



**BANKSTON & ASSOCIATES**  
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ATTORNEYS AT LAW

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July 16, 2014

Jenna H. Linn  
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Clerk of Court  
19<sup>th</sup> JDC, Parish of East Baton Rouge  
P.O. Box 1991  
Baton Rouge, LA 70821

ATTN: CIVIL SUITS

RE: *Robert Burns and Rev. Freddie Phillips vs. LA Auctioneer's Licensing Board, et al*  
Docket No.: 619,707; Section 27; 19<sup>th</sup> Judicial District Court  
My File No.: 1107-0004

Dear Sir/Madam:

Enclosed please find the original and one (1) copy of defendant, Louisiana Auctioneer's Licensing Board, et al, *Opposition to Plaintiffs' Motion for Summary Judgment and Memorandum in Support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment*. Please file the original into the suit record, and return a conformed copy to our office in the enclosed self-addressed, stamped envelope.

Please note that defendant, Louisiana Auctioneer's Licensing Board, is exempt from filing fees pursuant to La. R.S. 13:4521.

Thank you for your attention to this matter and should you have any questions or comments, please do not hesitate to contact our office.

Sincerely,

**BANKSTON & ASSOCIATES, L.L.C.**

By: 

Larry S. Bankston

LSB/sms

Enclosure: Answer/envelope

cc: Honorable Todd Hernandez (*via facsimile no. 389-8941*)  
Robert Burns (*via email only*)  
Rev. Freddie Phillips (*via email only*)  
Client (*via email only*)

ROBERT BURNS AND  
REV. FREDDIE LEE PHILLIPS

\* NUMBER 619707 SECTION 27

VERSUS

\* 19TH JUDICIAL DISTRICT COURT

LOUISIANA AUCTIONEER'S  
LICENSING BOARD, JAMES M.  
SIMS, TESSA STEINKAMP  
GREGORY L. "GREG" BORDELON,

\* PARISH OF EAST BATON ROUGE

\* STATE OF LOUISIANA

\*\*\*\*\*

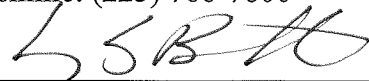
**DEFENDANTS' OPPOSITION TO PLAINTIFFS'**  
**MOTION FOR SUMMARY JUDGMENT**

**NOW INTO COURT**, through undersigned counsel, come defendants, Louisiana Auctioneer's Licensing Board, James M. Sims, Tessa Steinkamp, and Gregory L. Bordelon, who respectfully oppose Plaintiffs, Robert Burns and Freddie Phillips' Motion for Summary Judgment on the grounds that there are genuine issues of material fact, Plaintiffs has failed to establish that they are entitled to summary judgment as a matter of law, and for reasons more fully outlined in the attached and accompanying Memorandum in Support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment.

WHEREFORE, Defendants, pray that Plaintiffs' Motion for Summary Judgment would be DENIED in its entirety and for all other legal and equitable relief.

Respectfully Submitted:


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Larry S. Bankston, Bar Roll #02744  
Jenna H. Linn, Bar Roll #33246  
*Attorneys for Defendants*

**CERTIFICATE**

I hereby certify on this 16<sup>th</sup> day of July, 2014, a copy of the foregoing pleading was served on counsel for all parties to this proceeding, by transmitting a copy of same via electronic mail, facsimile or regular United States mail, properly addressed, and first class postage prepaid.

  
Larry S. Bankston

ROBERT BURNS AND  
REV. FREDDIE LEE PHILLIPS

\* NUMBER 619707 SECTION 27

VERSUS

\* 19TH JUDICIAL DISTRICT COURT

LOUISIANA AUCTIONEER'S  
LICENSING BOARD, JAMES M.  
SIMS, TESSA STEINKAMP  
GREGORY L. "GREG" BORDELON,

\* PARISH OF EAST BATON ROUGE  
\* STATE OF LOUISIANA

.....  
**MEMORANDUM IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFFS'  
MOTION FOR SUMMARY JUDGMENT**

***MAY IT PLEASE THE COURT:***

**NOW INTO COURT**, through undersigned counsel, come defendants, Louisiana Auctioneer's Licensing Board, James M. Sims, Tessa Steinkamp, and Gregory L. Bordelon, who respectfully oppose Plaintiffs' Motion for Summary Judgment on the grounds that there are genuine issues of material fact, and pray that Plaintiffs' Motion for Summary Judgment be denied.

**FACTUAL BACKGROUND**

The plaintiff, Robert Burns, was at one time licensee of the Louisiana Auctioneer's Licensing Board (LALB). Burns did not renew his license after a complaint was filed against him by an auction house in 2012. Plaintiff, Freddie Phillips, is currently a licensee of the LALB. The LALB is an executive agency of the State of Louisiana whose mission is to contribute to the health, safety, and management of the property of the people of Louisiana in the transfer of property by auction.<sup>1</sup>

Plaintiffs' complaints herein concern the LALB's monthly meeting which took place on January 8, 2013. During the public comment period, Mr. Phillips sought to question the Board as to why a link to his association's website was not included on the LALB's website.<sup>2</sup> Phillips has represented to the LALB that he is the president of Louisiana Association of Professional Auctioneers ("LAPA"). This alleged association's membership is Burns, Phillips, and one other individual. Phillips had not previously requested that the request be placed on the agenda.<sup>3</sup> Such matter was not an agenda item.<sup>4</sup> LALB has adopted rules concerning the ability of the public to comment on items on the agenda. The discussion by the public is limited to items listed on the agenda. The Board informed Mr. Phillips that the matter was not appropriate for

<sup>1</sup> La. R.S. 37:3101, *et seq.*

<sup>2</sup> See Transcript of an excerpt of the Louisiana Auctioneers Licensing Board, meeting of January 8, 2013, page 2, lines 20-24, attached hereto as Exhibit "1".

<sup>3</sup> Exhibit 1, page 3, lines 7-10.

<sup>4</sup> See agenda for the January 8, 2013, LALB meeting, attached hereto as Exhibit "2".

public comment since it was not on the agenda and suggested that the matter could be discussed after the meeting concluded.<sup>5</sup> Additionally, pursuant to request, this matter was added to the agenda of the following meeting, and Mr. Phillips was given an opportunity to comment on it at that time.<sup>6</sup>

During the public comment period, Mr. Burns desired to speak on a number of items Burns objected to LALB going into executive session to discuss an additional suit by Burns concerning public meeting law violation.<sup>7</sup> Burns was allowed to fully comment on the litigation item listed on the agenda.<sup>8</sup> Burns has filed at least five (5) separate lawsuits against the board, board attorney, and executive director.

