

ROBERT BURNS

NUMBER 616916 DOCKET: 25

19<sup>TH</sup> JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BAORD,  
CHARLES "HAL" McMILLIN, JAMES M SIMS,  
DARLENE JACOBS-LEVY, GREGORY L. "GREG"  
BORDELON, CHARLES "CLAYTON" BRISTER

STATE OF LOUISIANA

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**PLAINTIFF'S RESPONSES TO DEFENDANTS' REQUEST  
FOR ADMISSION OF FACTS, INTERROGATORIES, AND REQUEST FOR  
PRODUCTION OF DOCUMENTS**

**REQUEST FOR ADMISSION OF FACTS**

**REQUEST FOR ADMISSION NUMBER ONE:**

Admit or deny that at the September 17, 2012 LALB Administrative Hearing, upon the conclusion of evidence and testimony, the Administrative Law Judge expressed that the LALB had a right to enter into Executive Session.

**RESPONSE TO REQUEST FOR ADMISSION NUMBER ONE:**

Plaintiff objects to Admission Number One on the grounds that the information sought in said Admission is not relevant and immaterial in that, to the extent Defendants believe that the Administrative Law Judge, whom they contracted to hire for Administrative Hearings, may have erred in any such guidance, Defendants have the prerogative to recover damages from the Administrative Law Judge and/or the Attorney General's Office for any such alleged improper guidance.

**REQUEST FOR ADMISSION NUMBER TWO:**

Admit or deny that you were issued a public reprimand at the September 17, 2012 LALB Administrative Hearing.

**RESPONSE TO REQUEST FOR ADMISSION NUMBER TWO:**

Admit.

**REQUEST FOR ADMISSION NUMBER THREE:**

Admit or deny that the September 17, 2012 LALB Administrative Hearing was reset for deliberations on January 8, 2013.

**RESPONSE TO REQUEST FOR ADMISSION NUMBER THREE:**

Plaintiff objects to Admission Number Three on the grounds that the requested information sought in said Admission is not relevant to any issue raised in the lawsuit, and it is not reasonably calculated to lead to the discovery of any admissible evidence. Plaintiff further

expands upon this objection by referencing the wording of Honorable Judge Wilson Fields at the March 25, 2013 Summary Judgment motions oral arguments when Defense Counsel Bankston brought up the content of request for admission number three in attempting to argue that the act “cured the violation,” and Judge Fields responded directly to Mr. Bankston: “Counsel, just as Mr. Burns has just argued, that action (of “resetting” deliberations) seeks to water down the law to make it of no effect.”

**REQUEST FOR ADMISSION NUMBER FOUR:**

Admit or deny that at the January 8, 2013 hearing, you were afforded the opportunity to be heard in connection with the proceedings.

**RESPONSE TO REQUEST FOR ADMISSION NUMBER FOUR:**

See response to request for admission number three.

**REQUEST FOR ADMISSION NUMBER FIVE:**

Admit or deny that that at the January 8, 2013, the deliberations of the LALB members were conducted in an open manner.

**RESPONSE TO REQUEST FOR ADMISSION NUMBER FIVE:**

See response to request for admission number three.

**REQUEST FOR ADMISSION NUMBER SIX:**

Admit or deny that you were issued a public reprimand at the January 8, 2013 LALB

**RESPONSE TO REQUEST FOR ADMISSION NUMBER SIX:**

Admit.

**INTERROGATORIES**

**INTERROGATORY NUMBER ONE:**

Please identify each and every person, as well as their address and telephone number, who answered, participated in answering, assisted in answering, or was consulted before answering these Interrogatories.

**RESPONSE TO INTERROGATORY NUMBER ONE:**

Plaintiff answered all interrogatories on his own. Plaintiff’s address is 4155 Essen Lane, Apt. 228, Baton Rouge, LA 70809-2152, and his telephone number is 225-201-0390 (home) and 225-235-4346 (cell).

