IOLA Fund of the State of New York  
Meeting of the Board of Trustees – New York, NY  
September 22, 2021  
DRAFT

Video-Conference: Chair Davis, Trustees Cirando, Dunham, Galowitz, Madigan, Ross and Villaverde  
Tele-Conference: Trustee Lindenauer  
Absent: Trustee Lopez-Soto  
Staff: Agard, Fecko, and O’Malley

1. Call to Order.  
The meeting was called to order via Video & Tele-Conference by Chair Davis at approximately 12:05 p.m. Ms. Davis made the following announcement:

"Due to public health and safety concerns related to COVID-19, today’s meeting of the IOLA Board of Trustees will not be held in-person.

I have confirmed with the IOLA Fund’s General Counsel that today’s meeting has been convened in accordance with the Open Meetings law, as amended by Part E of Chapter 417 of the Laws of 2021, which suspends certain provisions of the Open Meetings Law to allow this public Board to convene a meeting via video and teleconferencing.

In accordance with the amended law, the public has been provided with the ability to view today’s meeting, to provide comments live via the written chat function or in advance via email, and a transcript will be provided at a later date, upon request.

I have also confirmed with the IOLA Fund staff that this meeting has been duly noticed. We have fulfilled our legal notice requirements by posting a notice with the New York Law Journal, the website of the Western New York Law Center, and the IOLA Fund’s own website.

Finally, I will note that today’s meeting is being recorded, including any public comments that have or may be received via email or through the chat function."

2. Approval of the minutes of the meetings of the Board of Trustees held on June 16, 2021.  
The minutes of the above meeting were reviewed and approved with no objection.
3. **Executive Report**

Mr. O'Malley reported that the procurement record for the RFP for the FY22 & FY23 grant cycle had been submitted to the Division of Budget and the Office of the State Comptroller. It is now with the Office of the State Comptroller (OSC) and its approval is contingent on resolution of the bid protest filed by the Legal Aid Society of Rockland County (LASRC). Mr. O'Malley noted that IOLA had received and responded to 5-6 questions from OSC. Since submitting his written report IOLA had received and responded to one additional question which was only tangentially related to the bid protest. Mr. O'Malley considered the limited questions a sign that OSC may be concluding its review soon. IOLA grantees are eager to execute their contracts and receive payment, which is already overdue for Q1 with Q2 due soon. The IOLA office has been gearing up for a quick turnaround on its duties with respect to the contracting process.

Mr. O'Malley reported that the IOLA staff have started working in the office on a part-time, rotational basis. He explained that the goal is to allow staff to re-acclimate to commuting and transition any family responsibilities that they had absorbed during the office closure. The expectation is that all staff will be full-time in the office as of October 12.

Mr. O'Malley reported that the Permanent Commission on Access to Justice held its annual hearing last week. At the heading, he provided testimony on infrastructure spending, highlighting legal providers’ responses to the pandemic, discussing the need for funders to take a broad view of infrastructure support, and describing programs that IOLA supported including the Leadership Institute with the Shriver’s Center aimed at increasing legal services leaders who are more representative of the communities they serve. A written copy of his remarks are included in the Board book. Chair Davis and Trustee Galowitz expressed their appreciation to Mr. O’Malley for his testimony as well as the broad perspective he offered on infrastructure and encouraged him to develop the testimony into an article. Trustees Cirando and Madigan suggested that such an article may be of interest to the State Bar Journal.

Finally, an issued not included in his written report, Mr. O'Malley noted that the IOLA Fund is contracting with BDO to maximize its utilization of the new database and online remittance upload system (RUS) and improve its banking overall procedures.

4. **Administrative and Financial Report**


Ms. Agard noted that the cash on hand opened in July with about $115.5 million with interest earnings of $2.7 million and administrative expenses of $147k, which resulted in cash on hand of nearly $117 million as of August 1. Earnings for July 2021 were up about $641k as compared with the same period last year, with the average net yield at 0.33% and the year to date interest revenue is up
about $1.2 million. Overall, Ms. Agard reported that interest revenue has been fairly flat for the last few months.

Finally, Ms. Agard reported that the IOLA Fund’s administrative expenses for July were $147k and she expressed her expectation that administrative expenses are on track to be within the annual budget, as has been the case in recent years.

5. Counsel’s Report
Ms. Fecko highlighted a few things from her written report.

First, regarding grantee matters, she noted her efforts review and approve the vendor responsibility questionnaires, which are a component of FY22 & FY23 contract execution.

Next, regarding attorney and bar association matters, Ms. Fecko announced that she had accepted an invitation to join the NYC Bar Association’s Ethics Committee where she expects to offer training to Committee members who staff an Ethics Hotline. Ms. Fecko attended the NYC Bar’s Legal Services Award ceremony and noted that all of the awardees work for IOLA grantees. In addition to serving as a panelist for the NYC Bar’s escrow program over the summer and as part of her efforts to expand outreach to attorneys, she will participate in a similar panel that the NYC Bar’s Small Law Firm Center is hosting this fall.

Regarding bank matters, Ms. Fecko noted recent approved rate reductions that are not yet reflected in the bank report, but which are projected to result in an annual loss of $3.5 million. Two additional rate reductions for large banks could result in an additional loss of $700k per year. Of three pending bank mergers, one may result in increased revenue; the other two mergers are not expected to have a significant revenue impact.

Finally, regarding office matters, Ms. Fecko noted her efforts to draft and update the IOLA Fund’s COVID-19 Prevention Guidelines and announced that she will schedule an ethics training in September 2022 when most Trustees are due for a refresher. She noted that Trustees may also take advantage of ethics trainings offered by JCOPE.

In response to a question from Trustee Villaverde, Ms. Fecko explained how IOLA grantees, and all state government vendors, are reviewed during the contracting process. Specifically, she detailed how the vendor responsibility process works and the respective roles of the IOLA Fund, the Office of the State Attorney General, and the Office of the State Comptroller. Trustee Villaverde thanked Ms. Fecko for her thorough response and indicated he would follow up with IOLA staff regarding any additional questions or concerns he may have.

6. Next Meeting
The next meeting of the IOLA Board of Trustees is scheduled for December 8, 2021 at noon. Ms. Fecko noted that the amendment to the Open Meetings Law allowing virtual meetings remains in effect until January 15, 2022.
There being no further business before the Board, the meeting was adjourned at approximately 12:40 p.m.

Respectfully submitted,
Christopher B. O’Malley
Executive Director