An additional item raised by Burns was concerning LALB's per diem payments to its members.<sup>9</sup> However, such matter was not an item on the agenda, and therefore, Mr. Burns was told he would not be allowed to comment on such matter.<sup>10</sup>

During the public comment period, Burns spoke on a second occasion to the LALB concerning the comments made by another member of the public during the comment period.<sup>11</sup> While another member of the public sought to discuss the roll call from the prior meeting, such member of the public is not a plaintiff in this case. That individual had prepared a written statement concerning the roll call of the previous meeting that was not on the agenda of the subject meeting.<sup>12</sup> The individual was advised that the item was not on the agenda, but she was allowed to pass out her written statement to the board members.<sup>13</sup> Additionally, both Plaintiffs in this case were allowed to discuss their dissatisfaction with the sequence of conducting the public comment period prior to the approval of minutes.<sup>14</sup>

Public comment concerning prior meeting's minutes is not conducted until after the minutes have been approved by the Board. It is the LALB's procedure at meetings to allow for public comment, approve prior meeting minutes, and then allow comment concerning the approved minutes.<sup>15</sup> Until minutes are approved, there are no official minutes for the public to suggest changes. Mr. Phillips disagreed with such procedure and suggested that the Board revise

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<sup>5</sup> See Exhibit 1, page 6, lines 16-17.

<sup>6</sup> See Affidavit of Tessa Steinkamp, attached hereto as Exhibit "3".

<sup>7</sup> See Exhibit 1, pages 9-11.

<sup>8</sup> See Exhibit 1, pages 9-11.

<sup>9</sup> See Exhibit 1, page 7, lines 10-11.

<sup>10</sup> See Exhibit 1, page 7, lines 13-22.

<sup>11</sup> See Exhibit 1, pages 15-17.

<sup>12</sup> See Exhibit 1, page 3-4, lines 22-21.

<sup>13</sup> See Exhibit 1, page 5, lines 2-5.

<sup>14</sup> See Exhibit 1, pages 12-14 (comments by Phillips) and pages 15-17 (comments by Burns).

<sup>15</sup> See Exhibit 1, page 12, lines 18-21.

the procedure to allow for public comment after the approval of minute.<sup>16</sup> In response, the LALB indicated it would consider Plaintiff's suggestions.<sup>17</sup> At the following meeting, the Board did in fact implement the change requested by Phillips. Additionally, it should be noted that Mr. Phillips was still allowed the opportunity to request that the prior meeting's minutes include verbatim roll call responses.<sup>18</sup> Such roll call responses have never been a part of the minutes prepared by the executive director.

Burns also disagreed with this procedure and was allowed an opportunity to voice his disapproval.<sup>19</sup> Additionally, counsel for the LALB was present at the meeting, and acknowledged that Plaintiffs would have an opportunity to comment on the subject meeting minutes at the following Board meeting, once the minutes had been approved.<sup>20</sup> The board does record the meeting and a transcript has been prepared by a certified court reporter of the public comment period of this meeting, which is attached to this opposition.<sup>21</sup> It should further be noted that during the public comment period of the following LALB meeting, on March 5, 2013, Plaintiff, Freddie Phillips did in fact comment on the official minutes of the November 2012 meeting.<sup>22</sup> Mr. Phillips was given an opportunity to comment on the approved meeting minutes, and during such time, Mr. Phillips suggested the minutes be expanded "to reflect actual roll call."<sup>23</sup>

## **LAW AND ARGUMENT**

### **A. STANDARD FOR ISSUANCE OF SUMMARY JUDGMENT**

The applicable standard for a summary judgment is set forth in La. C.C.P. art. 966. The article indicates that a summary judgment is proper if the pleadings, depositions, affidavits, and interrogatories on file demonstrate the existence of no genuine issue of material fact and that the mover is entitled to summary judgment as a matter of law.<sup>24</sup> The burden is on the mover to establish that there is no genuine issue of material fact.<sup>25</sup> A fact is material if "it is essential to the plaintiff's cause of action under the applicable theory of recovery and without which plaintiff

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<sup>16</sup> See Exhibit 1, pages 12-14.

<sup>17</sup> See Exhibit 1, page 14, lines 20-25.

<sup>18</sup> Exhibit 1, page 14, lines 6-19.

<sup>19</sup> Exhibit 1, pages 15-17.

<sup>20</sup> See Exhibit 1, page 12, lines 18-21.

<sup>21</sup> Exhibit 1.

<sup>22</sup> See Affidavit of Tessa Steinkamp, attached hereto as Exhibit "3".

<sup>23</sup> See Affidavit of Tessa Steinkamp, attached hereto as Exhibit "3".

<sup>24</sup> La. C.C.P. art.966(B).

<sup>25</sup> McKey v. GMC, 96-0755 (La. App. 1st Cir. 2/14/97) 691 So.2d 164, 167.

could not recover.”<sup>26</sup> Furthermore, it is only when reasonably minds must inevitably conclude that the mover is entitled to a judgment as a matter of law that summary judgment is warranted.<sup>27</sup>

Upon a motion for summary judgment, the initial inquiry is whether the supporting documents by the moving party are sufficient to resolve all material issues of fact.<sup>28</sup> In order to meet this burden, the mover is required to meet a strict standard of showing that it is “clear as to what is the truth and that there has been excluded any real doubt as to the existence of a genuine issue of material fact.”<sup>29</sup> While weighing the competing documents by the mover and opponent for summary judgment, “the supporting documents must be closely scrutinized and the non-mover’s indulgently treated.”<sup>30</sup> Furthermore, where the court is faced with competing reasonable inferences, “the reasonable inferences must be viewed in the light most favorable to the party opposing the motion.”<sup>31</sup> It is only when the court determines that the moving party has met his burden that the onus shifts to the opponent to establish that a material fact is at issue.<sup>32</sup>

#### **B. STATEMENT OF DISPUTED FACTS**

1. During the public comment period at the subject LALB meeting, Mr. Burns sought to discuss per diem payments; such matter was not included as an agenda item for the meeting.<sup>33</sup>
2. Aside from Mr. Burns’ discussion concerning executive session, Plaintiffs did not attempt to comment on an agenda item.<sup>34</sup>
3. Defendants did not knowingly and willfully violate Louisiana’s Open Meeting Law.<sup>35</sup>
4. There was no violation of Louisiana’s Open Meeting Laws at the subject LALB meeting.<sup>36</sup>
5. The Plaintiffs have not suffered any damages herein.