## **INTERROGATORY NUMBER TWO:**

Please describe in detail the alleged damage you have suffered as a result of the Defendants' alleged violation of the Open Meeting Laws.

## **RESPONSE TO INTERROGATORY NUMBER TWO:**

As admitted in both request for admission of facts two (2) and six (6), Defendants, with the exception of Greg Bordelon, voted to issue a “public reprimand” of Plaintiff after an approximate 53-minute closed door session during which the details of clearly derogatory statements were made regarding Plaintiff as evidenced by the fact that Board Member Darlene Jacobs-Levy relayed that three (3) of the five (5) Defendants voted to revoke Plaintiff’s license. Plaintiff’s character has been defamed publicly by the mere issuance of the public reprimand as a result of the following conditions:

1. Defendants failed miserably to even assert that Plaintiff had acted in any grossly negligent manner regarding a complaint filed by New Orleans Auction Galleries attorney Stewart Peck. In fact, Defendants failed to obtain sworn statements from Mr. Peck and failed to have Mr. Peck attend the hearing. Rather than properly investigating Mr. Peck’s allegations, Defendants merely took his complaint and “ran to the house” with it, and Defense Counsel Bankston merely read from it, and produced **absolutely nothing** in the way of **any** document, webpage, or any other material whatsoever to substantiate the allegation. Apparently, Defendants failed to comprehend that, at such a proceeding, Defendants bear the burden of proof, and they permitted Defense Counsel Bankston to proceed and thereafter flounce around like a fish out of water producing **nothing** because there was nothing to produce!
2. Ms. Jacobs-Levy, in speaking for the Board (with the exception of Greg Bordelon – see # 6 below), relayed that the Board was issuing a “public reprimand” because “when you ‘go after’ three of our employees.....” Ms. Jacobs-Levy’s statements were themselves defamatory in that the issue of Ms. Edmonds alleged payroll fraud has been the subject of extensive scrutiny by the Legislative Auditor’s Office. Plaintiff, and any other citizen for that matter, has the right to provide information to State Governmental agencies and permit them to act upon that information. Mr. Patrick Lowery admitted under oath that he had in fact relayed that, upon verification of the documentation presented by Plaintiff, Ms. Edmonds would be guilty of “blatant payroll fraud.” Defendants heard Plaintiff’s testimony that Mr. Lowery had encouraged Plaintiff to contact Channel 9, and two Defendants were aware that

Plaintiff did so and Mr. Paul Gates and David Spunt arrived just before the March 21, 2011 LALB meeting with cameras rolling. As relayed by Plaintiff during his testimony, Mr. Gates, upon being diagnosed with Alzheimer's days after that filming episode, informed Plaintiff that "we're just going to have to let the Legislative Auditor's Office handle this one." Defendants heard Plaintiff's testimony that Mr. Lowery also urged Plaintiff to contact "2 on Your Side" regarding the payroll situation at both the LALB and Interior Design Board. Defendants heard Plaintiff's testimony that Mr. Lowery sent Plaintiff a letter dated April 1, 2011 expressing pleasure that Plaintiff had delivered all of the documentation to the Legislative Auditor's Office. Despite all of the corroborating statements supplied that Plaintiff was seeking to safeguard LALB funds (which is supposed to be an obligation of Defendants), Defendants admit that Plaintiff's very attempts to safeguard licensee funds (of which he was a paying licensee during all pertinent times in question) was the very reason they were issuing the "public reprimand." Plaintiff has EVERY RIGHT (and Plaintiff again emphasizes the word "RIGHT") to insist that any discussions in that regard that pertain to his character MUST be discussed in an open forum when Plaintiff insists upon same. Notwithstanding Plaintiff's repeated admonitions to Defendants at numerous prior Board Meetings, including the Board Meeting of May 21, 2012 during which Defense Counsel Bankston attended and informed Defendants that Defendants did not have the criteria in place to convene an Executive Session, Defendants chose to convene an illegal Executive Session (which has been admitted in pleadings) and CLEARLY defame Plaintiff to a degree even further than the defamatory statements made by Member Jacobs-Levy in "publicly reprimanding" Plaintiff in an open forum when Defendants had no grounds whatsoever for taking that action. Defamation suits are strongest when malice can be readily demonstrated, and the fact that three (3) of five (5) Members voted to revoke Plaintiff's license with no grounds whatsoever, is clear malice, and Plaintiff was denied the opportunity afforded to him under LA R. S. 42:17(A)(1) to observe and videotape those deliberations. To the extent Plaintiff's grounds for a Cause of Action against the individual Board Members and the Board has been lessened by those secretive deliberations, Plaintiff has unquestionably been harmed.

