

On The Record . . .

Official Newsletter of BERTOLINO LLP

July 2021



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Four Reasons to Hire a Professional/Occupational License Defense Attorney: *Don't Face the Board Alone!*

It's the letter that no licensed professional wants to receive: a notice from your licensing board informing you that someone has filed a formal complaint against you, and you are under investigation for misconduct.

All allegations of professional malfeasance need to be taken very seriously. You need to consult with an experienced license defense attorney as soon as you are notified of a pending complaint. You should NEVER face the board alone.

Four (4) Reasons to Hire Legal Counsel

1. Your licensing board is not looking out for your best interests.

All Texas licensing boards function to serve the public. Your licensing board is not on your side, and is not looking out for you. Once a complaint has been filed against you, your licensing board is investigating you—they are not trying to defend you or protect you. That is not their job. It is up to you to take the necessary steps to defend yourself against allegations of professional misconduct or other malfeasance, which includes hiring legal representation.

2. To protect your license and livelihood.

Even a single complaint filed against you with the licensing board can put you at risk of license suspension or revocation. A license suspension lasts for a defined

amount of time. A license revocation may be indefinite. If your license is suspended or revoked, then you will not be authorized to perform your job.

3. Defend yourself from the start of the board's investigation.

Mounting a strong defense from the beginning, with your initial response to the board's notice of complaint, helps ensure you will be able to achieve the most favorable outcome possible in your case. Do not wait until a formal hearing has been scheduled with the Texas State Office of Administrative Hearing (SOAH) before hiring an attorney. You want to get in front of the investigation and be proactive throughout the process to defend yourself at every opportunity. Moreover, appealing an unfavorable ruling is far more difficult and can be costlier than properly defending allegations in the first place.

4. Have an advocate by your side.

The board always has experienced Staff Attorneys advocating and working for them. And I assure you that they are extremely well prepared to prosecute cases. That is why representation from an attorney well-versed in administrative law and experienced with licensing board matters is invaluable. Some of the things your attorney will do for you include:

- Defend your legal rights. If you are adequately represented, the board will not be in a position to take advantage of you.
- Help guide you through the board's investigative process.
- Craft well-planned initial responses to the allegations pending against you.
- Design a legal defense strategy plan that is specific to the facts of your case and your personal goals.
- When appropriate, negotiate the terms of a proposed Board Order to settle the case prior to formal hearing.
- Represent you at all legal proceedings, including before the

Texas State Office of Administrative Hearings (SOAH), if your case proceeds to a formal evidentiary hearing.

- Explain the penalties and sanctions the board *could* impose and what disciplinary action the board is likely to pursue based on the facts of your case.

Your professional license defense attorney can help alleviate some of the stress from facing a board complaint and investigation. Again remember, you do not have to face the board alone.

-Managing Partner, Tony Bertolino



Spotlight: London de la Teja



This month, we would like to recognize London for seven years of service with Bertolino Law Firm. She has worn many hats since joining the firm and has been essential in our growth. Here are a few fun facts about our Accounts Receivable Manager.

My nickname at work: "Dirty Dog de la Teja"

I am skilled at: People skills, home design, and making a mean Mississippi Pot Roast

On the weekends and in my free time I am often: Finding a body of water to swim in and finding a fun DIY project to do

Number one on my bucket list: A week in Bora Bora

The best sweet or salty snack: I love milk duds and popcorn combo!

Best movie ever: I love so many! I would say I'm a huge superhero movie lover and Guardians of the Galaxy is one of my favs

My favorite candy: Dark chocolate Raisinets, Junior Mints and Harbo gummy

bears

My favorite sports teams: UT ... Hook 'em!!

If I had a theme song that played every time I walk into the office it would be: "Takin' Care of Business" by Bachman Turner Overdrive

People say I look like: Topanga from Boy Meets World

The best part of my job: Working with and helping people

[Learn more about London here](#)



THE VETERANS DAY 5K



THE VETERANS DAY 5K



“Boots on the Ground” Corporate Team Building

The annual Veteran's Day 5K Fun Run is the perfect opportunity for businesses and organizations to create an amazing team building experience! "Boots on the Ground" encourages 100% participation and could include several team activities, contests or challenges leading up to the big event.

Recruit your team of runners, walkers, strollers ... don't leave anyone behind!

- Corporations, Businesses and Firms
- Groups and Organizations
- Family and Friends

Register all participants at

Other team-building ideas to get ready for the event:

Recognize veterans in your workplace. Places of business can pay the registration fee for any veteran-employee that wants to sign-up for the run.

Coordinate your team to wear the same color on race day.

Contests are a great way to include all employees and/or members of an organization and do not have to cost a lot. A few ideas include:

- Have a design contest and create your own team-themed t-shirt to wear at the event.
- Have a toy collection contest.
- Contest prizes can include a gift card, a free day of PTO, a month of wearing sneakers, a month of special parking, etc.

[Register Your Team Now!](#)

THEFUN5K.RUN

Register early and take advantage of the lowest tiered pricing.

Start collecting toys at your place of business or organization as soon as possible.

Place designated collection bins or boxes for toy donations. This allows all employees to participate in the team event, including those that may not wish to attend in person.



Hallmark Achievement - July 2021

Texas Board of Professional Engineers and Land Surveyors v. TM

Facts: Client TM is a Registered Professional Engineer with 38 years-experience. TM was hired to draft a storm water detention engineering design that was needed by a customer to obtain a building permit for a swimming pool on his property. His first draft for a building permit was rejected by the city. He advised the customer that the project would be far more expensive than originally bid. The customer agreed that TM would just refund the deposit he paid. Prior to the refund being paid, the customer filed a complaint with the Texas Board of Professional Engineers and Land Surveyors (the "Board"). After TM was notified of the complaint, he refunded the deposit and the customer rescinded the complaint. However, the Board pursued the complaint anyway saying TM had failed to practice engineering in an honest and ethical manner and failed to act as a faithful agent to his client because it took him over three months to pay the refund and did so only after the complaint was filed. The Board issued a proposed Consent Order to TM, imposing a one-year suspension of his license probated and successful completion of ten hours of continuing education in ethics.

Outcome: TM rejected the proposed Consent Order and hired Bertolino LLP to represent him in front of the Board at an informal conference. At the conference, TM was led through a question-and-answer presentation regarding going through a divorce at the time and having to sell his house in another state which caused him to neglect the refund. He met with the customer within 24 hours of learning about the complaint and paid him the refund. The customer was satisfied and told TM that he would withdraw the complaint. After deliberations, the Board modified the Consent Order to an informal reprimand, no suspension of license and successful completion of ten hours of continuing education in a second-level ethics class within 8 months.



Meet Summer Associate, Joe

Joseph Gillespie-Hill is a summer associate with Bertolino LLP and a law student at the University of Texas School of Law. Joe graduated with a bachelor's degree in liberal arts from St. John's College in Annapolis in 2017 and worked as a paralegal in complex civil litigation prior to starting law school in 2020.

During his time as a paralegal, Joe assisted on several high profile matters including multidistrict litigation, class action lawsuits, and adversary bankruptcy proceedings. Joe spent most of his time assisting with discovery requests and document productions but also maintained case calendars and filed motions and briefs with the court.

Joe moved to Austin in December 2020 and in his free time may be found climbing, biking, or enjoying the food around Austin.

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