

Sandy Edmonds

From: Ken Buhler [kenbuhler@hotmail.com]
Sent: Friday, July 08, 2011 8:16 AM
To: Sandy@lalb.org
Subject: Fwd: The Hotel Rist Auction Flyer

Sent from my iPhone

Begin forwarded message:

From: "Betti Helen Walker" <bettihelenwalker@cox.net>
Date: July 6, 2011 5:09:45 PM CDT
To: <kenbuhler@hotmail.com>
Cc: <bettihelenwalker@cox.net>
Subject: The Hotel Rist Auction Flyer

PUBLIC AUCTION

The Historic Rist Hotel*

Ca. 1860's

12548 St. Helena Street

A Clinton Louisiana Landmark

Bank Owned Property!!



View the
Furnishing
Open Hou

Sunday, Ju
Anc
Sunday, Au

2 P.M. to

Saturday, August 13, 2011 at 9:00 AM

What a great BED and BREAKFAST this historic property would make . .

Located in Clinton's Downtown Historic District,

The home has 7 bedrooms, 4 baths, 3 fireplaces, 10 foot ceilings and sits on measuring 140 x 300 with its most recent renovations in 2002. This property could be used as an office, a multi-use property or a beautiful private residence.

**IN ADDITION . . . We have been commissioned to sell at public auction
ANTIQUES, FURNISHING, PAINTINGS, FARM EQUIPMENT**

And Much, Much More . . .

For Additional Information Contact:

Estate Auction Services

LA License AB338

225-229-3967

E-mail: mbuhler@cox.net

Ken Buhler - LA License 1760

225-247-4980

*You MUST be PREQUALIFIED to bid on the home. Property will be sold subject to seller confirmation.
10% Buyer's Premium on Home and Farm Equipment. 15% Buyer's Premium on all Personal Property

No virus found in this message.

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Auction Business Investigation
Auction Date: August 13, 2011

Estate Auction Services
1263 South Eugene Street
Baton Rouge, LA 70806
Mac Buhler- license # AB 338

The LALB received copies of the following documents from Mr. Malcolm Buhler, the auctioneer at the Rist Hotel Auction held in Clinton La on August 13, 2011. Mr. Buhler is the owner of Estate Auction Services, the company that hosted the aforementioned auction.

1. A copy of the agreement between LALB and Kenneth Buhler regarding reinstatement of his Auctioneers License. The agreement is dated December 30, 2010.
2. A copy of the contract between Estate Auction Services and Feliciana Bank.
3. A copy of several pictures and documents detailing the history of the historic Rist Hotel.
4. Copies of several fliers advertising the auction of the historic Hotel and the furnishings within. The fliers list Ken Buhler as the auctioneer under LA license 1760.
5. Copy of twenty-five Consignment Control Forms listing seller information, items to be sold, and commissions to be collected by Estate Auction Services.
6. Copy of twenty-five Consignor Settlements Forms.
7. A Copy of an "Invoice Detail" listing invoices numbered from 200-295. It lists the sales price, commission, and taxes collected on each invoice and gives the totals of the sale.
8. A copy of the "Auction Summary" which shows the charges, commission, in-house expenditures, and total profit made by Estate Auction services at the Rist Hotel Auction.
9. Copy of the transaction history of an Estate Auction Services checking account from June 26, 2011 through September 13, 2011.
10. Copy of 366 clerking tickets listing buyer info, item description, lot number, and sale price.
11. Copy of the master list of buyer settlements. This list shows invoice number, buyer name, bidder number, total collected, as well as method of payment.
12. Copies of 121 bidder contracts listing the name and bidder number of each person.
13. Copy of LA Dept of Revenue Sales Tax Return.

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14. Copy of Parish of East Feliciana Sales Tax Form.
15. Copy of East Feliciana Parish School Board Tax Application Form.
16. Copy of Secretary of State certificate showing the business (Estate Auction Services) to be registered through the state as of January 1, 2011.
17. Copy of Louisiana Department of Revenue Sales Tax Registration Certificate (in the name of Malcolm Buhler and Estate Auction Services) effective January 1, 2011.
18. Copy of Kenneth Buhler's auctioneer license from the State of Louisiana (certificate number 1760), effective January 1, 2011.
19. Copy of Estate Auction Services' auctioneer license from the State of Louisiana (certificate number AB-338), effective January 1, 2011
20. Copy of Kenneth Buhler's City of Baton Rouge and Parish of East Baton Rouge Auctioneer's License listing the license number as #366, dated March 25,2011.

Conduct of the Auction

I did not attend the auction held on August 13, 2011, but have analyzed the documentation submitted by auction business owner, Malcolm "Mac" Buhler, in answer to a subpoena sent by Anna Dow, Attorney at law, requesting the information.