#### **C. PLAINTIFF’S ALLEGATIONS**

Plaintiffs contend that defendants knowingly and willfully violated the Louisiana Open Meeting Laws. As a result, Plaintiffs contend that they are each entitled to an award of \$100 from defendant LALB members under La. R.S. 42:28. Plaintiffs also request attorneys’ fees and

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<sup>26</sup>Id., at 168.

<sup>27</sup>McKey v. GMC, 96-0755 (La. App. 1st Cir. 2/14/97) 691 So.2d 164, 167.

<sup>28</sup>Id.

<sup>29</sup>Id.

<sup>30</sup>Id., at 168.

<sup>31</sup>Id., at 168.

<sup>32</sup>Id.

<sup>33</sup>See Exhibit 1, page 7, lines 10-19; and Exhibit 2, LALB Agenda.

<sup>34</sup>See Exhibit 1 and Exhibit 2.

<sup>35</sup>See Exhibit 1.

<sup>36</sup>See Exhibit 1 and Exhibit 2.

costs. However, aside from the allegations set forth in their pleadings, Plaintiffs have failed to provide evidence that the Defendants intentionally and knowingly violated any statute under the Louisiana Open Meeting Laws.

#### **D. AGENDA ITEMS**

Plaintiff, Robert Burns, alleges that the LALB violated the Open Meetings Laws in denying him the opportunity to comment on per diem payments for September 17, 2012.<sup>37</sup> However, the Open Meetings Law only requires that the public be allowed to comment on items listed on the agenda<sup>38</sup>, and the agenda for the subject LALB meeting did not include per diem payments.<sup>39</sup> Plaintiff does not contend that “per diem payments” were an agenda item. However, he attempts to argue that he should have been allowed to comment on per diem payments because “those payments directly affect the financial statements” and “approval of financials” was an agenda item<sup>40</sup>. Such argument lacks merit. While “Approval of Financials” was an agenda item, the agenda did not include any detail under such category.<sup>41</sup> When an agenda does not include any detail under a category, in order for the board to take up an additional item not listed on the agenda, it is necessary for the board to vote on such matter.<sup>42</sup> In this case, the Board did not vote to add per diem payments to the agenda. While a citizen has the right to give public comment at a public meeting, there is no requirement that the citizen be allowed to add items to the agenda for discussion.<sup>43</sup> That authority is reserved to the members of the LALB. Further, there was no request prior to the meeting by Burns, as a member of the public to place the “per diem” issue on the agenda.

#### **E. MINUTES**

Plaintiff, Freddie Phillips, was allowed and did in fact comment on the proposed unapproved minutes.<sup>44</sup> It was his desire that the minutes reflect the “expanded” roll call responses.<sup>45</sup> While both Plaintiffs were allowed to comment on the procedure of allowing public comment on prior meeting’s minutes<sup>46</sup>, Plaintiffs still attempt to argue that Mr. Phillips was denied his right to speak in violation of Open Meetings Law.

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<sup>37</sup> See Plaintiffs’ Memorandum in Support of Motion for Summary Judgment, page 1.

<sup>38</sup> La. R.S. 42:14

<sup>39</sup> See LALB Agenda for the January 8, 2013 meeting, attached hereto as Exhibit 2.

<sup>40</sup> See Plaintiffs’ Memorandum in Support of Motion for Summary Judgment, page 1-2.

<sup>41</sup> See Exhibit 2.

<sup>42</sup> See Op. Atty. Gen., No. 87-676, Nov. 23, 1987.

<sup>43</sup> Op. Atty. Gen., No. 08-0325 (Feb. 17, 2009), 2009 WL 685303.

<sup>44</sup> See Exhibit 1, page 14, lines 7-19.

<sup>45</sup> *Id.*

<sup>46</sup> See Exhibit 1, pages 12-17.

It is the LALB's procedure to allow public comment on meeting minutes once the minutes become official by approval of the Board. Until the minutes are adopted by the Board, there are no minutes to comment on. As Mr. Burns specifically admitted during his public comment, he was not aware of the contents of the proposed minutes.<sup>47</sup> This is because minutes are not made public until they are approved. Thus, to allow public comment on minutes prior to the approval of minutes would lack efficiency as the public would not have knowledge of what they were commenting on.

In accordance with Robert's Rules of Order, "minutes of each meeting are normally read and approved at the beginning of the next regular meeting."<sup>48</sup> "If the existence of an error or material omission in the minutes become reasonably established after their approval-even many years later-the minutes can then be corrected."<sup>49</sup> Accordingly, once the LALB's minutes are approved, the public may review such minutes, and if the minutes contain an error or omission, the public may comment on such and request correction. This was not done by the Plaintiffs.

#### **F. LALB MEMBERS ACTED IN GOOD FAITH**

Pursuant to La. R.S. 42:28, Plaintiffs must not only prove that Defendants violated Louisiana's Open Meeting Laws, but that Defendants committed such violation "knowingly and wilfully." In this case, LALB members operated in good faith and neither intentionally or knowingly violated Open Meetings Laws by deferring public comment on meeting minutes until after the minutes have been approved by the Board and by disallowing comment on items that are not listed on the agenda. At the subject meeting, LALB had two attorneys present, who preside over the proceeding to provide LALB members with legal guidance. In good faith, LALB's counsel and LALB members determined that the issue of website links, in which Mr. Phillips sought to comment on, as well as the issue of per diem payments, in which Mr. Burns sought to comment on, were not items listed on the agenda. Additionally, while it is LALB's procedure to allow public comment on meeting minutes only after the minutes become official, Mr. Phillips was given an opportunity to comment on "expanding" the roll call language of the unofficial minutes.<sup>50</sup> Additionally, both Plaintiffs were allowed to discuss their dissatisfaction with the sequence of allowing public comment prior to the approval of minutes.<sup>51</sup>

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<sup>47</sup> Exhibit 1, page 8, lines 8-11.

<sup>48</sup> Roberts Rules of Order, Title XV, Sect. 47.

<sup>49</sup> *Id.*

<sup>50</sup> See Exhibit 1, page 14, lines 7-19.

<sup>51</sup> See Exhibit 1, pages 12-17.