3. Itemization number two (2) above is repeated regarding Plaintiff's long-held belief that no single attorney should hold the position of general counsel and prosecuting

attorney. Ms. Jacobs-Levy's statements, in speaking for the Board, that Plaintiff had "gone after" an employee of the Board, in this case Anna Dow, is false, scurrilous and without any foundation whatsoever. Pursuant to LA Code of Civil Procedure 971, Plaintiff is fully protected from the type of retaliatory actions of Defendants where issues of public interest are in question. Plaintiff is fully entitled to state his opinion (obviously shared by many others as evidenced by the plethora of litigation entailing state agencies where one attorney shares that same role) without any fear of being "publicly reprimanded." Whatever all was said in regard to that issue, which Defendants had **ZERO** ground for pursuing in the first place, was material to which Plaintiff was fully entitled to hear and videotape pursuant to LA R. S. 42:17(A)(1).

4. The third "employee" to which Ms. Jacobs-Levy, again speaking for the Board with slight exception for Greg Bordelon – again see # 6 below – would be LALB Chairman Tessa Steinkamp. Plaintiff created a webpage of summation of past chronological filings of New Orleans Auction Galleries during its bankruptcy period. Those filings shed light on serious auction violations as well as auction bidders having been allegedly defrauded with merchandise (most notably items like paintings and chicken blood stones) that were known by New Orleans Auction Galleries to be fakes (with the paintings arriving with Christie's rejection stickers on them). Plaintiff is, and remains, dismayed that, particularly an office-holding member of the LALB, Ms. Steinkamp, in her long-time role as Vice Chairman, would conceal all of these problems from the very regulatory body on which she serves. That fact is particularly disturbing considering that Ms. Steinkamp was identified as "Vice President, Director, and **Treasurer**" of New Orleans Auction Galleries right up until 11 days before the firm filed bankruptcy. Any discussions which transpired behind closed doors entailing Plaintiff "going after" an LALB employee, Ms. Steinkamp, should have been readily available for Plaintiff to both observe and videotape for purposes of buttressing a defamation lawsuit against LALB Members and the LALB itself. Again, pursuant to LA Code of Civil Procedure 971, Plaintiff has **EVERY** right to question Ms. Steinkamp's long-term silence regarding all of the extensive auction law violations which transpired at New Orleans Auction Galleries. Thus, for the LALB membership to "protect one of its own behind closed doors" and emerge and issue a "formal reprimand" of Plaintiff for the stated reasons Ms. Jacobs-Levy provided "going after one of our employees," again speaking on behalf of the Board

with an exception for Greg Bordelon (again see # 6 below), is defamation on its face, and Plaintiff was unquestionably harmed by not being permitted to view and videotape the full extent of the defamation which transpired on September 17, 2012.

