



August 16, 2016

Representative Larry Gonzales, Chairman
Sunset Advisory Commission
1501 N. Congress Ave., 6th Floor
Robert E. Johnson Building
Austin, Texas 78701

Dear Mr. Chairman,

It is my understanding that Sunset Advisory Commission members will consider the Commission Staff Report on the State Bar of Texas at next week's Commission meeting. While I do not believe it to be good practice to weigh in on other industries' policy matters, there is a troubling provision in the Staff Report that directly impacts Texas banks. I write to you today in opposition to that provision.

Specifically, found in Issue 2 and beginning on page 25 of the Report, Commission staff recommends that financial institutions holding attorney funds in Interest on Lawyer Trust Accounts (IOLTA) be required to notify the State Bar's chief disciplinary counsel when account overdrafts occur. This provision is problematic on a number of fronts.

First, these accounts are typically looked at as being "loss leaders" by the financial institutions holding them. The Supreme Court of Texas promulgates the rules governing these trust accounts, and within these rules are the interest rate ranges financial institutions must pay on the IOLTA accounts. Furthermore, banks holding IOLTA funds must remit, at least quarterly, any interest earned to the Texas Equal Access to Justice Foundation. What this process means, for our member banks, especially our smaller community banks, is that these accounts are "high touch" accounts that require a great deal of staff time. And, yet, the rates the banks can charge attorneys for IOLTA accounts are not priced competitive to the marketplace, they are priced according to Supreme Court rule.

Second, we are very troubled that the Sunset Commission Staff believes it is an appropriate function of a bank to act as a police officer for our State Bar of Texas-licensed attorneys. The State Bar has disciplinary counsel for just this reason. Why is it being suggested that banks should do the work of an already-existing state agency?

We are sympathetic to the State Bar's goals, and we understand that Texas is in the minority of states that do not require banks to police lawyers' IOLTA accounts, however, we are unmoved by their arguments. The reality of the marketplace in the State of Texas is as follows: today we have 150 fewer community banks in this state than we did five years ago. The reason for this approximately 25% decrease in community banks in Texas? Our smaller institutions are simply

unable to maintain profitability given the increased compliance requirements of state and federal law and regulations. Should the Legislature decide that requiring banks holding IOLTA accounts to notify the chief disciplinary counsel when attorneys' IOLTA accounts are overdrawn, this will be yet another nail in the coffin of community banking as we know it in the State of Texas.

I hope you will not hesitate to contact me if you have any questions. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "J. Eric T. Sandberg, Jr." The signature is written in a cursive, slightly slanted style.

J. Eric T. Sandberg, Jr.
President & CEO

cc: Members, Sunset Advisory Commission