

## WHEN THE STATE REGULATORS COME CALLING



Article written by JAMES A. HOCHMAN, a partner of Arnstein & Lehr LLP law firm, James Hochman, Esq. He practices law for a wide range of clients in real estate and real estate related litigation. Hochman writes freelance articles offering some of his best advice based on his 37 years of experience. Jim can be reached at [jahochman@arnstein.com](mailto:jahochman@arnstein.com).

Receiving a call from an investigator of your state real estate commission is like getting a letter from the IRS. You want to pretend it didn't happen, perhaps ignore it, perhaps even conveniently "forget" to return the call. It's understandable, these regulators potentially hold your license, your livelihood, and your career in their hands.

Your first impulse — ignore — maybe even run and hide — are the absolute worst thing you can do. You *must* face the issue. Failing to cooperate and failing to respond to a request for information and documents will surely enlarge even the smallest issue into a potentially major problem and liability.



In Illinois, just to use one example, a licensee must respond, and is required to produce documents within 30 days or even sooner, within 24 hours if the request includes your trust account records and bank statements. In one case, a client of mine, in a misunderstanding, thinking she had satisfied the investigator, almost saw her license suspended for six months (with a healthy fine). It turned out that a former employee had accused her of escrow improprieties — false accusations which (with counsel) could be resolved and the complaint was dismissed.

Another one of my clients faced the Commission in a settlement conference. He admitted: "I have never had a complaint and I have been in the profession for 30 years. If it sounds like I am scared to death (his voice waivered), it's because I am. You hold my career in your hands. When he explained his side of the story, the Commission closed its file without discipline, without even a warning.

Just as you have your accountant respond to the IRS, your counsel can and should speak for you if the real estate commission inquires. There are likely experienced attorneys in your state who regularly appear in inquiries and license complaint hearings. Between your SIOR network and state association's counsel, you can find the right attorney.

But — please remember — when that first response, "ignore, run and hide" hits you, calm down and face the problem. Most real estate commission prosecutors respond well to cooperation, in a fact finding and in a settlement oriented process. You might be just fine, many complaints arise from malice, or misunderstanding. With confidence, with calm, and yes, good legal representation, you can face and perhaps resolve the inquiry early with no blood.

Your records, your professionalism, and your trusted advisors will usually see you through to a good result.