The August 13, 2011 auction consisted of twenty-five consignors. The twenty-five Consignment Control Forms listing seller information, items to be sold, and commissions to be collected by Estate Auction Services are included. Mr. Buhler charged 25% commission from two of the consignors, 22% commission from one consignor, 20% commission from one consignor, 15% commission from four consignors, 10% commission from twelve consignors, 5% commission from three consignors, NO commission from one consignor, and 10% commission plus 50% of the margin from one consignor. Five of the Consignor Control Forms were the same forms used by Buhler in a former auction held on March 27, 2011 in Baton Rouge, Louisiana. No obvious effort was made by Mr. Buhler to differentiate the items sold in the March auction versus the items to be sold in the August auction. Therefore in an effort to ensure accuracy of this report, I compared the March Consignor Control forms, buyer and sales receipts, and payment records to those same forms from the August auction. By inspecting the Consignment Control Forms, I found that the record keeping and documentation was not done in a consistent manner. Some invoices list only the items sold, some invoices list the items sold and the items that were not sold, and some invoices list the items sold but only a few of the items that were unsold, which doesn't account for every item that was to be auctioned off. It is unknown if this was intentional or merely the result of poor record keeping.

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Due to the large amount of information contained in this file, the overlap of items and documents from the March auction, and in an effort to accurately depict Mr. Buhler's record keeping (both efficient and deficient), details of ALL Consignor Control Forms are listed below:

- The America Pawn Consignment Control form shows an illegible signature. It is unknown who signed the contract and whether or not they were authorized to do so. The invoice isn't dated and lists "Nick" as the contact. According to the Consignor settlement, all 27 items listed on the Consignment Control Form sold at the auction.
- One Consignment Control Form lists James Harris Jr. as the seller. This form was held over from the previous March auction, and is dated March 13, 2011. Mr. Harris' name is signed by Martha Hughes on five of the inventory sheets. The previous investigation of the March auction revealed that Mr. Harris is the President of M & H Construction in Hernando Ms (which is incorrectly listed as Fernando Ms on the Consignment Control Form), and Martha Hughes is the Human Resources Director at that same company. It is unknown if Ms Hughes had the authority to sign Mr. Harris' name on the contract. There are also three pages of Mr. Harris' Consignment Control forms that are unsigned by Mr. Harris or Ms Hughes, the word "added" is written on the seller signature line. Mr. Harris' inventory pages lists 178 items, however the page(s) listing items 101-140 were not included in the paperwork for neither the March nor the August auction. 10 items were highlighted on the form turned in as part of the August auction, presumably to indicate these items were to be sold in the August auction. Nine of the highlighted items were listed as sold, and one was listed as unsold on the Consignor Settlement form.
- The Consignor Control Form listing Burns Antik Haus was used in the March auction also, and is dated March 21, 2011. There are no markings on the list indicating items sold at the March auction or items for sale at the August auction. There is only a notation below one item which states that the item was being renumbered for the August auction. Upon review, it was found that two items were listed as sold in the March auction, which left six items that could possibly be sold at the August auction. Of those six items, two were listed as sold and one was listed as unsold on the August Consignor Settlement form. The remaining three items weren't documented as sold or unsold.
- It should be noted that on another Consignment Control Form, Jimmy Joubert is listed as the seller, but the signature is illegible. This form was used in the previous March auction, but is not dated. There was no record in the March auction of any of the four items selling; therefore it is assumed that all four items were to be

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- auctioned at the August auction, though the auctioneer made no notation to clarify this. Three of the four listed items sold in the August auction, the fourth item isn't listed as sold or unsold on the Consignor Settlement report.
- Another Consignment Control Form lists Jeff McManus as the seller. This list, too, was entered into the March auction, but is not dated. There was no Consignor Settlement form submitted from the March auction, so it is assumed that all 8 items were not sold in March and therefore were to be auctioned in August. Of those 8 items that were possibly entered into the August auction, one was sold. Another item was listed as unsold on the Consignor Settlement form, and the remaining six items aren't documented at all.
 - The Consignment Control Form listing Kenneth Buhler as the seller is dated August 9, 2011. Buhler is an auctioneer in the state of Louisiana, despite the fact that his address is listed as Missouri City, TX on the form. Eleven of his twelve listed items sold, and the remaining item was listed as unsold on the Consignor Settlement Form. It should be noted that one of the items auctioned was a vehicle.
 - One Consignment Control Form lists Mike Kaluiz c/o Kim's Korner as the seller. While researching Mr. Kaluiz, it was discovered that he is an auctioneer in the state of Texas. The date on the form is April 28, 2011, several months prior to the August auction. There are 10 items listed on his form. Five of those ten items sold during the auction. Three items are listed as unsold on the Consignor Settlement Form, and the remaining two items are not documented at all.
 - Another Consignment Control form lists Aline Alford as the seller, and the document is not dated. Upon further research, it was found that Ms Alford also goes by Aline Alford Buhler. Eight of the eleven items she submitted were sold at auction, two are listed as unsold and one isn't documented at all on the Consignor Settlement Form.
 - The Consignment Control form listing Lloyd Henderson as the seller is dated August 11, 2011, and lists 51 items to be auctioned off. 42 of the items sold, 5 of the items are listed as unsold, and the remaining 4 items aren't documented as sold or unsold on the Consignor Settlement Forms.
 - The Consignment Control Form listing Brian Fourroux as the seller is not dated, but lists other pertinent contact information and additionally lists 54 items to be auctioned. 52 of those items sold and 2 items were listed as unsold on the Consignor Settlement Form.