5. When Plaintiff went to renew his CPA certificate for 2013, he had to respond to the question “have you been the subject of an investigation by a licensing board....” with “yes” due to the witch-hunt pursuit of Defendants when they had **nothing!** While Plaintiff was able to provide direct video coverage of the entirety of the hearing itself to the State Board of CPAs of Louisiana (and did so), Plaintiff was denied the opportunity to provide the deliberations portion of the hearing in order that the State Board of CPAs of Louisiana could assess statements made by Board Members in concluding that a “public reprimand” was a responsible action on the part of Defendants. Plaintiff remains in limbo as to what impact Defendants’ action may ultimately have on his status as a CPA (inactive) in Louisiana, and he most certainly was entitled to have been able to provide the State Board of CPAs of Louisiana with the deliberations portion of that hearing as dictated by LA R. S. 42:17(A)(1).
6. Items 1-5 are repeated concerning Board Member Greg Bordelon; furthermore, Plaintiff was most certainly harmed by Defendants’ actions of shielding Member Bordelon’s comments behind closed doors as he is the only one to publicly admit, as evidenced by lines 13-19 of page 12 of the transcript of the January 8, 2013 “reset deliberations”: “I can’t comment based on my attorney’s – my personal attorney’s advice. Because I didn’t vote to reprimand him. **I thought we should have went further.**” Plaintiff was most assuredly harmed by an inability to hear the statements made by Board Member Bordelon and, by his own admission, Plaintiff is now denied that opportunity because Member Bordelon has advised him not to comment on the matter! Further, upon Plaintiff providing an audio roll call of Mr. Bordelon’s response to the November 5, 2012 LALB meeting (the first after the September 17, 2012 hearing) of “I’s here, too,” (in following Board Member Sims’ response of “I’s here,”), Mr. Bordelon defamed Plaintiff’s character in a libelous statement to Advocate reporter Ted Griggs which was printed in the December 22, 2012 Advocate: “I know I never said that. I never heard nobody say it either.” Thereafter, Bordelon relayed to reporter Griggs, “former Board Member Robert Burns is trying to stir up controversy in an effort to make the Auctioneers Board look bad. Bordelon said Burns has been a thorn in the Board’s side ever since Gov. Bobby

Jindal kicked Burns off a few years ago.” Interestingly, Mr. Bordelon reversed course during an Inspector General investigation of the roll call response and admitted that he responded to the roll call with “I’s here, too,” and contradicted himself once again (referencing saying “I never heard nobody say it either”) in relaying in that report that he was mocking Board Member Sims after he heard Sims respond with “I’s here,” when his name was called for the roll. Given Mr. Bordelon’s obvious harsh feelings toward Plaintiff, and his own admission on January 8, 2013 that he believed the Board should have “went further,” Plaintiff was most certainly harmed in not being able to observe precisely what all was said by Mr. Bordelon during that admittedly-illegal Executive Session.

**INTERROGATORY NUMBER THREE:**

Please identify, including name, address, telephone number, and employer, if known each and every individual that you are aware of who has knowledge of any information that is relevant to allegations contained in your Petition for Damages.

**RESPONSE TO INTERROGATORY NUMBER THREE:**

Plaintiff objects to this Interrogatory as it is overbroad, unduly burdensome, and irrelevant, as the information sought is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects upon relevancy given that Defendants have admitted in pleadings and memorandums that the Open Meetings Law was violated.

**INTERROGATORY NUMBER FOUR:**

Please identify all documents and tangible things known to Robert Burns that relate in any way to the allegations contained in the Petition for Damages, and state, for each document or tangible thing, whether you intend, may, and/or reasonably expect to use it at trial. (Note, your response to this interrogatory should delineate and specify which document(s) and tangible thing(s) apply to which allegations(s).)

**RESPONSE TO INTERROGATORY NUMBER FOUR:**

See response to Interrogatory Number three.

**INTERROGATORY NUMBER FIVE:**

Please identify each and every person that you may, or will call to testify at the trial of this matter, including expert, rebuttal, and impeachment witnesses, and for each provide a brief summary of their expected testimony.

**RESPONSE TO INTERROGATORY NUMBER FIVE:**

Plaintiff may not call any witnesses whatsoever at trial. Defendants have admitted in pleadings and memorandums to having violated Louisiana's open meetings law. Therefore, at present, Plaintiff is content to place the burden of undoing this admission of guilt upon Defendants. Plaintiff reserves the right to supplement this response at a later date.

