

**Legal Services Trust Fund Commission**  
**Commission Meeting**  
**May 25, 2018**  
**Held in person at:**

**State Bar of California, 180 Howard Street, San Francisco**

**MINUTES**

**I. ROLL CALL**

The following Commission members were present:

- In San Francisco: Co-Vice Chair Christian Schreiber, Hon. Louise Bayles-Fightmaster, Bob Planthold, Hon. William Murray
- In Los Angeles: Co-Chair Richard Reinis, Amin Al-Sarraf, Prof. Herman DeBose, J. Eric Isken, Prof. Jim Meeker, Susan Ryan, Hon. Michael Convey
- By Telephone: Co-Chair Corey Friedman, Christina Vanarelli

The following Commission members and advisors were not present: Banafsheh Akhlaghi, Fred Bailard, Kim Bartleson, Prof. Rebecca Delfino, Parissh Knox, Kim Savage, Melanie Snider, Paul Staley, Hon. John Sutro Jr., Hon. Brad Seligman.

The following staff were present:

- In Los Angeles: Donna Hershkowitz
- In San Francisco: Dan Passamaneck, Doan Nguyen, Catherine Borgeson, Elizabeth Hom, Stephanie Choy, Richard Schauffler

The following guests were present:

- In Los Angeles: Hailyn Chen (Board of Trustees), Jessie Kornberg (Bet Tzedek)
- In San Francisco: Bonnie Hough (Judicial Council), Lorin Kline (Legal Aid Association of California), Jocelyn Larkin (The Impact Fund)

A quorum being established, Co-Chair Richard Reinis called the meeting to order at 12:35 p.m.

**II. PRESENTATION BY GRANTEES: THE IMPACT FUND**

Jocelyn Larkin, Executive Director, The Impact Fund, described how our funding has enabled that organization to take a proactive role in educating the legal services community on the use of certain critical procedural tools like class actions and cy pres and attorney fee remedies. The Impact Fund protects these tools from legal and legislative threats, and provides education and technical support to the community so they can use these tools too. They're currently using a Trust Fund Bank Grant to advocate for clean water in the San Joaquin Valley. She reports that the State Bar's Trust Fund Program "lets me sleep at night."

### **III. APPROVAL OF MINUTES FROM NOVEMBER 17, 2017**

Minutes of the November 17, 2017 Commission Meeting were approved on voice vote.

### **IV. APPROVAL OF 2019 IOLTA DISBURSEMENT AND RESERVE POLICY FOR RECOMMENDATION TO BOARD OF TRUSTEES**

Stephanie Choy reported on the status of determining an amount for IOLTA grant distributions for 2019 grants. Materials distributed in advance of the meeting identified two options:

- An “A” scenario that anticipates revenue of nearly \$22 million, projected 2018 revenue less grants and administrative expense of nearly \$6 million, and funds available for 2019 grants to programs and cash on hand/reserves of approximately \$37 million; and
- A “B” scenario that anticipates revenue of roughly \$24 million, projected 2018 revenue less grants and administrative expense of approximately \$8 million, and funds available for 2019 grants to programs and cash on hand/reserves (including 2019’s projected revenues) of nearly \$42 million.

These scenarios represent two of the possible options but the Commission was reminded of its ability to recommend to the Board of Trustees any funding level it considered most appropriate given the available revenue projection information. The Commission discussed both actual and projected revenue for the fiscal year in which the Bar will approve funding of these grants, including IOLTA revenue, the Equal Access Fund, Cy Pres revenue, and revenue received through annual attorney licensing processes. In either proposed scenario the Trust Fund Program’s Cash On Hand policy would cushion the impact of both increased available funding and potential future losses of funding, by allocating the first five percent of any year-to-year increase in funding to grants, the next ten percent to reserves, and any remaining increase equally between grants and reserves.

In light of this discussion Bob Planthold moved to adopt Scenario B, as described above, with projected IOLTA grant funds of \$41,898,175. Chris Schreiber seconded, and the motion was passed by unanimous roll call vote. Scenario B will therefore be used as a basis for our development of the annual agenda item to the Board of Trustees on IOLTA distributions for the following year.