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- The Consignment Control Form listing Herman "Buddy" Holden is not dated, but lists other contact information and also lists 83 items for sale, some items grouped together. 75 of the items sold, the other 8 items are not noted at all on the Consignor Settlement Form. Also, on the Consignor Settlement, there is an item ("box lot glassware") listed as sold, that is not listed on the original list of items to be auctioned.
- One Consignment Control Form lists Ian Cruickshank as the seller, is dated March 21, 2011 and was entered into the aforementioned March auction. 107 items were entered into the March auction, only four sold. 17 of the 107 items were highlighted on the form for the August auction, although no notes were made to clarify the reason for the highlights. On the Consignor Settlement Form, 16 items are listed as sold and an additional 13 items are listed as unsold.
- The Consignment Control Form listing Alton Buhler as the seller is dated April 29, 2011, several months prior to the August auction. 5 items are listed to be auctioned, 1 item is listed as sold on the Consignor Settlement Form and the remaining four items aren't documented at all on the form. There is a hand written note on this form stating that check 1062 was written on September 14, 2011 as payment to the seller. The check had not cleared the bank on September 15, 2011 when the bank statement was printed.
- The Consignment Control form listing MIRESCO as the seller is not dated but was used in the previous March auction. It shows an illegible signature, but has a typed item list attached to it, titled "Ken Buhler's Selection auth 8007-11". The Consignor Settlement Form lists Patty Emerson as the contact person. Upon investigation, it was found that Ms Emerson is the Vice President of the company. The form lists 24 rugs which were also entered into the March auction. There is no record of any of them selling in the March auction, so it is assumed that all 24 were available to be auctioned in August, although it isn't specified and nothing documents that fact. The Consignor Settlement Form lists 3 rugs as being sold, and doesn't mention the remaining 21 rugs at all.
- The Consignment Control Form listing Charlotte Gordy as the seller is dated August 5, 2011 and lists 30 items to be auctioned. On the Consignor Settlement form 25 items are listed as sold, the other 5 items are listed as not sold.
- The Consignment Control Form listing Felician Bank (John Stewart) as the seller is dated August 5, 2011 and is signed by Mark Kemp. Research shows that Stewart is the CEO and Kemp is the Sr Vice President of the bank. It lists 6 items to be auctioned. The Consignor Settlement shows 4 of the items selling, 1 item listed as unsold, and the other item isn't mentioned at all.

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- The Consignment Control Form listing Rex Lasyone as the seller is not dated and originally listed 5 items to be auctioned, although one item is scratched out. Of the 4 items, 2 are listed as sold, 2 are listed as unsold on the Consignor Settlement Form. Research shows that Lasyone is an auctioneer in the state of Louisiana.
- The Consignment Control Form listing Jeff Lasyone as the seller is not dated and lists 5 items to be sold. On the Consignor Settlement form 4 of the items are listed as sold, the other is listed as unsold. Research shows that Lasyone is an auctioneer in the state of Louisiana.
- The Consignment Control Form listing Marilyn Branch as the seller is dated August 6, 2011, and lists 21 line items to sell. It should be noted that there is an item on the Consignor Settlement Form that is listed as sold (small marble top lamp table, item 315d) that is not listed on the original Consignment Control Form as an item to be auctioned. All other items are accounted for as they are listed as sold or unsold on the Form.
- The Consignment Control Form listing Robert Beaucoudray as the seller is not dated and has very little seller information on it. The signature is illegible and is in an extremely odd place on the page for no apparent reason. Upon further research it was found that Beaucoudray is the owner and President of Consumer Business Machines Inc. There are only two items listed as being auctioned, a silver service and a 55 piece set of china. There is a handwritten note on the Consignment Control Form stating that the silver service was returned. The 55 piece set of china is listed as being sold on the Consignor Settlement Form for \$5.00. There is a handwritten note on the form noting a clerking error and stating that the item actually sold for \$55.00 with no commission. The initials "MB" follow the note.
- The Consignment Control Form listing Jamie Roberie as the seller is not dated, but has all the other pertinent information recorded. The invoice says "325 boxes of dishes and glasses", but also notes that 263 boxes were picked up. Therefore, it is logical to assume that 62 boxes of dishes and glasses sold. The Consignor Settlement Form lists 132 items being sold (in the form of 20 line items). The 20 line items are listed vaguely as "box lot", "Box wine glasses", or "box glass". No other details are given, which makes it difficult to verify and analyze how these items were accounted for and recorded by the auctioneer. There is a hand written note on this form notating that the check written to the seller (check 1061) was written on September 10, 2011. This check had not cleared the bank on September 15, 2011, when the bank statement was printed to be submitted.