**INTERROGATORY NUMBER SIX:**

Please describe in detail each and every fact that supports or relates in any way to your allegations that "each of the individual Board Members named as Defendants ... did knowingly and willfully violate La. R.S. 42:17(A)(1).

**RESPONSE TO INTERROGATORY NUMBER SIX:**

Reference paragraphs 9, 10, and 12 of Plaintiff's original petition, repeated below:

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9.

On no less than six (6) previous meetings, the LALB has routinely sent Petitioner a certified letter, as required by LA R. S. 42:17(A)(1), indicating the LALB's intent to discuss Petitioner's character and affording him the option of insisting that such discussion take place in an open forum. For each of those instances, Petitioner has indicated that he desired for the discussion to take place in an open format and not in Executive Session.

10.

The last such letter Petitioner received from the LALB regarding the required notice of anticipated character discussion was dated May 15, 2012 and is attached hereto and made a part hereof as Exhibit P-1. Furthermore, the regularity with which Petitioner was receiving these letters (basically before every meeting from late 2010 to mid 2012) is readily apparent in that the LALB's Executive Assistant failed to even change the deadline date at the bottom of the letter, Exhibit P-1, and left it as "Monday, **March 19**, 2012" even though, as stated above, the letter itself was dated May 15, 2012.

12.

During the May 21, 2012 LALB meeting, the Board motioned itself into Executive Session for a matter in which Petitioner knew it would be impossible for Members not to discuss his character. Petitioner indicated to the LALB at that May 21,

2012 LALB meeting that he had received the “character letter,” Exhibit P-1, and, furthermore, that he had been advised by his attorney, whom he did not identify at that time to be Mr. Kleinpeter, that no discussion of him was appropriate in any manner whatsoever either in an Executive Session or open session. Accordingly, as evidenced by the top of page three (3) of the minutes of that meeting, which are attached hereto and made a part hereof as Exhibit P-2, the LALB abruptly reversed itself and reconsidered the motion to enter into Executive Session and actually made a new motion **not** to enter into Executive Session with Members Greg Bordelon and Vice Chairman James Sims in opposition, thus maintaining their defiant stand to enter into Executive Session, Petitioner’s admonition relayed indirectly from his attorney notwithstanding.

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The above episode of May 21, 2012 demonstrates pretty authoritatively that LALB Members are determined to violate Louisiana Open Meetings Laws, especially in the case of Defendants Bordelon and Sims, in defying the advice of their own legal counsel! Further, every member of the Board has been aware of the “character letters” sent out not only to Plaintiff but also to Rev. Freddie Lee Phillips as well, regarding repetitive desires to discuss “character.” Notwithstanding Executive Director Sandy Edmonds’ revelation before the hearing that, “The Board will be going into Executive Session,” no Defendant denies having failed to provide the “character letter” at least 24 hours before the meeting. Thus, Defendants had zero intent to permit Plaintiff to insist upon open forum deliberations.

**INTERROGATORY NUMBER SEVEN:**

Please identify, by suit name, docket number, and court, each and every lawsuit that you have been a party to over the past 10 years.

**RESPONSE TO INTERROGATORY NUMBER SEVEN:**

Plaintiff objects to Interrogatory Number Seven on the grounds that the information sought is equally available to the propounding party as any such suit was filed in Louisiana’s 19<sup>th</sup> JDC. Furthermore, this request is neither relevant to the subject matter of this lawsuit, nor is it reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION**  
**OF DOCUMENTS AND THINGS REQUESTED**

**REQUEST FOR PRODUCTION NUMBER ONE:**

Please produce any and all documents identified, reviewed, relied upon, referred to, or

described by Robert Burns to answer the first set of Requests for Admissions and Interrogatories to Robert Burns served contemporaneously with these Requests for Production.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER ONE:**

All documents referenced are already in the possession of Defendants either in the form of pleadings or Exhibits to pleadings.