### **V. DISCUSSION ABOUT STATE BAR SUB-ENTITY REVIEW**

Richard Schauffler, Senior Program Analyst with the State Bar’s Office of Research and Institutional Accountability, reported on the process for and progress on the review of sub-entities following the direction of the 2017 Governance in the Public Interest Task Force. Questions under examination focus on the size, function, and structure of the sub-entities, the relationship between the sub-entities and the Board of Trustees, and whether the Board exercises the appropriate level of oversight over the activities. For some entities, questions include whether the work being performed by the sub-entity is should continue to be housed in by the State Bar.. Richard’s work includes looking to other states and other California regulatory agencies for guidance. He will report verbally to the Board of Trustees in July and provide a written report in September. Richard described various potential reconfigurations for the Trust Fund Commission, Access to Justice Commission, and Commission on Access and Fairness, and received comments on these from several members of the Commission as well as Bonnie Hough.

To support Richard's ongoing education as to the functions and operations of the Trust Fund Program, Commission members Richard Reinis, Chris, Corey, Bob, and Jim volunteer to join a liaison group. Donna expressed thanks for their volunteering spirit and will determine whether the group, because of its composition, falls under the requirements of Bagley-Keene.

## **VI. Staff Reports**

### **A. Co-chair Report on Developments Impacting the Legal Services Trust Fund Commission, Including Nominations**

#### **1. LaQuita Robinson**

Stephanie acknowledges the passing of our beloved colleague LaQuita Robinson, a valued and important member of the Trust Fund Commission since 2010. Sue Ryan attended her memorial and offered some thoughtful words on LaQuita's personal story and her impact on us all.

#### **2. Nominations**

Richard Reinis reported that we are searching for new Commissioners, and will be ready to discuss some candidates at the next meeting, including some whose nominations first came to our attention last year.

### **B. Staff Report on Program Developments, State Bar Developments, Staffing and Revenue**

#### **1. Staffing**

Stephanie reported on the ongoing search for a Director of the Office of Legal Services. Stephanie also reported that Mary Tam's resignation is now effective, leaving an opening for a Program Supervisor, in addition to another Supervisor position for the Office of Legal Services. Internal candidates for these positions may result in this office having additional positions to fill. In addition, we are integrating the staff of the Center for Access to Justice and the Commission on Access and Fairness, into the Trust Fund Program's grantmaking staff, for administrative efficiency and improved information-sharing.

#### **2. Office of Legal Services**

Elizabeth Hom reported on the Office of Legal Services and their Policy Portfolio, including the California Partnership High School Law Academy; the Board of Trustee's focus on Access to Justice in seeking revisions to Multi-Jurisdictional Practice and Lawyer Referral Service rules; the coordination of legal services responses to disasters in both Northern and Southern California; and the mounting of a Public Interest Boot Camp in concert with the Practising Law Institute.

### **C. Staff Report on Convening with Grantees on Evaluation and Impact Report**

Stephanie reported on the status of evaluations: Our first year of data using the main benefits constructs, 2016, was used to develop a mock-up of a report on services, outcomes, and economic benefits. Now we have better data from 2017, and are working toward a comprehensive report on that data, with a draft in September and a final version by November. She also reported on our March convening, in which 100 attendees from 70 grantee and stakeholder organizations met to discuss the Trust Fund Program's evaluation protocols, goals, and the challenges in obtaining good feedback. We

will provide Commission members with the Evaluation Reporting Handbook and our draft report by email.

## **VII. STATUS OF GRANT ADMINISTRATION**

### **A. 2019 Partnership Grants**

Dan reported that Partnership Grant applications were due on May 2 and are being reviewed. We received 42 applications requesting a total of about \$2.6 million, which may be as much as \$1 million more than the amount ultimately determined to be available for these grants. Review is being undertaken by four teams of two commission members each, each supported by one staff member. Each team is reviewing ten to twelve applications and met as small groups before coming together as a committee on June 29 to share initial impressions, identify issues for further research or investigation, and propose preliminary funding recommendations. After completing any necessary additional research, the committee will re-assemble to provide final recommendations to the full Commission on July 27. These will be presented to the Judicial Council for their ultimate approval in September.

