



**BANKSTON & ASSOCIATES**  
A LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

Larry S. Bankston  
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March 22, 2013

Jenna H. Linn  
jinn@bblawyers.net

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

**ATTN: CIVIL SUITS DEPARTMENT**

RE: *Robert Burns vs. LA Auctioneer's Licensing Board, et al*  
Docket No.: 616,916, 19<sup>th</sup> Judicial District Court  
My File No.: 1107-0001

Dear Sir/Madam:

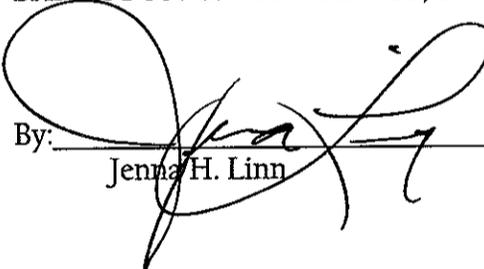
Attached for fax filing please find a *Motion to Supplement Summary Judgment Exhibits* on behalf of defendants, Louisiana Auctioneer's Licensing Board, et al. Please send a receipt and invoice by return facsimile to our office.

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

If you should have any questions or comments, please do not hesitate to contact me.

Sincerely,

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

By:   
Jenna H. Linn

JHL: jmr  
Enclosure: Motion to Supplement  
cc: Honorable Wilson Fields (*via facsimile only*)  
Sandy Edmonds (*via email only*)  
Robert Burns (*via email only*)

8708 Jefferson Highway, Suite A • Baton Rouge, LA 70809  
Telephone (225) 766-3800 • Facsimile (225) 766-7800

ROBERT BURNS	*	NUMBER 616,916 SECTION 25
VERSUS	*	19TH JUDICIAL DISTRICT COURT
LOUISIANA AUCTIONEER'S LICENSING BOARD, CHARLES "HAL"McMILLIN, JAMES M. SIMS, DARLENE JACOBS-LEVY, GREGORY L. "GREG" BORDELON, CHARLES "CLAYTON" BRISTER	*	PARISH OF EAST BATON ROUGE
	*	STATE OF LOUISIANA

\*\*\*\*\*

**MOTION TO SUPPLEMENT SUMMARY JUDGMENT EXHIBITS**

NOW INTO COURT, through undersigned counsel, come Defendants, Louisiana Auctioneer's Licensing Board, Charles McMillin, James M. Sims, Darlene Jacobs-Levy, Gregory L. Bordelon, and Charles Brister, who respectfully move to supplement their previously filed Motion for Summary Judgment to include and attach an additional exhibit as described herein.

1.

On January 28, 2013, Defendants filed a Motion for Summary Judgment and Memorandum in Support.

2.

At such time, the transcription of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law were not yet available.

3.

Defendants have now obtained the transcription of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law.

4.

The January 8, 2013 hearing and the Findings of Fact and Conclusions of Law are both relevant to Defendants' Motion for Summary Judgment.

5.

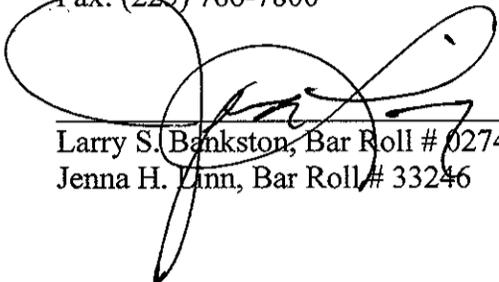
Defendants now wish to include the transcription of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law as evidence and exhibits for their previously filed Motion for Summary Judgment.

WHEREFORE, Louisiana Auctioneer's Licensing Board, Charles McMillin, James M. Sims, Darlene Jacobs-Levy, Gregory L. Bordelon, and Charles Brister pray to supplement its

Motion for Summary Judgment exhibits to include the transcription<sup>1</sup> of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law.<sup>2</sup>

Respectfully submitted,

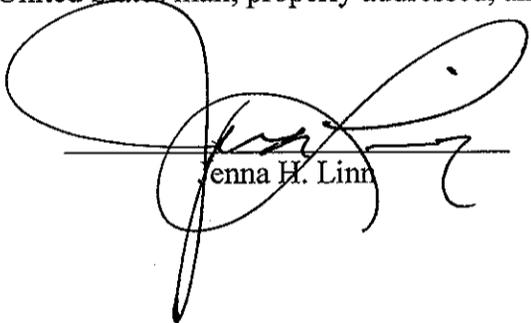
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Larry S. Bankston, Bar Roll # 02744  
Jenna H. Linn, Bar Roll # 33246

**CERTIFICATE**

I hereby certify on this 22<sup>nd</sup> day of March, 2012, 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.