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- The Consignment Control Form listing Hart Sales as the seller is not dated, has no contact information, and displays an illegible signature. No name is listed on the Consignor Settlement as a contact person. Two items are listed for sale, neither sold; therefore there was no Consignor Settlement.
- The Consignment Control Form listing Dale Henderson as the seller is not dated and lists one item to be auctioned. The item did not sell; therefore there is no Consignor Settlement. Research shows that Mr. Henderson is an auctioneer in the State of Louisiana.
- The Consignor Control Form listing Nolan Hardy as the seller has no date, no contact information, and lists 10 items to be auctioned. Research shows that Hardy lives on V Watts Road in the Walker La, area. Of the 10 items to be sold, 7 were listed as sold. 1 listed as unsold, and 2 items weren't mentioned at all on the Consignor Settlement Form.
- The Consignor Control Form listing Aldrich Watts as the seller is not dated, but does have contact information listed. The invoice lists 33 items to be sold, and the Consignor Settlement report shows that all 33 items sold.

The "Invoice Detail" listing invoices numbered from 200-295 denotes the sales price, commission, and taxes collected on each invoice and gives the totals of the sales. The invoice is organized from highest to lowest sales prices. The total sales amount is recorded as \$69,933.83

According to the "Auction Summary", the buyer invoice charges equaled \$7894.81, and the commission collected by the auctioneer totals \$4500.48. The auctioneers "in house expenditures" are recorded as \$4998.00 which leaves the total profit at \$7397.29.

Estate Auction Services online bank account information is included in the documentation. It was printed on September 15, 2011 and displays both deposit and debit information from June 27, 2011 through September 13, 2011 listing Estate Auction Services as the name on the account and the last four digits of the account number as 7609. It should be noted that there is no documentation proving that this account is an escrow account, and in the previous auction held by in March 2011 by Mr. Buhler, this account as well as an additional account ending in [REDACTED] were submitted as the company's accounts. There are three deposits recorded in the 7609 account on August 15th and 16th (the day of the auction and the day following the auction) for \$19,192.12, \$16,450.00, and \$2557.14 totaling \$69,131.96. The Auction Invoice Detail Form lists the total earnings as \$69,933.83 which is \$801.87 more than was deposited into the bank account. No copies of checks or check stubs were submitted, and there was no master list of checks and amounts paid to the sellers in the documentation for reference. Therefore I had to compare each Consignor Settlement Form to the

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bank statement and match the amounts listed on the form to the cleared checks to determine which checks were written to each consignor, if they were for the documented amounts, if they had cleared the bank, and if they were all accounted for. It appears that all Consignor payments are accounted for. According to the electronic bank statement, checks 1034-1060 appear to be paid to sellers as disbursement checks. Check 1060 paid the Parish Sales tax (\$2950.43), and checks 1061 and 1062 hadn't cleared the bank at the time the statement was printed. Check 1059 hadn't cleared yet, therefore it could not be determined who it was written to or the amount it was written for, and check 1040 cleared in the amount of \$2200.00 but neither of these checks is listed on any invoice or matches any of the Consignor Settlement amounts.

The copies of the 366 clerking tickets listing buyer, item description, lot number, and sale price all appear to be in order. One of the clerking tickets lists a Polaris ATV that was sold for \$1650 and was notated to be without a title. This lack of a clear title could create an issue in the future ownership of the ATV.

The master list of buyer settlements ("Invoice Receipts") shows invoice number, buyer name, bidder number, total collected, and method of payment. Methods of payment accepted were cash, check, Visa, and MasterCard. The "Invoice Receipts" Form lists the grand total as \$67,481.35. There are 7 invoices not documented, but all 7 invoices are listed on the "Invoice Detail" sheet. They are invoices 228 (\$6.27), 284 (\$9.41), 289 (\$2030.67), 290 (\$169.22), 291 (\$87.75), 292 (\$17.55), and 293 (\$294.57). Also invoice 220 on this form lists the total as \$698.20, whereas the "Invoice Detail" has it listed as \$541.51. It should also be noted that Malcolm Buhler is listed as a buyer on this form.

There are 121 bidder contracts listing the name of the buyer, the bidder number, date they signed the agreement, and all the terms and conditions of the sale. The buyer's premium is listed as 15%. Six of the contracts only have names, there are no bidder numbers assigned. And when compared to the master list of buyers, it was found that 8 of the buyers listed did not have a bidder contract in the documentation.

