and paying specific interest rates.

A Nevada financial institution makes an active choice to hold IOLTAs. In a market in which deposits are not as attractive for financial institutions as they once were, the reasons a financial institution generally, and City National Bank in particular, makes the choice to meet SCR 217 requirements and hold IOLTAs may be of interest to attorneys.

Financial institutions make money by lending money. Since the beginning of the recession, loan demand has been soft and financial institutions have struggled to find credit-worthy borrowers. As a result, financial institutions do not approve as many loans as they would like, resulting in excess deposits.

IOLTAs, of course, are deposit accounts. Because financial institutions have excess deposits, and are not aggressively seeking new deposit accounts in this current market, the same should be true for IOLTAs. And yet financial institutions are willing to pay additional interest, up to half a percent more than they would otherwise pay, for IOLTAs. Why?

One purely pragmatic reason is that banks must meet the requirements of the Community Reinvestment Act (CRA). The CRA requires that banks give back to the communities they serve. The FDIC or the OCC (Office of the Comptroller of Currency) sends examiners to grade banks on how much they give to local communities. Because the proceeds from the higher interest rates on IOLTAs go directly to underserved populations throughout Nevada, holding IOLTAs bolsters a bank's CRA performance rating.

In addition, a bank's CRA performance rating will be a determining factor in important banking decisions. For example, if City National Bank wanted to open a new branch, the approval process would include an examination of our community investments. At City National, we can proudly point to our participation with the IOLTA Program and at how a higher interest rate on IOLTA creates funds available to meet the needs of disadvantaged people in the communities we serve.



A second reason financial institutions hold IOLTAs is equally pragmatic; most financial institutions want to do business with individuals who work in fields such as medicine, law, accounting, engineering and architecture. By holding IOLTAs, we are recognized as good corporate citizens by paying higher interest while simultaneously connecting with the legal community. The result is that attorneys are aware of our services and commitment to the legal and local community, and we form relationships and do more business with members of the legal profession.

Financial institution participation in IOLTA has been particularly important in recent years. If one recalls, there were times in the 2000s when banks paid 2 percent and 3 percent on money market accounts. I remember the times when banks paid 5 percent or more on the savings and money market accounts. In the last three years, interest rates hit rock bottom and they are forecasted to stay very low. The Fed has said it will not raise interest rates for another two years unless unemployment drops significantly. We are still living in a challenging economic environment. Recovery is slow.

At the same time interest rates bottomed out, federal, state and individual funding for legal services dropped significantly. Meanwhile, the need for legal services for low-income Nevadans has increased and may continue to increase.

Financial institution partnerships with the legal community through the IOLTA Program have helped bridge the widening

gap between funding and need. However, this partnership is not enough. As a trustee for the Justice League of Nevada, I am acutely aware of the need for increased funds for legal services, and equally aware that the IOLTA program alone cannot make up the shortfall.

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When I joined the Board of Trustees of the (then) Nevada Law Foundation, I was under the impression the foundation was sitting on a lot of money. In actuality, our organization gives out nearly every dollar of IOLTA funding that comes in. The name change to the Justice League of Nevada more accurately reflects the need for a greater effort to raise funds for these important programs.

As a trustee of the Justice League, and as a partner with the IOLTA Program, I urge you to learn more about the Justice League and the programs it supports. I hope that you will join the growing number of people, working together as a league, to secure justice for all Nevadans regardless of their ability to pay. ■



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