In *Courvelle v. Louisiana Recreational and Used Motor Vehicle Commission*, the court ultimately determined the Defendants violated an Open Meetings Law.<sup>52</sup> However, the court found that the defendants had a reasonable belief, albeit an erroneous one, that they were acting in compliance with the Open Meetings Law. Thus, the court held that the individual commissioners were not subject to fines for the Commission's violation of the Open Meetings Law.

In the present case, LALB members relied on the contents of the agenda and legal expertise of counsel in denying Plaintiffs the opportunity to comment on website links and per diem payments. LALB members reasonably believed they were acting in compliance with the Open Meetings Law. In light of this reasonable determination, Plaintiffs' contention that LALB members knowingly or intentionally violated Open Meeting Laws is without merit.

#### **G. RATIFICATION**

Even if this Court determined that Defendants violated the Open Meetings Law concerning public comment on prior meeting minutes, which is at all times denied, Plaintiff's claim is moot because the LALB's action was ratified by the subsequent public comment period held on March 5, 2013. In *Delta Development Co., v. Plaquemines Parish Com'n Council*, the court held that even where an Open Meetings Law violation occurred, the plaintiff's claim was moot where the action was ratified.<sup>53</sup>

In *Delta Development Co.*, mineral rights holders moved for a preliminary injunction against members of the parish commission council.<sup>54</sup> The mineral rights holders sought to enjoin the parish council from continuing in a suit against the holders to recover mineral rights.<sup>55</sup> The mineral rights holders, Delta Development Company, argued that the parish council violated the Open Meeting Law when it adopted a resolution authorizing the suit against it.<sup>56</sup> Namely, Delta Development contended that the resolution passed by the parish council was not among the listed exceptions necessary for an executive session.<sup>57</sup> The court took note of the plaintiff's argument and agreed that the actions of the parish council amounted to a violation of the Open Meeting Law. However, the court reasoned that under La. R.S. 42:9 the product of a violation of the Open

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<sup>52</sup> *Courvelle v. Louisiana Recreational & Used Motor Vehicle Comm'n*, 2008-0952 (La. App. 1 Cir. 6/19/09), 21 So. 3d 340

<sup>53</sup> *Delta Development Co., Inc. v. Plaquemines Parish Com'n Council*, 451 So.2d 134 (La. App. 4th Cir. 1984).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*, at 137.

Meeting Law was relatively null rather than absolutely null.<sup>58</sup> Therefore, the parish council's actions could be ratified. Because the parish council held a subsequent meeting that comported with the Open Meeting Law to pass the resolution, the court found that the action had been ratified. As a result, the plaintiff's claims were found moot and a decision was rendered in favor of the defendants.<sup>59</sup>

In an additional case, *Marien v. Rapides Police Jury*, the court also found that actions held in a subsequent meeting, which complied with Open Meetings Law requirements, ratified the violations of a previous meeting.<sup>60</sup> In *Marien*, the plaintiffs challenged a resolution passed by the local police jury.<sup>61</sup> In their complaint, the plaintiffs' alleged that the vote for the resolution was held without proper notice.<sup>62</sup> The police jury provided notice of the hearing, but did not observe the proper time delay.<sup>63</sup> The court recognized that this error violated the Open Meetings Law.<sup>64</sup> The court found, however, that the police jury ratified its action by holding a meeting with proper notice at a subsequent meeting ten days later.<sup>65</sup> "The ratification action...cured that problem."<sup>66</sup> Again, the court found in favor of the defendants.

In the case at bar, it is the LALB's procedure to not allow public comment on meeting minutes until the minutes are made official. Despite such fact, plaintiffs still commented on the unofficial November 2012 meeting minutes at the January 2013 meeting.<sup>67</sup> Additionally, at the following Board meeting, on March 5, 2013, once the minutes had been approved and made official, the LALB allowed public comment on said minutes.<sup>68</sup> The plaintiff took advantage of this opportunity by again commenting on the November minutes, thereby, curing any defects in the prior meeting.<sup>69</sup> Therefore, in accordance with the decisions rendered by the court in *Marien* and *Delta Development*, the plaintiff's claims are moot.

### CONCLUSION

In conclusion, the Plaintiffs, who as movers carry the burden of proof, have failed to establish that they are entitled to a judgment as a matter of law. In contrast to Plaintiffs' allegations, Defendants have not violated Louisiana's Open Meetings Laws. Defendants acted

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<sup>58</sup>Id., at 138.

<sup>59</sup>Id.

<sup>60</sup>*Marien v. Rapides Parish Police Jury*, 98-0077 (La. App. 3d Cir. 7/8/98) 717 So.2d 1187.

<sup>61</sup>Id.

<sup>62</sup>Id.

<sup>63</sup>Id., at 1192.

<sup>64</sup>Id.

<sup>65</sup>*Marien v. Rapides Parish Police Jury*, 98-0077 (La. App. 3d Cir. 7/8/98) 717 So.2d 1187, 1192.

<sup>66</sup>Id.

<sup>67</sup>See Exhibit 1, pages 6-7 and 14-17.

<sup>68</sup>See Exhibit 3, Affidavit.

<sup>69</sup>Id.

reasonably, and even if this Court determines that there was a violation of the Open Meetings Laws, which is at all times denied, such action has been ratified and the Plaintiffs have failed to prove the requisite elements of a knowing and willful violation. There has been no showing that the individual board members failed to act in a reasonable manner, and the Motion for Summary Judgment should be denied.

Respectfully submitted by:

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Larry S. Bankston, Bar Roll No.: 02744  
Jenna H. Linn, Bar Roll No. 33246

**CERTIFICATE**

I hereby certify on this 16<sup>th</sup> day of July, 2014, a copy of the foregoing pleading was served on counsel for all parties to this proceeding, by transmitting a copy of same via electronic mail, facsimile or regular United States mail, properly addressed, and first class postage prepaid.

  
Larry S. Bankston

LOUISIANA AUCTIONEERS LICENSING BOARD

JANUARY 8, 2013

B&A FILE NUMBER 1107-0004

ORIGINAL

REPORTED BY SUZANNE EDMONSON, CCR

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EXHIBIT 1

1 (Reporter's Note: This is an excerpt from  
2 the Louisiana Auctioneers Licensing Board meeting  
3 of January 8, 2013.)