A copy of LA Dept of Revenue Sales Tax Return is included. It is not signed or dated. It does list the gross tax due as \$2156.00, the "sales for resale" amount as \$4493.00, and the vehicle tax-exempt sales as \$6500.00. There is a hand written note at the top of the document that says "pd check 1063" but there is no copy of the check stub, and the check had not cleared the bank at the time the bank statement was printed (September 15, 2011).

The copy of Parish of East Feliciana Sales Tax Form is signed by Malcolm Buhler, dated August 30, 2011 and appears to be in order. All amounts match up to other documentation and it also lists the net tax due as \$2950.42. Upon comparing this information to the bank statement, it was found that a check for this amount had cleared the bank account prior to the statement being printed out.

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The copy of the East Feliciana Parish School Board Tax Application Form also appears to be in order. It is signed by Malcolm Buhler and lists the date and time of the auction.

The following certificates and licenses were submitted and appear to be in order: a copy of Secretary of State Certificate showing the business (Estate Auction Services) to be registered through the state as of January 1, 2011; A copy of Louisiana Department of Revenue Sales Tax Registration Certificate (in the name of Malcolm Buhler and Estate Auction Services) effective January 1, 2011; a copy of Kenneth Buhler's auctioneer license from the State of Louisiana (certificate number 1760), effective January 1, 2011, a copy of Estate Auction Services' auctioneer license from the State of Louisiana (certificate number AB-338), effective January 1, 2011, and a copy of Kenneth Buhler's City of Baton Rouge and Parish of East Baton Rouge Auctioneer's License listing the license number as #366, dated March 25, 2011.

No notes were made regarding the Rist Hotel, but it is assumed that the Hotel did not sell in the auction, as there is no documentation of it.

Findings and Conclusions

After analysis of the documentation submitted by Buhler, the following deficiencies are noted:

- ❖ Five invoices were held over from the previous March auction, yet no notable effort was made by Buhler to differentiate between the items auctioned in March vs. items auctioned in August
- ❖ Consistent documentation accounting for EVERY item listed to be auctioned was not provided; it differs from invoice to invoice. It is undetermined whether these discrepancies are the result of poor record keeping, indifference, or deceit. Items listed on Consignment Control forms, but not documented on the Consignor Settlement form are as follows:
 - Burns Antik Haus, 3 items not specified as sold or unsold
 - Jimmy Jaubert, 1 item not specified as sold or unsold
 - Jeff McManus, 6 items aren't specified as sold or unsold
 - Mike Kaluiz, 2 items aren't specified as sold or unsold
 - Aline Alford Buhler, 1 item not specified as sold or unsold
 - Lloyd Henderson, 4 items not specified as sold or unsold
 - Brian Fourroux, 2 items not specified as sold or unsold
 - Buddy Holden, 8 items not specified as sold or unsold and one item listed as sold was not listed on the original invoice of items to be auctioned by the seller

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- Ian Cruickshank, 103 items to be auctioned, 17 items highlighted for an unknown reason, 16 items listed as sold, 13 items listed as unsold, the remainder of the 103 items are not specified as sold or unsold
 - Alton Buhler, 4 items not specified as sold or unsold
 - MIRESCO, 21 items not specified as sold or unsold
 - Feliciana Bank, 1 item not specified as sold or unsold
 - Marilyn Branch, there is 1 item on the Consignor Settlement Form that is listed as sold (small marble top lamp table, item 315d) that is not listed on the original Consignment Control Form at all
 - Nolan Hardy, 2 items not specified as sold or unsold
 - The Consignment Control Form listing Robert Beaucourday as the seller looks very unusual, as it is not dated and has very little seller information on it. The signature is illegible and is in an extremely odd place on the page (over a typed statement) for no apparent reason. There is a handwritten note on the Consignment Control Form stating that the silver service was returned. The 55 piece set of china is listed as being sold on the Consignor Settlement Form for \$5.00. There is also a handwritten note on that form noting a clerking error and stating that the item actually sold for \$55.00 with no commission. The initials "MB" follow the note. A check for \$55.00 did clear the bank during this time period, but as no copies of checks were provided, it can't be determined whether or not this was Beaucourday's disbursement check.
 - The Consignment Control Form listing Jamie Roberie as the seller lists "325 boxes of dishes and glasses", but also notes that 263 boxes were picked up. Therefore, it is logical to assume that 62 boxes of dishes and glasses sold. The Consignor Settlement Form lists 132 items being sold (in the form of 20 line items). The 20 line items are listed vaguely as " box lot", "Box wine glasses", or "box glass". No other details are given, which makes it difficult to verify and analyze how these items were accounted for and recorded by the auctioneer.
- ❖ According to hand written notes on invoices, two checks were written to sellers possibly after the legally mandated disbursement period:
- Check 1062 written to Alton Buhler on September 14, 2011 in the amount of \$85.50
 - Check 1061 written on September 10, 2011 to Jamie Roberie in the amount of \$477.62