Jenna H. Linn

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<sup>1</sup> Transcription of the January 8, 2013 hearing, attached hereto as "Exhibit 1".

<sup>2</sup> Findings of Fact and Conclusions of Law, attached hereto as "Exhibit 2".

ROBERT BURNS \* NUMBER 616,916 SECTION 25  
VERSUS \* 19TH JUDICIAL DISTRICT COURT  
LOUISIANA AUCTIONEER'S  
LICENSING BOARD, CHARLES  
"HAL"McMILLIN, JAMES M. SIMS, \* PARISH OF EAST BATON ROUGE  
DARLENE JACOBS-LEVY,  
GREGORY L. "GREG" BORDELON,  
CHARLES "CLAYTON" BRISTER \* STATE OF LOUISIANA

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**MEMORANDUM IN SUPPORT OF MOTION TO SUPPLEMENT  
SUMMARY JUDGMENT EXHIBITS**

**MAY IT PLEASE THE COURT:**

Defendants, Louisiana Auctioneer's Licensing Board, Charles McMillin, James M. Sims, Darlene Jacobs-Levy, Gregory L. Bordelon, and Charles Brister, respectfully submit this memorandum in support of its Motion to Supplement Summary Judgment Exhibits.

On January 28, 2013, Defendants filed a Motion for Summary Judgment and Memorandum in Support. At such time, the transcription of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law were not yet available.

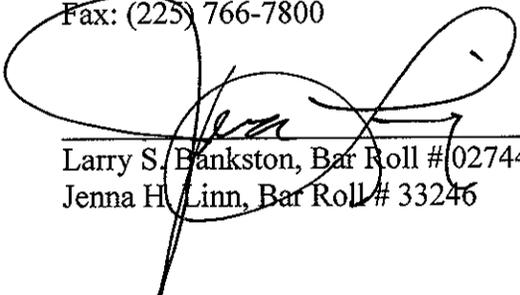
Defendants have now obtained the transcription of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law and wish to include such documents as evidence and exhibits for their previously filed Motion for Summary Judgment. Said documents confirm that deliberations took place in open session on January 8, 2013 and further confirm that the LALB ratified and cured any previous alleged noncompliance with the Open Meeting Laws.

**CONCLUSION**

The transcription of the January 8, 2013 hearing and the Findings of Fact and Conclusions of Law further confirm Defendants' contentions set forth in its Motion for Summary Judgment. As such, said documents should be included as evidence labeled as Exhibits 1-2 in connection with Defendants' Motion for Summary Judgment.

Respectfully submitted,

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Larry S. Bankston, Bar Roll #02744  
Jenna H. Linn, Bar Roll # 33246

LOUISIANA AUCTIONEERS  
LICENSING BOARD  
STATE OF LOUISIANA

\*\*\*\*\*

LOUISIANA AUCTIONEERS  
LICENSING BOARD

NO. 12-0005

VS.  
ROBERT BURNS

\*\*\*\*\*

COPY

AUCTIONEERS HEARING

Taken on Tuesday, January 8, 2013  
At the Offices of  
LOUISIANA MUNICIPAL ASSOCIATION  
700 North 10th Street, Room 2  
Baton Rouge, Louisiana 70802

REPORTED BY: LORETTA L. DAVIS, C.C.R.

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9618 Jefferson Highway Suite D-386  
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Exhibit  
1

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ROBERT BURNS 1/8/2013

LOUISIANA AUCTIONEERS  
LICENSING BOARD  
STATE OF LOUISIANA

\*\*\*\*\*

LOUISIANA AUCTIONEERS  
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ROBERT BURNS 1/8/2013

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- 1 APPEARANCES:
- 2 Judge Lindsey Hunter
- 3 Larry Bankston
- 4 Robert Burns, pro se
- 5 Chairman Greg Bordelon
- 6 Chairman Darlene Jacobs
- 7 Chairman James Sims
- 8 Chairman Hal McMillin

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ROBERT BURNS 1/8/2013

1 Tuesday, January 8, 2013

2 (Began at 12:41 p.m.)