4 MS. STEINKAMP:

5 Okay. So Number 2 on the  
6 agenda, public comments on the following agenda  
7 items. Would anyone like to make a public comment?  
8 Sherie?

9 MS. WILKS:

10 Go ahead, Freddie. You can  
11 go first, if you want to.

12 MS. STEINKAMP:

13 Freddie, you are welcome to  
14 speak for five minutes on any item on the agenda.

15 MR. PHILLIPS:

16 Okay. Good morning.

17 MS. STEINKAMP:

18 Good morning.

19 MR. PHILLIPS:

20 I just have one question  
21 and that's related to my trade association,  
22 Louisiana Association of Professional Auctioneers  
23 and why that has not been added to the Board's  
24 website.

25 MS. STEINKAMP:

1 Mr. Phillips, did you ask  
2 for this to be put on the agenda?

3 MR. PHILLIPS:

4 I mean, it's an agenda  
5 item.

6 MS. STEINKAMP:

7 It's not an item. Did you  
8 ask for it to be put on the website?

9 MR. PHILLIPS:

10 No. We just called and  
11 asked. I was trying to see why it wasn't, but it's  
12 been over a year.

13 MS. STEINKAMP:

14 Okay. I don't know that  
15 answer, Freddie, but I'll definitely get back with  
16 you. It's not on our agenda, so we'll have to talk  
17 about it after.

18 Anything else on the agenda? Anyone  
19 else have a comment?

20 Sherie?

21 MS. WILKS:

22 I guess it would fall under  
23 approval of the minutes, which I don't have a copy  
24 of but I have a statement I would like to make, I  
25 would like to read it. I listened to the audio of

1 the last meeting and read the article in the  
2 newspaper, and I wanted to say that the way that  
3 some of the members responded --

4 MS. STEINKAMP:

5 Sherie, excuse me.

6 MR. BANKSTON:

7 Is this an item on the  
8 agenda?

9 MS. WILKS:

10 I think it has to do with  
11 the minutes and the roll call.

12 MR. BANKSTON:

13 In what regard?

14 MS. WILKS:

15 In what regard?

16 MR. BANKSTON:

17 Uh-huh.

18 MS. WILKS:

19 It's something that I want  
20 to comment on having to do with the roll-call vote  
21 and the meeting that was --

22 MR. BANKSTON:

23 I don't think that item --

24 I don't think that is an appropriate response to an  
25 agenda item.

1 MS. WILKS:

2 Fine. I'll pass my  
3 statement out to the board members and I'll give it  
4 to Mr. Burns to post on his website and you can  
5 read it at your leisure.

6 MS. STEINKAMP:

7 Did you have anything else,  
8 Sherie, you wanted to say about --

9 MS. WILKS:

10 No. That's it.

11 MS. STEINKAMP:

12 Okay. Well, thank you,  
13 Sherie.

14 MS. WILKS:

15 You're quite welcome.

16 MS. STEINKAMP:

17 Mr. Burns --

18 MR. BURNS:

19 Can you hold this  
20 (indicating)?

21 MS. STEINKAMP:

22 Sherie, do you want to hold  
23 his camera for him? He was asking you.

24 MS. WILKS:

25 Sure. Just one second.



1 Anybody else want a copy?

2 Where are you going, Robert?

3 MR. BURNS:

4 I'm going to go about where  
5 you were.

6 MS. STEINKAMP:

7 Mr. Burns wants to make a  
8 public comment on an agenda item.

9 MR. BURNS:

10 Good morning. I see we  
11 lost the podium, so I'll have an impromptu podium.

12 MS. STEINKAMP:

13 If you want, you can use  
14 this, Mr. Burns.

15 MR. BURNS:

16 Okay. That's fine. I'm  
17 not going to seek clarification of the minutes  
18 because, you know, the minutes are what they are  
19 and what took place in this meeting is what it is.  
20 So I'm not going to comment on the minutes.

21 I will, however, say that there was  
22 about a 61-minute discussion of a particular agenda  
23 item last time, involving the process that will be  
24 used for -- and I'm sure something is bound to be  
25 in the minutes on that because I know y'all took

1 motions and a second. And I condensed down to  
2 about 19 minutes of that, and I'm just going to  
3 state what I observed was nothing but pure rank  
4 corruption, period. Now, that's my commentary on  
5 the minutes. It was pure rank corruption. I've  
6 got the tape and y'all are free to listen to it,  
7 and I've got the elaboration on it. So, as he  
8 said, the website will be available and you can  
9 easily see it.

10 With the regard to the per diem, which  
11 I know that apparently --

12 MR. BANKSTON:

13 Mr. Burns, the per-diem  
14 issue is not on the --

15 MR. BURNS:

16 It was discussed,  
17 Mr. Bankston, and --

18 MR. BANKSTON:

19 But it's not on the agenda.  
20 If you would like to discuss any item on the  
21 agenda, feel free to do so. But if it's not on the  
22 agenda --

23 MR. BURNS:

24 The minutes are on the  
25 agenda, Mr. Bankston.

1 MR. BANKSTON:  
2 The per-diem issue is not  
3 on the agenda.

4 MR. BURNS:  
5 The minutes are.

6 MR. BANKSTON:  
7 There's no reference --

8 MR. BURNS:  
9 How do I know what's  
10 referenced in the minutes, Mr. Bankston? I don't  
11 have a copy.

12 MR. BANKSTON:  
13 It's posted.

14 MR. BURNS:  
15 No, it's not.

16 MS. STEINKAMP:  
17 Not until they're approved.

18 MR. BANKSTON:  
19 Not until they're approved.

20 MR. BURNS:  
21 That's correct.

22 MR. BANKSTON:  
23 Well, they haven't been  
24 approved.

25 MR. BURNS:

1 I understand that, and I'm  
2 making a statement about what should be in them.

3 MR. BANKSTON:

4 Well, Mr. Burns, that's not  
5 how it works.

6 MR. BURNS:

7 Very well. That comment  
8 too will go forward.

9 Now, I will move to something that  
10 authoritatively is on the agenda and that is Number  
11 5, wherein apparently y'all plan to go into  
12 executive session to discuss my litigation. If you  
13 -- I hope some of you at least took a little time  
14 to read that litigation and it made note of the  
15 Courvelle lawsuit that I made reference to. The  
16 appeals court stated, and I'm going to make a  
17 couple of quick quotes that they made from that.  
18 It is essential to the maintenance of the  
19 democratic society that public business be  
20 performed in an open and public manner and that the  
21 citizens be advised of and aware of the performance  
22 of public officials and the deliberations and  
23 decisions that go on in the making of public  
24 policy.