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- ❖ All 25 Consignor Settlement Forms were dated between July 29, 2011 and August 10, 2011, which is before the auction was held on August 13, 2011. While it is assumed that no settlements could possibly be made prior to the auction, it is a noteworthy example of careless documentation.
- ❖ No documentation showing the funds were deposited into an Escrow Account was provided.
- ❖ No documentation showing the settlements to the sellers were disbursed from an Escrow account was provided.
- ❖ There is an \$801.87 discrepancy in the amount of money documented as earned, and the amount of money deposited into the bank account. By examining the bank account statement, it was found that three deposits were made into the 7609 account on August 15th and 16th (the day of the auction and the day following the auction) in the amounts of \$19,192.12, \$16,450.00, and \$2557.14 totaling \$69,131.96. That is \$801.87 less than the \$69,933.83 total earnings listed on the Auction Invoice Detail Form.
- ❖ No copies of checks or check stubs were submitted, and there was no master list of checks and amounts paid to the sellers in the documentation for reference.
- ❖ Despite the fact that it appears as though checks 1034-1060 were paid to sellers. Check 1059 hadn't cleared yet, therefore it could not be determined who it was written to or the amount it was written for, and check 1040 cleared in the amount of \$2200.00 but neither of these checks is listed on any invoice or matches any of the Consignor Settlement amounts, and because no specific documentation of payments/check stubs was submitted, details of these checks can not be determined at this time.
- ❖ When the "Invoice Detail", which lists all the sales, was compared to the "Invoice Receipts" which lists all of the amounts collected and the methods of payment, it was found that 7 invoices were not included on the "Invoice Receipts" Form. However, all 7 invoices are listed on the "Invoice Detail" sheet. They are invoices 228 (\$6.27), 284 (\$9.41), 289 (\$2030.67), 290 (\$169.22), 291 (\$87.75), 292 (\$17.55), and 293 (\$294.57). This is a \$2615.44 difference in the amount said to be earned versus the amount said to be collected
- ❖ Invoice 220 is listed on the "Invoice Receipts" Form as \$698.20, whereas the "Invoice Detail" has 220 listed as \$541.51, which infers that the auctioneer collected \$156.69 more than he documented as having earned.
- ❖ The "Invoice Detail" total earnings are listed as \$69,933.83, while the " Invoice Receipts" total funds collected is \$67,481.35. This is a difference of \$2452.48. Even if the totals of the invoice

11/17/11 a.g.c.

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discrepancies listed above are added in, the amount earned versus the amount collected doesn't reconcile exactly (there is still a \$6.24 unaccounted for).

- ❖ Malcolm Buhler bought an item for \$6.27 according to the "invoice Receipts" form
- ❖ There were no bidder contracts for 8 of the buyers listed as paying on the "Invoice Receipts" Form. They are:
 - Buyer # 129, Lydia Levert
 - Buyer # 1, Malcolm Buhler
 - Buyer # 159, Benjamin Dart
 - Buyer # 60, Maureen Hays
 - Buyer # 46, Deborah Freeman
 - Buyer # 500, Lloyd Henderson
 - Buyer # 130, Ryan Saloom
 - Buyer # 17, Leah Buhler
- ❖ 6 of the bidder contracts only had names on them, no buyer numbers had been assigned.
- ❖ The Louisiana Dept of Revenue Sales Tax Return isn't signed or dated
- ❖ No copy of the check showing payment of the state taxes was submitted, and no such check had cleared the bank account as of the time the statement was printed.
- ❖ No occupational license was submitted in the documentation
- ❖ Two ram heads were auctioned, one for \$200.00, and the other for \$125.00 according to the Consignor Settlement listing Aldrich Watts as the seller. The sale of animals and animal parts is restricted according to the La. Dept. of Wildlife and Fisheries (LDWF)..
- ❖ According to the clerking tickets, a Polaris ATV was sold for \$1650.00. It was noted that the vehicle was sold without a title. This could create an issue for ownership in the future.

Louisiana Auctioneers Licensing Board

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Auction Business Investigation
Auction Date: March 27, 2011

Estate Auction Services
1263 South Eugene Street
Baton Rouge, LA 70806
Mac Buhler- license # AB 338

On April 13, 2011 the LALB received copies of the following documents from Mr. Buhler:

1. Letter from Mac Buhler dated April 13, 2011, addressed to Anna Dow Attorney at Law, acknowledging receipt of subpoena, and advising that all requested auction documentation was enclosed.
2. Copy of the Subpoena from LALB requesting documentation of the March 27, 2011 auction.
3. Copy of Secretary of State certificate showing the business (Estate Auction Services) to be registered through the state as of January 1, 2011.
4. Copy of Occupational license from the City of Baton Rouge/Parish of East Baton Rouge Dept of Finance and Revenue effective March 24, 2011. The business is listed as Estate Auction Services with Malcolm Buhler as the owner.
5. Copy of Louisiana Department of Revenue Sales Tax Registration Certificate effective January 1, 2011.
6. Copy of twelve consignor control forms listing seller information, items to be sold, and commissions to be collected by Estate Auction Services.
7. Copy of 67 clerking tickets listing buyer info, item description, lot number, and sale price.
8. Copy of 16 buyer invoices, and master list of buyer settlements.
9. Copy of 8 consignor settlements.
10. Copy of 8 Consignor checkstubs, and a copy of a partial check from an Estate Auction Services Escrow Account.
11. Copy of the transaction history of two different Estate Auction Services checking accounts from January 20, 2011 through April 14, 2011.
12. Sales tax record of Estate Auction Services from March 1, 2011 through April 15, 2011.
13. Six checkstubs which include one to LA Dept of Revenue for State sales tax, one to Doug Pritchard for rent, one to Doug Pritchard notated as "elec", one to Ken Buhler for March 27, 2011 auction, one to Renaissance Art for March 27, 2011 auction, and one to Parish and City Treasurer for City Sales Tax.

1) Page

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Conduct of the Auction

I did not attend the auction held on March 31, 2011, but have analyzed the documentation submitted by auction business owner, Malcolm "Mac" Buhler, in answer to a subpoena requesting the information by Anna Dow, Attorney at law.

Copies of the business' Secretary of State certificate, occupational license from the City of Baton Rouge/Parish of East Baton Rouge, and the Louisiana Department of Revenue Sales Tax Registration Certificate were included in the documentation submitted to the Board. No copy of the Buhler's Baton Rouge Auction License was attached, despite it being requested in the subpoena.

The March 31, 2011 auction consisted of twelve consignors. The twelve Consignment Control Forms listing seller information, items to be sold, and commissions to be collected by Estate Auction Services are included. Mr. Buhler charged 25% commission from three of the consignors, 10% commission from two consignors, 22% commission from one consignor, 15% commission from two consignors, 17% commission from two consignors, 20% commission from one consignor, and 10% commission plus 50% of the margin from one consignor. Consignor Control form discrepancies are listed below:

- One Consignment Control Form lists James Harris Jr. as the seller, however, Mr. Harris' name is signed by Martha Hughes on five of the inventory sheets. Upon further investigation, I found that Mr. Harris is the President of M & H Construction in Hernando Ms (which is incorrectly listed as Fernando Ms on the Consignment Control Form), and Martha Hughes is the Human Resources Director at that same company. It is unknown if Ms Hughes had the authority to sign Mr. Harris' name on the contract. There are also three pages of Mr. Harris' Consignment Control forms that are unsigned by Mr. Harris or Ms Hughes, the word "added" is written on the seller signature line. Mr. Harris' inventory pages list 175 items being auctioned, however the page(s) listing items 101-140 are not included in the paperwork.
- It should be noted that on another Consignment Control Form, Jimmy Joubert is listed as the seller, but the signature is illegible.
- Another Consignment Control Form lists Baton Rouge Country Club as the seller. This form is signed by "J. Hooker". Upon further investigation I found that Javier Hooker is the assistant manager at the Baton Rouge Country Club.
- The Consignment Control form listing Lancaster House as the seller shows an illegible signature on the first page and no signature on the second page.
- The Consignment Control form listing MIRESCO as the seller shows an illegible signature, but has a typed item list attached to it, titled " Ken Buhler's Selection auth 8007-11".

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The copies of the 67 clerking tickets listing buyer information, item description, lot number, and sale price all appear to be in order.

A copy of 16 buyer invoices (invoice # 101- 116), and a master list of buyer settlements is included, showing a total sales of \$6313.00, taxes of \$157.44 and \$224.01 were also added. It should be noted that the buyer's premium collected on each item was 15%, therefore, Mr. Buhler earned \$946.97, increasing the grand total collected to \$7641.42.

Eight of the twelve sellers received settlements which are included and list items that were sold as well as items that did not sell. The following consignors did not receive settlements from the auctioneer: Jimmy Joubert, Janice Fussell, Jeff McManus, and MIRESCO. It is assumed that none of their items sold, although there is nothing documenting the lack of sales in this correspondence. A copy of the eight disbursement checkstubs were supplied by Mr. Buhler. All checks are dated April 1, 2011, which is within the legally required ten day timeframe for disbursements. The amounts of checks are as follows: James Harris \$2353.49, Rex Ransome \$128.65, BRCC \$599.25, Rufus White \$607.50, Burns Antik \$400.00, Lancaster House \$661.92, Ken Buhler \$33.75, and Renaissance Art \$155.00.

The partial copy of the check submitted doesn't display the account number of the Escrow account. However, Mr. Buhler supplied Transaction History from two different checking accounts during the period of 1/20/11 to 4/12/11 and 1/20/11 to 4/14/11. The bank isn't displayed on the transaction histories, but both list Estate Auction Services as the customer/owner of the account. Neither is specifically noted as an Escrow Account. One bank account (ending in █████) shows all seller settlement checks clearing by 4/12/11 with the exception of check #1004 to Rufus White and Check # 1008 to Renaissance Art. That same checking account (ending in 7609) documents two deposits within the ten day period following the auction. The deposits were \$6295.77 and \$1195.84 which totals \$7491.61. The grand total Mr. Buhler reported collecting was \$ 7641.42, which is a \$149.81 discrepancy.