3 JUDGE HUNTER:

4 Good afternoon. My name is Lindsey  
5 Hunter. I'm an attorney with the Attorney  
6 Generals Office. I'm going to act as a hearing  
7 officer today.

8 I'd like to ask the board members to  
9 identify themselves on the record so that it's  
10 clear we have a quorum.

11 MR. SIMS:

12 James Sims, Vice Chairman.

13 MR. MCMILLIN:

14 Hal McMillin.

15 MS. JACOBS:

16 Darlene Jacobs.

17 MR. BORDELON:

18 Greg Bordelon.

19 JUDGE HUNTER:

20 Thank you. And let the record reflect  
21 that Tessa Steinkamp is also here; however, she  
22 was recused initially in this matter. So she  
23 will remain recused.

24 The purpose of this meeting today is to  
25 revisit your September 27th or 22nd -- whatever

ROBERT BURNS 1/8/2013

1 your September meeting was -- wherein you  
2 considered the Robert Burns' case.

3 Mr. Burns requested that the  
4 deliberations be made in public. So I'm going to  
5 ask that you do that today. And then we'll go  
6 from there. Mr. Burns has asked to make a  
7 statement to you all. So I'd like him to do that  
8 first. And then if, Mr. Bankston, since Anna Dow  
9 is recused -- has recused herself in this matter,  
10 if he'd like -- Mr. Bankston would like to make a  
11 statement, I will let him do that.

12 So not going to have questions for  
13 Mr. Burns or Mr. Bankston. We're just going to  
14 let them make a statement, and then you all can  
15 do your deliberations in open meeting.

16 MR. BURNS:

17 Thank you. And I appreciate the  
18 opportunity to make this opening statement. Let  
19 me first of all say that I am not going to be  
20 agreed to sworn (sic) in for any part of this.  
21 Nor will I take part in anything that is done  
22 here today. From my vantage point this is a  
23 complete farce. It is no different than having  
24 walked out of department store with merchandise  
25 and then being caught at the car. And, you know,

ROBERT BURNS 1/8/2013

1 you said, hey, you stole this. Oh, it's no  
2 problem. I'll go put it back, you know. No, the  
3 time to have made that decision about whether or  
4 not to walk out of that store with -- with the  
5 merchandise was when you were within the four  
6 walls of the department store. Once you're out  
7 with it, it's too late even if you are willing to  
8 put it back. I know this an attempt to the genie  
9 back in the bottle. And I'm going to correct one  
10 thing. It was not a request. If you read the  
11 statute it says I may require. Mr. Bankston, I  
12 know you're let -- not to address an individual.  
13 Strike that.

14 I know the letter I received said "at  
15 your request." It was not a request. And  
16 Mr. Kleinpeter made it abundantly clear he has  
17 the right to have it heard in an open meeting. I  
18 was requiring that it be done at the  
19 September 17th meeting. Unfortunately, the Board  
20 chose to ignore my attorney's admonition and go  
21 on into executive session anyway.

22 So I know the purpose of what you're  
23 doing here is a last ditch effort to put the  
24 genie back in the bottle. It is a farce. I will  
25 take and seat and I will film whatever you have

ROBERT BURNS 1/8/2013

1 to say. But I most certainly am not going to be  
2 sworn in, and I most certainly am not going to  
3 partake in one iota of anything that happens here  
4 today. Thank you, Ms. Hunter.

5 JUDGE HUNTER:

6 Thanks.

7 MR. BANKSTON:

8 As the Board recalls as a result of  
9 questions being raised to the hearing officer  
10 where the hearing officer at that particular time  
11 made a decision that the deliberations should be  
12 conducted in executive session and had so advised  
13 the Board. And the Board -- and the decision by  
14 the hearing officer was in fact to do that,  
15 whether that is correct or not is questioned in  
16 the law at this particular time. But in order to  
17 correct or comply completely with that issue, the  
18 recommendation has been that the Board  
19 reinstitute or reopen the hearing in this  
20 particular matter that was set on September 17th,  
21 2012, for the purpose of deliberation in public  
22 concerning the factual aspects of the case and/or  
23 whether or not it would like to take any  
24 particular action one way or the other. And for  
25 that reason, that's the purpose of why we are

ROBERT BURNS 1/8/2013

1 here today.