25 I understand that you say you may go

1 into executive session based on the tail end of  
2 42:1782, which says our litigation in an open  
3 meeting would have a detrimental effect on the  
4 bargaining or the litigating position of the public  
5 body.

6 If you read that Courvelle lawsuit,  
7 you'll see where the appellate judge has stated,  
8 Reciting what the Commission was going to discuss  
9 is different from showing that a discussion would  
10 be detrimental. Thus, we affirm that portion of  
11 the trial for decision, which was -- well, other  
12 people aren't speaking of. So, I mean, it was  
13 barely a whisper when there were some previous  
14 discussion but I will release the volume and give  
15 everybody that.

16 MS. STEINKAMP:

17 Thanks, Mr. Burns.

18 MR. BURNS:

19 I will ask that y'all  
20 increase a little bit, though.

21 If he didn't have it, if Courvelle  
22 didn't have it, I would be quite perplexed to see  
23 just how this body -- we're talking about an  
24 open-meetings lawsuit, where there is no  
25 detrimental effect to the public body. You did it.

1 The whole fact that you're coming in here now to,  
2 you know, do a revised liberations admits that you  
3 did it. Okay? I mean, there is no detrimental  
4 effect to the public body. Well, you have an  
5 attorney and I'm sure he made those arguments that  
6 it will. I'm fully prepared to make arguments that  
7 it doesn't. So I'm letting you know that if you go  
8 into executive session again, you can probably  
9 expect another knock on some doors.

10 With that, I'm done.

11 MS. STEINKAMP:

12 Thank you, Mr. Burns.

13 MR. PHILLIPS:

14 Madam Chairman, since I  
15 only used a couple of minutes, I have --

16 MS. STEINKAMP:

17 Sure. Freddie, you can  
18 come up here.

19 MR. PHILLIPS:

20 Thank you very much. Let  
21 me just -- because Mr. Bankston did state that  
22 certain items were not on the agenda. But the  
23 approval of minutes is on the agenda from the last  
24 meeting and it has to be voted on before it's  
25 posted on the website. Am I correct?

1 MR. BANKSTON:

2 That is correct.

3 MR. PHILLIPS:

4 With that statement being  
5 said, then at some point in time the minutes are  
6 not approved until they are approved by the Board;  
7 is that correct?

8 MR. BANKSTON:

9 That's correct.

10 MR. PHILLIPS:

11 So, therefore, public  
12 comments need to be moved up prior to the approval  
13 of the minutes, so that whatever comments that need  
14 to be made prior to the minutes could be made  
15 concerning the minutes from the previous meeting.  
16 Would that be correct?

17 MR. BANKSTON:

18 You can make your comments  
19 in reference to the minutes at the next meeting as  
20 it relates to those minutes that have been approved  
21 in the previous meeting.

22 MR. PHILLIPS:

23 Correct.

24 MR. BANKSTON:

25 Not this meeting, the next

1 meeting.

2 MR. PHILLIPS:

3 Correct. But the minutes  
4 of the previous meeting was, at the same time,  
5 minutes that you voted on that we did not hear. So  
6 what I'm asking that the Board do is to move the  
7 public comments up before the approval of the  
8 previous meeting's minutes.

9 MS. STEINKAMP:

10 You mean move the public  
11 comments underneath approval of minutes?

12 MR. PHILLIPS:

13 Or before, because --

14 MR. BANKSTON:

15 It is before.

16 MS. STEINKAMP:

17 You mean after.

18 MR. PHILLIPS:

19 Yes, the minutes.

20 MS. STEINKAMP:

21 So you're asking us to move  
22 public comments to Number 3 and put approval of  
23 minutes as Number 2 in the future?

24 MR. PHILLIPS:

25 Well, no -- yes. Correct.



1 MS. STEINKAMP:

2 Okay. I understand.

3 MR. PHILLIPS:

4 Because what's happening is  
5 we cannot comment on what transpired, at this  
6 juncture, in the last meeting, and I do ask that  
7 the minutes be expanded and detailed, especially  
8 the comment upon roll call.

9 MR. BANKSTON:

10 I'm sure the Board will  
11 take that into consideration.

12 MR. PHILLIPS:

13 Well, we've had certain  
14 minutes put in, expanded on various items that I  
15 can recall, statements that I've made and they were  
16 put into the meeting without the board (inaudible).  
17 So, I mean, at some point in time we need to kind  
18 of consider that because, if not, then the Board's  
19 partiality towards putting them in in detail.

20 MS. STEINKAMP:

21 Freddie, we'll definitely  
22 look into switching. I understand what you're  
23 saying about switching the public comments to  
24 Number 3 and approval of minutes to Number 2.  
25 We'll look into that.

1 Anything else?

2 MR. BURNS:

3 I didn't use up my five  
4 minutes, so. I'm going to go back to exactly what  
5 he said. I want somebody to tell me -- it says,  
6 Public comment on the following agenda of items,  
7 and then after that it says, Approval of minutes.  
8 Tell me what I'm supposed to discuss. That, Okay,  
9 I guess y'all can approve the minutes. Is that all  
10 I can say?

11 MS. STEINKAMP:

12 Mr. Robert, actually --  
13 Mr. Burns, actually --

14 MR. BURNS:

15 You can call me Robert.

16 MS. STEINKAMP:

17 -- you can comment on  
18 anything on the agenda. Freddie just --  
19 Mr. Phillips just made the point to switch it  
20 around and we just said we would look into that.  
21 We will take that into consideration.

22 MR. BURNS:

23 I understand, but does not  
24 these instructions say, Public comment on the  
25 following agenda items, and the Number 3 is

1 approval of minutes?

2 MS. STEINKAMP:

3 Right.

4 MR. BURNS:

5 I rest my case, otherwise  
6 you can just say, Well, feel free to approve the  
7 minutes. We don't have any comment on them, but  
8 y'all can feel free to approve them, irrespective  
9 of what they say.

10 MR. BANKSTON:

11 Mr. Burns, you'll have the  
12 opportunity at the next -- once the minutes are  
13 approved, you'll have the opportunity at the next  
14 board meeting for corrections. You have an  
15 opportunity -- once they're officially adopted by  
16 the Board, you will have the opportunity at the  
17 next meeting to say, These minutes are incorrect.  
18 They don't reflect what transpired, and you'll have  
19 that opportunity at the next meeting.

