

The **IMPACT** of the Financial Crisis

Upon The Hawaii Justice Foundation, Your IOLTA Account, and the Provision of Legal Services

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FDIC Now Fully Insures All IOLTA Deposits, Regardless of Account Balances.

Unprecedented actions have been taken at the national level to deal with the current economic crisis. Most of these actions do not directly improve conditions for Hawaii attorneys. However, one positive development for attorneys is that all funds deposited

under the Interest on Lawyer Trust Accounts (IOLTA) Program are now fully guaranteed by the Federal Deposit Insurance Corporation (FDIC). Hawaii has nine banks that participate in IOLTA, each of whom also participates in the FDIC program. Prior to this economic crisis, FDIC insurance limits had been \$100,000 for each client, including any deposits that client may have with any of the branches of the bank where the attorney holds his/her IOLTA account. This figure was raised to \$250,000 by Section 136 of the

Emergency Economic Stabilization Act of 2008 (popularly known as the "Bailout Bill"), effective October 3, 2008 through December 31, 2009. The amount of the FDIC insurance has recently been increased to unlimited amounts through December 31, 2009, under 12 C.F.R., Part 370, Temporary Liquidity Guaranty Program. Recent months have seen at least fifteen Mainland banks fail, which has prompted increased attorney awareness of the importance of FDIC insurance. Hawaii Supreme Court Rule 11 requires attorneys (unless exempted) to establish and maintain an interest-bearing trust account for pooled clients' funds through one of the IOLTA participating banks. It is reassuring news to Hawaii's attorneys that all client funds in IOLTA accounts are fully insured under the FDIC program for each of Hawaii's nine IOLTA participating banks.

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The Negative Impact to the Hawaii Justice Foundation (HJF) of Falling Interest Rates.

Each month, HJF receives the net interest from the IOLTA accounts. This net interest is used to fund a variety of programs designed to provide low-income legal services, offer educational programs, and improve the administration of justice. HJF's income is directly rated to the prevailing interest rates. In September, 2007, the federal funds target interest rate was 5.25%. This dropped to 1.0% in late October, 2008, and dropped in mid-December, 2008 to a rate that floats between 0.00% and 0.25%. These rate decreases have disastrous consequences upon HJF's receipt of funds through the IOLTA program.

HJF does have other sources of income, so it is diversified. However, the IOLTA program has always been the "heart-beat" of HJF, and the hard reality facing HJF is that income from IOLTA will be at record lows. HJF will be meeting with the participating banks to discuss this situation in an effort to minimize the financial damage, but current circumstances have a very detrimental impact upon IOLTA income.

IOLTA Grants Awarded by HJF.

The full impact of interest rate declines will not be felt by HJF until 2010, since grants are awarded on past income. For 2008, IOLTA grants totaled \$410,000. For 2009, IOLTA grants will be \$346,000, which are distributed among sixteen grantees. In addition, in 2009, \$100,000 in funds will be awarded to ten designated grantees selected by The Bretzlaff Foundation. An additional \$50,000 will be distributed in 2009 to six grantees from funds donated by The Hart Foundation. Another \$320,000 is distributed through the Indigent Legal Assistance Fund (ILAF) program administered by HJF in cooperation with the Judiciary. HJF will continue to play a significant role in achieving access to justice for all, but funding limitations clearly exist.

Predictions for 2009 for Low-Income Legal Service Providers.

It is not hard to foresee that 2009 will be a financially challenging year for non-profits. State and city/county funds will be extremely limited. Federal funding is equally uncertain. Private contributions are anticipated to be reduced, as potential donors reel from the financial damage to their investment portfolios. Hawaii is fortunate to have many excellent low-income legal service providers who are very dedicated and committed. However, it is hardly a controversial prediction that all of Hawaii's non-profits are facing formidable obstacles at the same time that needs continue to grow for the people they serve. The full cooperation and understanding of Hawaii's attorneys is certainly most needed and appreciated in these challenging times.



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