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Licensing board complaints: Do's and don'ts on day one - by Toby Bright

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Receiving a complaint from the Board of Registration of Real Estate Appraisers is a daunting experience, and rightfully so. The licensing board has the ability to assess fines, require additional training, and stop you from practicing in your profession temporarily or permanently, depriving you of your livelihood. Even complaints which appear entirely frivolous on their face can result in sanctions if the board finds something problematic during its investigations, which are notoriously thorough. You must treat all complaints with the utmost respect and respond diligently and thoroughly. The first thing you do—or fail to do—in response to receiving the complaint can have long ranging impacts. Here are five Do's and Don'ts that you can follow the day you receive the complaint to ensure the best possible result:

- DO – Review your Errors and Omissions policy and contact your insurer. Most, if not all, insurance policies have notification provisions which require you to notify the insurer when you receive a complaint. Many policies provide coverage for responding to complaints. Even if you don't have coverage for the investigation stage of the complaint, failing to notify your Error and Omissions insurer that you received a complaint may be a basis for denying you coverage later if the matter escalates to litigation or to a full adjudicatory hearing. An adjudicatory hearing can cost well in excess of \$20,000 in legal fees. Coverage for these situations is why you pay for insurance – do not let the specter of increased premiums dissuade you from notifying your insurer or availing yourself of coverage.
- DO – Contact a lawyer with expertise in this field. Your insurer likely has recommendations or attorneys it will assign to your matter. You can also seek recommendations from industry groups or peers. Professional licensing is a specialized area of the law, and it is important to find someone versed in these matters. While your family or friend may be an excellent lawyer, if they do not have adequate training or experience in this field, they may not be the right fit in this situation.
- DO – Compile your entire work file for the subject appraisal or appraisals. This includes all

versions of the appraisal report and all electronic and paper files which must be included in your work file. Unless the record retention period has passed and you no longer have the work file, failing to produce your entire work file when the board requests it is grounds for discipline alone, so it is very important to ensure you have gathered everything. If you suddenly find some important document later down the road, you can still be cited for failing to produce it earlier. It worth taking extra time to ensure you conducted a thorough search for documents. Once compiled, review your work file objectively to try and identify any areas that might be problematic, even if the complainant did not raise it. Having a good understanding of the issues will help you and your lawyer craft an effective response.

- **DON'T** – Get angry or panic. It is natural to be offended or feel attacked when someone files a complaint against your license. Getting angry or panicking is not productive, however, and will only cloud your judgment. Do not look for ways to attack the complainant or focus on deflecting blame. The motivations of the complainant are irrelevant. The board is only looking at your report and whether it complied with its regulations, USPAP, and good appraisal practice. Staying calm and focused will give you the appropriate mindset to respond.

- **DON'T** – Contact the complainant or the investigator. Once a complaint is filed and an investigation is opened, the matter is investigated thoroughly and it is the board's decision, and the board's decision alone, whether to dismiss it or refer it to prosecutions for discipline. The complainant cannot retract their complaint, and the investigator has no authority to dismiss the complaint. Oftentimes, contacting the complainant or investigator will only hurt your case in the long term.

The complaint process can be long and tedious. Should you find yourself in the unfortunate position of receiving a complaint, following the above advice is the first step towards obtaining the best possible outcome.

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