2 JUDGE HUNTER:

3 Okay. So I'd ask you all to consider,  
4 reconsider out loud the charges that were  
5 filed --

6 MR. BURNS:

7 Ms. Hunter?

8 JUDGE HUNTER:

9 -- against Mr. Burns.

10 MR. BURNS:

11 I don't have any rebuttal, but I did  
12 forget one thing. Can I just briefly -- it won't  
13 take more than twenty seconds.

14 JUDGE HUNTER:

15 Sure. You want to be thorough here.

16 MR. BURNS:

17 The other thing that I would like to  
18 point out is that -- and the date is September  
19 17th, just to get it clearly in the record.

20 The other thing I'd like to point out  
21 is that September 17th we were playing with real  
22 money. I had a license then. I'm sure most of  
23 you know now I am no longer licensed. So we are  
24 now playing with monopoly money. So to equate  
25 whatever decision may be made today or whatever

1 deliberations you may have today with those that  
2 took place on September 17th, 2012, are not  
3 compatible.

4 JUDGE HUNTER:

5 Thank you.

6 MR. BURNS:

7 And I -- I wanted you to remember that.

8 JUDGE HUNTER:

9 Okay. Does anyone have any comments or  
10 discussion you'll recall? I think that you --

11 MS. JACOBS:

12 I have some discussion.

13 JUDGE HUNTER:

14 Go ahead.

15 MS. JACOBS:

16 I've never stated in the previous  
17 meeting, I don't think that the conduct would  
18 warrant the taking of his license. And for that  
19 reason, I voted no.

20 JUDGE HUNTER:

21 Okay. Does anyone else have any  
22 comment about Mr. Burns' case?

23 (No response.)

24 JUDGE HUNTER:

25 Can you explain you chose to give him a

ROBERT BURNS 1/8/2013

1 public reprimand?

2 MR. SIMS:

3 It was decided in executive session  
4 that the Board would publicly reprimand him  
5 rather than pull his license. We didn't feel  
6 that there was -- we didn't feel that there was  
7 just cause for his license to be pulled due to  
8 previous statutes that were already on the record  
9 regarding free speech. Am I correct, Darlene?

10 MS. JACOBS:

11 That's correct.

12 MR. SIMS:

13 So it was decided that the Board would  
14 do a public reprimand rather than suspend his  
15 license or revoke his license or whatever.

16 MR. MCMILLIN:

17 Suspension and fines was discussed, but  
18 we just publicly reprimand him. So it was kind  
19 of a better way to handle the situation. We kind  
20 of discussed back and forth which way we should  
21 go. There was some point/counterpoint on  
22 different feelings and thoughts about that, but  
23 in the end we came up with a public reprimand.  
24 And I felt as there not being any fine and not  
25 taking his license was going to be a very

ROBERT BURNS 1/8/2013

1 positive thing. That we could work in a very  
2 positive light to make sure that -- uh -- we kind  
3 of had an olive branch out there to work with  
4 Mr. Burns in the future. So just a reprimand is  
5 what was intended.

6 JUDGE HUNTER:

7 Okay.

8 MR. SIMS:

9 And that's the way we voted in open  
10 meeting. It was a public reprimand, and Darlene  
11 Jacobs, the board member, did the reprimand.

12 MR. BANKSTON:

13 If there's no other comments, it would  
14 be appropriate for the Board to take whatever  
15 action it would like to.

16 MS. JACOBS:

17 Well, at this point, as I stated  
18 before, I do not feel that his conduct warranted  
19 the taking of his license. But as we had  
20 discussed at the prior meeting we did feel that a  
21 public reprimand was in order. And I believe we  
22 also discussed that Mr. Burns consider not making  
23 the harassing comments that he has made in the  
24 past towards members of the committee and  
25 employees of this committee.