**REQUEST FOR PRODUCTION NUMBER TWO:**

Please produce a copy of any and all exhibits that you may/or will introduce into evidence of use for demonstrative purposes at the trial of the matter.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER TWO:**

Plaintiff is unaware of any exhibits to be introduced which have not already been supplied to Defendants. Plaintiff reserves the right to supplement this response at a later date.

**REQUEST FOR PRODUCTION NUMBER THREE:**

Please produce any and all documents that were identified, reviewed, relied upon, referred to, or described by you to prepare the Petition in this matter.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER THREE:**

All such documents were provided as exhibits to the Petition. Plaintiff reserves the right to supplement this response at a later date.

**REQUEST FOR PRODUCTION NUMBER FOUR:**

Please produce copies of any and all communications, both written and oral for the past three years, between you and any current or past board member of the Louisiana Auctioneers Licensing Board.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER FOUR:**

Plaintiff objects to Request for Production Number Four on the grounds that the information/documentation sought in said Production Request is not relevant to any issue raised in the lawsuit, and it is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects based on the grounds that the request fails miserably to conform to LA CCP 1420(B)(3) in being “unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.”

**REQUEST FOR PRODUCTION NUMBER FIVE:**

Please produce copies of any and all communications, both written and oral for the past

three years, between you and any current or past employee of the Louisiana Auctioneers Licensing Board.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER FIVE:**

Plaintiff objects to Request for Production Number Five on the grounds that the information/documentation sought in said Production Request is not relevant to any issue raised in the lawsuit, and it is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects based on the grounds that the request fails miserably to conform to LA CCP 1420(B)(3) in being “unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.”

**REQUEST FOR PRODUCTION NUMBER SIX:**

Please produce any and all statements, whether written or oral, taken in this case.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER SIX:**

To the extent Plaintiff understands the request, which would be sworn affidavits which may be in his possession, or similar instruments or recordings, no such statements are in his possession. Plaintiff reserves the right to supplement this response at a later date, particularly to the extent that he may likely not understand what is being requested.

**REQUEST FOR PRODUCTION NUMBER SEVEN:**

Please produce a copy of any video, audio, or electronic recording that was identified, reviewed, relied upon, referred to, or described by you to prepare the Petition in this matter.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER SEVEN:**

Plaintiff objects to Request for Production Number Seven on the grounds that the video sought is equally available to the propounding party as Defendants opted to hire a professional videographer for the hearing on September 17, 2012.

**REQUEST FOR PRODUCTION NUMBER EIGHT:**

Please produce all video, audio, or electronic recordings in your possession, which are in any way related to the Louisiana Auctioneers Licensing Board.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER EIGHT:**

Plaintiff objects to Request for Production Number Eight on the grounds that the recordings sought in said Production Request is not relevant to any issue raised in the lawsuit, and it is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff

further objects based on the grounds that the request fails miserably to confirm to LA CCP 1420(B)(3) in being “unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.” Plaintiff further objects on the grounds that any recordings sought is equally available to the propounding party as Defendants routinely audio record all meetings (but fail to record Executive Sessions, irrespective of the legality of such sessions).

**REQUEST FOR PRODUCTION NUMBER NINE:**

Please produce all documents and electronically stored information reflecting, evidencing, or relating to the LALB.

**RESPONSE TO REQUEST FOR PRODUCTION NUMBER NINE:**

Plaintiff objects to Request for Production Number Five on the grounds that the information/documentation sought in said Production Request is not relevant to any issue raised in the lawsuit, and it is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects based on the grounds that the request fails miserably to confirm to LA CCP 1420(B)(3) in being “unreasonable, unduly burdensome, or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.”

Respectfully Submitted,

Robert Edwin Burns, in proper person  
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E-mail: [Robert@AuctionSellsFast.com](mailto:Robert@AuctionSellsFast.com)



Certificate of Service:

I certify that a copy of the foregoing has been served upon counsel for all parties to this proceeding by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 20<sup>th</sup> day of April, 2013.

