

By
Hal
Johnson

Discussing Career Issues from Your PBA General Counsel

Understanding the CJSTC Review Process – Part 2

[This is the second in a three-part series explaining the CJSTC disciplinary process and “walking” the reader through the process. The first part of the series covered the disciplinary process through a finding of probable cause against an officer. It is found in the June, 2007 issue of the Roll Call.]

Issuance of the Administrative Complaint

As related in the first article, once a probable cause panel of the CJSTC hears your case, it will vote to find probable cause, dismiss the case or issue some lesser form of punishment such as a letter of guidance. If it determines that probable cause exists to take disciplinary action against your certification, an administrative complaint will be issued by the CJSTC and served on you. You will normally receive an administrative complaint in 10-20 days following the probable cause hearing.

Please note (this is important): the administrative complaint will be sent to you by certified mail. You have 30 days after receipt of the administrative complaint to file a response (known as an election of rights form). If you do not file a response within that 30 day period, you can be considered in default and are subject to have your certification revoked based upon your failure to file a response. So, do not throw the administrative complaint away and do not put it in your desk drawer and forget about it!

If you receive an administrative complaint from the CJSTC and are a PBA member, immediately pick up the telephone and call the Florida PBA or your local charter or chapter. Explain that you have received a CJSTC administrative complaint and need to file a response. Ask to speak to a PBA attorney. Simply put, contact the PBA as soon as possible.

The administrative complaint is a pretty straightforward document. The second paragraph of the complaint (Paragraph No. 2) contains the factual allegation which serves as the basis of the disciplinary case against you. For example, if you were arrested and convicted of DUI on August 31, 2007, the Paragraph 2 will state: “On or about August 31, 2007, the Respondent, John Doe, was adjudicated guilty of Driving Under the Influence before the County Court in the Fourth Judicial Circuit, in and for Duval County, Florida.”

Election of Rights Form

There will be a second document with the administrative complaint sent to you. The document will have your name on it and will be entitled an “Election of Rights” form. When you call the Florida PBA or your local charter or chapter, make sure you have both the administrative complaint and the election of rights form in front of you. This is because the attorney who will speak to you needs to ask you questions about the administrative complaint and assist you in filling out the election of right form.

The election of rights form offers you four (4) different choices in order to resolve the allegations found in the administrative complaint. Do not fill out the election of rights form without consulting with a PBA attorney. **We repeat: do not fill out the election of rights form without consulting with a PBA attorney!** What you put on that form affects how your case is processed by the CJSTC and whether you voluntarily relinquish (give up) your certification. Even if you want to give up your certification, at least take five minutes and have a PBA attorney review your options with you. Remember that is why you pay your dues!

As stated previously, under the election of rights form you have four basic choices: (1) you do not dispute the facts found in Paragraph 2 and want to request an “informal” hearing, (2) you do dispute the fact found in Paragraph 2 and want a “formal” (administrative trial) hearing, (3) you do not admit the facts but voluntarily relinquish your certification, and (4) you admit the facts and voluntarily

relinquish your certification. Under options 3 and 4, you will permanently lose your certification as an officer once the voluntary relinquishment is accepted by the CJSTC.

After discussing the administrative complaint with the PBA attorney, you will decide an initial course of action for responding to the complaint. We use the term “initial” course of action because as your case develops you normally will be able to change between options so long as the change is being made in good faith. Set out below is the typical time-frame for resolution of your case depending on which course of action you elect (from date of filing of election of rights with the CJSTC):

Request an informal hearing: 4-8 months

Request a formal hearing: 6-18 months

Voluntary relinquishment: 4-8 months.

If you contest the factual basis of the administrative complaint, then your case will be heard by an administrative law judge in a “bench trial.” The formal hearing process takes anywhere from 6-18 months, sometimes more, for resolution. This is because your case will be heard by both an administrative law judge and the full CJSTC.

In contrast, if you admit the factual basis of the administrative complaint, your case will normally be heard in 4-8 months. This is because your case will be heard by the full CJSTC at one of its quarterly meetings.

Summary

In closing on this part of the series, it is important to re-emphasize that once you receive an administrative complaint from the CJSTC it is absolutely time to contact the Florida PBA, your charter or chapter. At this stage, you need the help of an experienced attorney to advise you of the options available to you and the best manner in which to proceed. Finally, don't throw the administrative complaint away and don't stick it in a desk drawer and ignore it. Now is the time to contact the PBA and get legal assistance.

[The final part of the series will discuss the options available to you, i.e. the informal hearing process and the formal hearing process and how they work. As always, if you have any questions about the process after reading this article please feel free to contact us.]

IRS TAX TIP: IR-2007-18

Tax Advice for Starting, Operating or Closing a Small Business

Aug. 17, 2007

To many citizens, running a successful business is part of the American dream. But while they may be experts in their chosen field, few small business owners are tax experts. From starting a new business to operating or even closing a business, the IRS has tax advice for small business owners.

The IRS Web site at IRS.gov has information devoted to the needs and interests of small business owners. Topics on the Web site answer many of the nuts and bolts questions that new or even experienced small business owners might have.

Many business decisions have significant tax implications. The structure and accounting methods you choose can dramatically affect how much tax you pay. Even before you check with your accountant or tax advisor, you can check out the IRS Web site for useful information.

For example, do you know whether your activities are considered hobbies or a business for tax purposes? Who must you inform that you are starting a new business? What structure is best for your business and what records do you need to keep? What does it mean to select an accounting method? All of these topics, plus a handy checklist for starting a business, are found in the section entitled “Starting a Business.”

Even businesses that have been operating for a long time encounter new and unusual tax situations. How do you change the name of your business? What do you need to know when your business grows and you hire employees? The money may be rolling in but what is taxable income and what may not be taxable? Speaking of taxes, just what forms do you need to file and more importantly when do you need to make payments? The answers to these and more than a half-dozen other questions are found in the section entitled “Operating a Business.”

When the time comes to close your business you will want to make sure that it is done properly. For some the closure of a small business may mean creating a different business structure. For others it will mean selling the business. Unfortunately for some it will mean filing for bankruptcy. The section entitled “Closing a Business” includes a handy checklist to make certain you do not leave any loose threads.

No matter what stage your business is in, you will find the tax help you need at IRS.gov in the tab marked Small Business/Self-Employed – Starting, Operating Or Closing a Business – on IRS.gov. Help is also available for business owners who don't have access to the Internet by calling 1-800-829-3676 and requesting Publication 4591, Small Business Federal Tax Responsibilities; Publication 334, Tax Guide for Small Business; and Publication 1066C, A Virtual Small Business Tax Workshop DVD.

www.BuyPBA.com
PBA products now available
24-hours a day.
Great Prices! Great Products!



The officially endorsed Florida PBA website to purchase all of your PBA wearables & other products is now online. We carry dozens of custom PBA products such as: t-shirts, jackets, handcuff keys, caps and more.

Visit www.buypba.com or call 888-FL-COPS-5