ROBERT BURNS 1/8/2013

1 JUDGE HUNTER:

2 And so you remain of the same opinion,  
3 you would --

4 MS. JACOBS:

5 I'm of the same opinion. I would vote  
6 not to take his license. I would vote for the  
7 public reprimand.

8 MR. SIMS:

9 Same.

10 JUDGE HUNTER:

11 Are there any other comments?

12 MR. BORDELON:

13 I can't comment based on my  
14 attorney's -- my personal attorney's advice.

15 JUDGE HUNTER:

16 Okay.

17 MR. BORDELON:

18 Because I didn't vote to reprimand him.  
19 I thought we should have went further.

20 MR. BANKSTON:

21 Okay. So I think it would be  
22 appropriate for an actual formal motion.

23 MS. JACOBS:

24 I'd like to make a motion. First of  
25 all, that we amend the charges to -- vote -- and

ROBERT BURNS 1/8/2013

1 not to take his license, but to go forward and  
2 give him a public reprimand.

3 JUDGE HUNTER:

4 So you -- to reaffirm what you did in  
5 September?

6 MS. JACOBS:

7 Exactly.

8 JUDGE HUNTER:

9 Is there a second?

10 MR. SIMS:

11 Second.

12 JUDGE HUNTER:

13 All those in favor, please say "aye."

14 (Ayes responded.)

15 JUDGE HUNTER:

16 Any opposed?

17 MR. BORDELON:

18 No.

19 JUDGE HUNTER:

20 You're opposed?

21 MR. BORDELON:

22 I oppose.

23 JUDGE HUNTER:

24 Okay. The motion carries by majority.

25 That's really all that we have for this matter.

1 I'm not aware of any other adjudicatory hearings  
2 on the agenda. Are there any other hearings?  
3 MS. JACOBS:  
4 No.  
5 JUDGE HUNTER:  
6 Okay. No other hearings, then we will  
7 adjourn.  
8 Thank you very much.  
9 (End of hearing at 12:50 p.m.)  
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ROBERT BURNS 1/8/2013

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

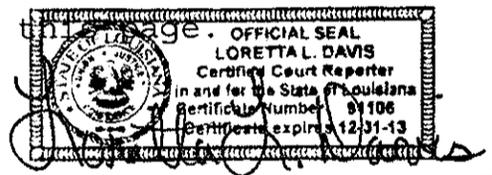
2 I, Loretta L. Davis, a Certified Court  
3 Reporter, Certification #91106, in good standing  
4 with the State of Louisiana, do hereby certify  
5 that the foregoing 15 pages constitute the  
6 transcript of Auctioneers Hearing taken on  
7 January 8, 2013, in the above-entitled and  
8 numbered cause; that said witness was duly sworn  
9 by me upon authority of R.S. 37:2554 and  
10 thereafter testified as hereinabove set forth;

11 That the proceedings were reported by  
12 me in stenographic machine shorthand by  
13 Computer-Aided Transcription, transcribed by me,  
14 and is a true and correct transcript to the best  
15 of my ability and understanding;

16 That I am not of counsel nor related to  
17 any person participating in this cause and am in  
18 no way interested in the outcome of this event.

19 This certification is valid only for a  
20 transcript accompanied by my handwritten or  
21 digital signature and the image of my

22 State-authorized seal on this page.



23  
24  
25 Loretta L. Davis, CCR

LOUISIANA AUCTIONEERS LICENSING BOARD  
ADJUDICATORY HEARING

IN THE MATTER OF ROBERT BURNS

CASE NO. 12-0005

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Louisiana Auctioneers Licensing Board deliberated in open meeting in the matter on January 8, 2013. A quorum of the Board was present. Lindsey K. Hunter, an Assistant Attorney General appointed to act as hearing officer was present. The Louisiana Auctioneers Licensing Board was represented by Larry S. Bankston. Respondent, Mr. Robert Burns, was present and made a statement to the Board. No new evidence or testimony was received by the Board.

The Board again determined that the appropriate disciplinary action for LALB Case No. 12-005 was a public reprimand and therefore affirmed its decision of September 17, 2012.

Signed this Fourth day of February, 2013 at Baton Rouge, Louisiana.

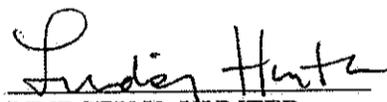
  
LINDSEY K. HUNTER  
HEARING OFFICER

Exhibit  
2