20 MR. BURNS:

21 All I know, Mr. Bankston,  
22 is it says we are free to comment on the following  
23 items and the very next item is approval of minutes  
24 from November 5, 2012. It doesn't say anything  
25 about you need to wait until March 5th to comment

1 on the November 5th minutes.

2 MR. BANKSTON:

3 And you are, in fact,  
4 commenting on that very issue right now.

5 MR. BURNS:

6 I am commenting on the  
7 November -- yeah, I'm being told -- everything I  
8 wanted to say, yeah, I'm commenting on the fact  
9 that y'all don't want me to comment on them, if you  
10 want to call that commenting. By disagreement of  
11 your statement that I'm commenting on them, I'm  
12 commenting on the procedure -- every effort that  
13 was made by any person who came up here and spoke  
14 with regard to those minutes was shut down, as the  
15 record will clearly reflect.

16 MS. STEINKAMP:

17 Any other member have a  
18 comment before we move on?

19 Okay. We're going to go on now to  
20 Number 3, approval of minutes from the November 5th  
21 meeting.

22 (End of proceedings.)

23

24

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## 1           R E P O R T E R ' S C E R T I F I C A T E

2

3           This certification is valid only for a  
4 transcript accompanied by my original signature and  
5 original required seal on this page.

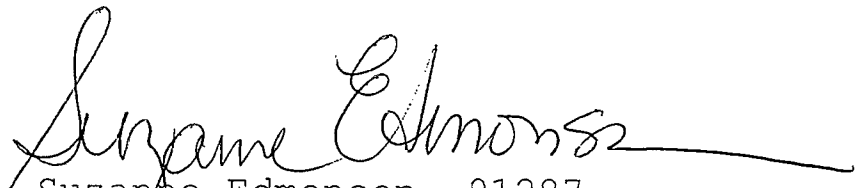
6

7           I, Suzanne Edmonson, Certified Court  
8 Reporter in and for the State of Louisiana, do  
9 hereby certify that the foregoing 17 pages was  
10 reported by me in stenographic machine shorthand,  
11 by Computer-Aided Transcription, was prepared or  
12 transcribed by me, or under my personal direction  
13 and supervision, and is a true and correct  
14 transcript to the best of my ability and  
15 understanding; that the transcript has been  
16 prepared in compliance with transcript format  
17 guidelines required by statute or by rules of the  
18 board; that I have acted in compliance with the  
19 prohibition on contractual relationships, as  
20 defined by Louisiana Code of Civil Procedure  
21 Article 1434 and in rules and advisory opinions of  
22 the board; that I am not related to counsel or to  
23 the parties herein, nor am I otherwise interested  
24 in the outcome of this matter.

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Signed: July 8, 2014



Suzanne Edmonson, 91287  
Certified Court Reporter  
in and for the State of Louisiana



*Louisiana*

Office of the Governor  
Auctioneers Licensing Board

11736 Newcastle Avenue, Bldg. 2, Suite C  
Baton Rouge, LA 70816

Telephone 225.295.8420 Fax 225.372.8584  
Website: [www.lalab.org](http://www.lalab.org) Email: [admin@lalab.org](mailto:admin@lalab.org)

## BOARD MEETING AGENDA

Date: **Tuesday, January 8, 2013**

Time: **11:00 am**

Place: Louisiana Municipal Association, 700 North 10<sup>th</sup> Street, Baton Rouge, LA 70802

- I. CALL TO ORDER AND ROLL CALL
- II. PUBLIC COMMENT on the following agenda items
- III. APPROVAL OF MINUTES from November 5, 2012
- IV. OLD BUSINESS
  1. Approval of Tested Auctioneer Applicants:
    1. Marissa Lederman (Brooklyn, NY)
    2. Melissa Karstedt (Wolfeboro, NH)
  2. Approval of Auction Business Applicants:
    1. The Treasure Chest Auction House (Independence, LA)
    2. ABC Baton Rouge, LLC (Indianapolis, IN main office)
  3. Approval of Reciprocal Auctioneer:
    1. Scott Foster (Pennsylvania)
  4. Approval of Reciprocal Auction Business applicant:
    1. Hunt Auctions (Pennsylvania)
  5. Approval of Apprentice Applicant:
    1. Aaron Bruce (Red River, LA; supervisor- Belinda Rhodes)
- V. NEW BUSINESS
  1. Approval of Financials
  2. Election of Secretary/Treasurer
  3. Attorney Report/Investigative Report
  4. Approve Auctioneer Schools for 2013(no curriculum changes reported)
    1. Burk Baker School
    2. Eastern School
    3. Florida Auctioneer Academy
    4. Mendenhall School of Auctioneering
    5. Nashville Auction School
    6. Reppert Auction School
    7. Texas Auction Academy
    8. Troy University, Dothan Campus, Continuing Education Center
    9. World Wide College of Auctioneering
  5. A discussion of the recent lawsuit filed by Robert Burns.  
This may be handled in executive session Pursuant to LA RS 42:17 (2)
- VI. NEXT MEETING DATE – March 5, 2013
- VII. ADJOURN to hearing

Hearing Docket

Robert Burns

EXHIBIT 2



*Louisiana*

Office of the Governor  
Auctioneers Licensing Board

11736 Newcastle Avenue, Bldg. 2, Suite C  
Baton Rouge, LA 70816

Telephone 225.295.8420 Fax 225.372.8584  
Website: [www.lalb.org](http://www.lalb.org) Email: [admin@lalb.org](mailto:admin@lalb.org)