Mr Buhler supplied sales tax records for the business as requested by the subpoena. Based on the sales of the auction, the sales tax owed to the City Parish is \$87.45, this amount coincides with the auction's sales documentation. A checkstub showing this payment to the Parish and City Treasurer in the amount of \$149.81 was provided by Buhler. However, the checking account history doesn't display the check as being cashed at the time the information was printed. It should also be noted that Buhler supplied two copies of the same ledger, the first to document the seller checkstubs and another to document the Parish sales tax. One copy of the ledger shows the Parish Sales tax checkstub, while the other copy of the ledger shows the check not being used yet. Buhler further provided the checkstub documenting payment of Louisiana State sales taxes in the amount of \$253.00. However, the bank transaction histories showed that the check had not been cashed as of the time documentation was printed.

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Findings and Conclusions

After analysis of the documentation submitted by Buhler, the following deficiencies are noted:

- ❖ A copy of the Baton Rouge auction license was not provided
- ❖ While a copy of a partial check and two transaction histories were provided, no documentation showing the funds being deposited into an Escrow Account was provided
- ❖ Documentation that the disbursement checks were written out of an Escrow Account was not provided
- ❖ There is \$149.81 discrepancy between the funds deposited in the bank and the funds collected at auction.
- ❖ While copies of check stubs showing sales tax payments were provided, there were no copies of the actual checks and no documentation showing the checks clearing either of the bank accounts.

Sandy Edmonds

From: janice gold [jrjgold@bellsouth.net]
Sent: Friday, September 17, 2010 5:17 PM
To: sandy@ialb.org
Subject: Ken Buhler

Sandy, Ken Buhler has requested that I sign a letter (which I will FAX to you) to reinstate his auction license.

I am signing this letter since you "can't get blood out of a turnip" and it really means nothing to me as I'm sure I will never see a dime of the money owed to me anyway. Mr. Buhler can promise everyone involved that they will eventually get their money but I do not see this ever happening. In court he told the judge that he had talked to me and had come to a payment arrangement which was a total lie. He refused to answer any of my phone calls. The only contact I've had with anyone during the 2005 legal affair was with Mr. Jim Steele, the board's investigator.

What puzzles me is that the auction board would even consider granting him a license in this state again. What kind of business is that? What kind of protection from people like Ken Buhler do the poor unsuspecting public get? Mr. Buhler is in essence doing the same thing that got him into trouble in the first place.

Regards,

Jan Gold

No virus found in this incoming message.
Checked by AVG - www.avg.com
Version: 9.0.851 / Virus Database: 271.1.1/3139 - Release Date: 09/16/10 13:34:00

9/20/2010

COMPLAINTS AGAINST KEN BUHLER

1. JAMES & ELISE TRANSUE. Consigned inventory. Were given blank checks from AIG. One check for \$2800 bounced. Check has not been made good. Inventory not returned, nor funds from auction. However, no consignment contract, but an invoice for a certain amount as if sold for resale. AIG is not the auction house. I am not sure anything was sold at auction.
2. JANICE J. GOLD. Consigned painting. Company consigned to is Warehouse 212. Sold in February 2005, but no check or inventory paid to Gold. Check is in State Bank records, but not mailed to Gold.
3. RAYMOND E. HECK. Investor in KBA. He was to receive a share of profits from items to be sold at auction. He was not paid. I believe that he is one of the investors who filed an involuntary bankruptcy proceeding against AIG. He alleges that inventory upon which he has a lien has been diverted to other auctioneers, namely Barbara Bonnette and Henderson Auctions. He is not a true consignor.
4. PAT HOTH. Consigned various pieces of furniture. She was paid for some. She was not paid for others. Has not filed formal complaint.
5. WILLIAM NORRIS. Consigned numerous items. He complains that he was not paid for some items, but he continues to work with Ken. It is my understanding that Mr. Norrishas or will withdraw his complaint.
6. BILLY HULL. Consigned various items. Was not paid nor were items returned.
7. MARK MILLER. Consigned a desk which he bought from KBA. No formal complaint.
8. JUDY RIZZO / AMANDA RIZZO. Consigned bedroom set. Neither was paid nor were the items returned.
9. LINDA C. WILLIAMS. Consigned sofa, which was supposedly sold on Ebay April 2005. Has not been paid, nor has item been returned.
10. TANIA COLWELL. Consigned items to KBA for estate sale. Some items returned damaged. Others not paid. Sale was in 2003, but not reported until December 2005. We need remaining documents from probate to see how assets handled.