### **B. 2019 IOLTA and EAF Grant Applications**

Doan reported that applications for Trust Fund Grant eligibility for 2019 were posted on April 25 and will be due June 8. We may have two or three new applicants this year, some of which may need Eligibility Review Conferences in mid-July.

### **C. Review of 2019 Monitoring Visits Schedule**

Doan reported that staff have completed 19 of 35 total visits for 2018, and most of the rest have been scheduled. Information on the visits is available on the SmartSimple portal and all Commission members are encouraged to find a visit on which to participate..

### **D. SmartSimple Update**

Catherine gave a brief tutorial on navigating the SmartSimple portal to find information on Monitoring, calendared events and deadlines, assignments, and other key information.

### **E. Administrative Report**

Catherine asked Commission members to be on the lookout for an email seeking confirmation of key data for our roster and, potentially, future meeting notices. She advised that any Commission member who can't log into SmartSimple because of an email address change, should use the "Forgot Password" link at the log-in screen to create a new password – or can work directly with Catherine, who can provide individualized guidance. Donna agreed to confirm, for our next meeting, whether it will be necessary to include a call-in number on our agenda, if the meeting itself is all in-person and no Commission members participate by telephone. Bob noted that the Lighthouse for the Blind in San Francisco may be able to assist our office in remediating some documents, free of charge.

Catherine reported that, for consistency with the procedures of the California Commission on Access to Justice, hard copies of meeting materials will no longer routinely be provided at meetings. We will provide electronic versions in advance to all Commission members, and can have a hard copy available

on site for any Commission member who wishes us to provide one, upon request. Otherwise we will ask all Commission members either to rely on the electronic versions, or to bring their own hard copies.

## **VIII. PRESENTATION BY GRANTEES – BET TZEDEK LEGAL SERVICES**

Jessie Kornberg, Executive Director, Bet Tzedek Legal Services, provided a presentation on the use and importance of the Trust Fund grant support in their programming and services, including guardianships clinics, workers' rights projects. She also described work funded by the Bank Grant to build intergenerational wealth with support for low-income people with struggling businesses or facing foreclosure. PACE loans were singled out as a new and serious threat to many low income homeowners, and Bet Tzedek is proceeding against those on a class action basis. Bet Tzedek is a pro bono program, sharing a special allocation for relying on volunteers as their primary means of providing services.

## **IX. LIAISON REPORTS**

### **A. Judicial Council Report on Program Developments**

Bonnie Hough reported that the Judicial Council is continuing work with the Shriver pilot projects and associated evaluations, with a new component now being added: intake triage, to sort out when litigants need immediate representational help, and when they can do well with self-service help. They're focusing on the State Budget process, including more than \$19 million in new funding for self-help. That will raise the amount available for self-help to \$30 million annually, potentially opening the opportunity to expand self-help assistance from family law to general civil practice. Bonnie also reported on the Chief Justice's Commission on the Future of California Courts, which might be considering changes in procedure and discovery rules in light of the number of self-represented litigants in California – for example, 70% of family law cases involve at least one unrepresented party. Evaluations of Shriver projects are showing that most cases settle, and now the courts can look into how to encourage that. Stanford University is building flow charts to help litigants wayfind during the course of their litigation in different substantive areas such as probate, guardianships, and conservatorships.

### **B. Legal Aid Association of California Report on Program Developments**

Lorin Kline reported on the ongoing efforts to improve recruitment and retention among legal services organizations, and LAAC's plans to update and expand their 2010 report on this topic to include diversity and inclusion as well. LAAC is still advocating for increased funding for legal services, including the State Budget process which is ongoing. While the Equal Access Fund's increased base allocation appears now to be headed to a permanent \$20 million level annually, it is anticipated that CCP 384 may be amended again, to remove the requirement that a share of undistributable residuary funds be directed to the Equal Access Fund.

There being no further business, Bob moved that the meeting adjourn in memory of LaQuita Robbins. Amin seconded, and by unanimous acclamation, the motion passed and the meeting adjourned at 3:20 pm.