Pending Litigation

Robert Burns vs. Dow  
Docket # 603248

Robert Burns vs. Louisiana Auctioneers Licensing Board  
Docket # 616916



	<u>Jul 1, '12 - Jan 6, 13</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
<b>Income</b>				
Enforcement Actions	575.00	0.00	575.00	100.0%
Auctioneer Fees	84,650.00	95,000.00	-10,350.00	89.11%
Other Fees	25.00	0.00	25.00	100.0%
Interest Income-Checking	76.12	0.00	76.12	100.0%
Interest Income-Recovery	97.73	0.00	97.73	100.0%
<b>Total Income</b>	<b>85,423.85</b>	<b>95,000.00</b>	<b>-9,576.15</b>	<b>89.92%</b>
<b>Expense</b>				
<b>Payroll Expenses</b>				
Salaries	12,249.90	24,500.00	-12,250.10	50.0%
<b>Payroll Tax Expense</b>				
Medicare Tax Expense	177.62	570.00	-392.38	31.16%
FICA Tax	759.49	1,500.00	-740.51	50.63%
<b>Total Payroll Tax Expense</b>	<b>937.11</b>	<b>2,070.00</b>	<b>-1,132.89</b>	<b>45.27%</b>
<b>Total Payroll Expenses</b>	<b>13,187.01</b>	<b>26,570.00</b>	<b>-13,382.99</b>	<b>49.63%</b>
Per Diem-Board	970.00	4,700.00	-3,730.00	20.64%
<b>Operating Expenses</b>				
<b>Travel</b>				
Conf/Convent Exp	0.00	1,000.00	-1,000.00	0.0%
<b>In State</b>				
Mileage Reimbursement	2,022.84	4,600.00	-2,577.16	43.98%
<b>Total In State</b>	<b>2,022.84</b>	<b>4,600.00</b>	<b>-2,577.16</b>	<b>43.98%</b>
<b>Out of State</b>				
O.S. Travel & Lodging	0.00	1,800.00	-1,800.00	0.0%
O.S. Meals	0.00	300.00	-300.00	0.0%
<b>Total Out of State</b>	<b>0.00</b>	<b>2,100.00</b>	<b>-2,100.00</b>	<b>0.0%</b>
<b>Total Travel</b>	<b>2,022.84</b>	<b>7,700.00</b>	<b>-5,677.16</b>	<b>26.27%</b>
<b>Operating Services</b>				
Miscellaneous	167.91	300.00	-132.09	55.97%
Bank Service Charges	73.52	250.00	-176.48	29.41%
Postage and Delivery	254.92	2,000.00	-1,745.08	12.75%
Dues/Subscriptions	300.00	300.00	0.00	100.0%
Insurance-General	538.00	550.00	-12.00	97.82%
Internet	220.50	400.00	-179.50	55.13%
Maintenance & Repairs	0.00	800.00	-800.00	0.0%
Rent	4,620.00	7,920.00	-3,300.00	58.33%
Telephone	952.23	1,600.00	-647.77	59.51%
<b>Total Operating Services</b>	<b>7,127.08</b>	<b>14,120.00</b>	<b>-6,992.92</b>	<b>50.48%</b>

<b>Supplies</b>				
Board meeting expense	321.44	800.00	-478.56	40.18%
Office Supplies	<u>1,407.60</u>	<u>2,000.00</u>	<u>-592.40</u>	<u>70.38%</u>
Total Supplies	1,729.04	2,800.00	-1,070.96	61.75%
Capital Outlay	<u>0.00</u>	<u>13,610.00</u>	<u>-13,610.00</u>	<u>0.0%</u>
Total Operating Expenses	10,878.96	38,230.00	-27,351.04	28.46%
<b>Professional Services</b>				
Investigative	0.00	10,000.00	-10,000.00	0.0%
Accounting	1,150.00	1,500.00	-350.00	76.67%
Legal Fees	14,549.59	30,000.00	-15,450.41	48.5%
Other	<u>3,203.00</u>	<u>10,000.00</u>	<u>-6,797.00</u>	<u>32.03%</u>
Total Professional Services	<u>18,902.59</u>	<u>51,500.00</u>	<u>-32,597.41</u>	<u>36.7%</u>
Total Expense	<u>43,938.56</u>	<u>121,000.00</u>	<u>-77,061.44</u>	<u>36.31%</u>
Net Income	<u><u>41,485.29</u></u>	<u><u>-26,000.00</u></u>	<u><u>67,485.29</u></u>	<u><u>-159.56%</u></u>

Jan 6, 13

**ASSETS**

Current Assets

Checking/Savings 244,669.70

Total Current Assets 244,669.70

**TOTAL ASSETS**

244,669.70

**LIABILITIES & EQUITY**

Liabilities

Current Liabilities

Other Current Liabilities 2,466.79

Total Current Liabilities 2,466.79

Long Term Liabilities 1,244.50

Total Liabilities 3,711.29

Equity 240,958.41

**TOTAL LIABILITIES & EQUITY** 244,669.70

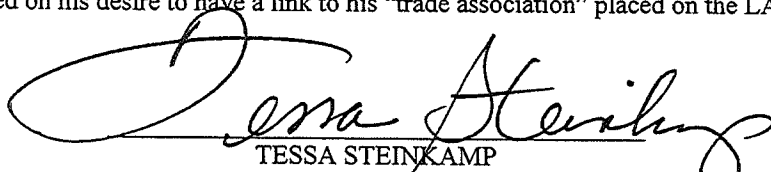
**AFFIDAVIT**

**STATE OF LOUISIANA**

**PARISH OF EAST BATON ROUGE**

**BEFORE ME**, the undersigned Notary Public, duly commissioned and qualified in and for the parish and state aforesaid, personally came and appeared TESSA STEINKAMP, who after being duly sworn did depose and say the following:

1. My name is Tessa Steinkamp and I am the Chairman of the Louisiana Auctioneers Licensing Board.
2. I am personally familiar with the activities of the Louisiana Auctioneers Licensing Board ("LALB").
3. I attend all of the LALB board meetings.
4. I was present at the LALB's board meeting on January 8, 2013.
5. I was present at the LALB's board meeting on March 5, 2013.
6. Freddie Phillips was present at the March 5, 2013 LALB board meeting.
7. During the public comment period of the March 5, 2013 LALB board meeting, Freddie Phillips was allowed the opportunity to comment on the official minutes form the November 2012 LALB meeting.
8. During the public comment period of the March 5, 2013 LALB board meeting, Freddie Phillips commented that the November 2012 minutes should be expanded to "reflect actual roll call."
9. Mr. Phillips' request to have a link to his association's website placed on the LALB's website was included on the agenda of the March 5, 2013 LALB board meeting.
10. During the public comment period of the March 5, 2013 LALB board meeting, Freddie Phillips commented on his desire to have a link to his "trade association" placed on the LALB's website.

  
TESSA STEINKAMP

SWORN TO AND SUBSCRIBED before me this 7<sup>th</sup> day of July, 2014.

  
NOTARY PUBLIC

**LARRY S. BANKSTON**  
**NOTARY PUBLIC**  
**La. Bar Roll #02744**  
**State Of Louisiana**  
**My Commission is for Life**

**EXHIBIT 3**