

LOUISIANA AUCTIONEER LICENSING BOARD

NUMBER 621426 DOCKET: 27

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

ROBERT EDWIN BURNS

STATE OF LOUISIANA

MEMORANDUM IN OPPOSITION TO EX PARTE ORDER FOR WRIT OF ATTACHMENT

NOW UNTO COURT comes Defendant, Robert Edwin Burns, in proper person, who submits to this Honorable Court this Memorandum in Opposition to Plaintiff's Motion for an Ex Parte Order for a Writ of Attachment.

Plaintiffs readily admits that an oral instant subpoena was issued essentially on-the-fly by Administrative Judge Lindsey Hunter. Unlike the Board of Tax Appeals, which is specifically statutorily granted the authority to issue instant subpoenas through LA R. S. 47:4108, the Plaintiff has no such statutory authority.

Further, Plaintiff customarily relays to Defendants in Administrative Hearings and their respective Counsels that Plaintiff will issue formal written subpoenas upon request. Mr. Brantley, Mr. Buhler's attorney, obviously failed to make such a formal request. Further, at a March 5, 2013 aborted hearing (due to lack of a quorum), Mr. Brantley referenced Defendant's name (though not in the contest of being a potential witness), yet there was no subpoena served before that aborted hearing either.

Further, as evidenced by Exhibit D-1, Plaintiff has now issued a formal, written subpoena for the very same testimony for which it seeks to conduct a hearing before this Honorable Court. Exhibit D-1 shows Defendant having been served on Tuesday, May 7, 2013; furthermore, Defendant has provided no indication whatsoever to Plaintiff that he has any intention of not adhering to that properly issued-and-served subpoena. Despite and the opportunity to have done similarly in the case of the March 5, 2013 aborted haring and the March 26, 2013 hearing, Plaintiff failed to do so.

Further, Plaintiff has scheduled a Deposition entailing Defendant regarding another case, Docket Number 616916, with such Deposition set for Thursday, May 23, 2013 at 2:00 p.m. in Plaintiff's counsel's law office. That case entails Defendant suing Plaintiff and its individual Members for an alleged violation of the State's Open Meetings

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DEPUTY CLERK OF COURT

Law. Plaintiff has every available opportunity to question Defendant at that Deposition regarding the subject matter of the Writ of Attachment.

Further, upon Defendant's hurried research of a Writ of Attachment as it pertains to Courts in Louisiana, such a writ appears to have two primary uses. For nearly all civil matters, the cases entail debtor-creditor relationships, which is not applicable in the instant case. In the case of criminal matters, which clearly isn't applicable in the current case, they are used only as a last resort in cases of perceived flight risks and typically only for the most hard-core of criminals. Even then, judges apparently are very apprehensive about signing them over concerns of due process.

Even though Plaintiff does not assert the present case is a criminal matter, and thus is essentially attempting to utilize a Writ of Attachment for a purpose for which it is not intended, Defendant wishes to point out that, in the last 22 years, Defendant does not have so much as a parking ticket on his record. Furthermore, Defendant has never even been charged with a misdemeanor of any kind in his life. Furthermore, Defendant has never partaken in any kind of illegal drug whatsoever, has never smoked a cigarette in his life, has obviously never been arrested, was never suspended from any school nor asked to remain involuntarily after school hours, graduated Salutatorian from Glen Oaks High School Class of 1981, received the University Medal for maintaining a 4.000 GPA upon graduation from LSU in December of 1985 with a B. S. Degree in Finance, is a CPA (inactive), and has received numerous accolades from Baton Rouge area charities for conducting benefit auctions at no charge.

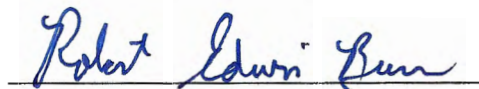
Due to the urgency of this filing, Defendant has not researched past court cases entailing instant subpoenas; however, Defendant feels certain there are bound to be court cases in which Judges have refused to grant enforcement of such instant subpoenas because, were Courts to do so, State Agencies could merely use them as a tool to deny anyone in attendance of a public meeting the right to observe the proceedings. Further, the use of these instant subpoenas should be curtailed in that the recipient of such oral instant subpoenas is provided with no advanced notice, is not permitted the opportunity to decide whether he wants counsel to accompany him for testimony, and are simply contrary to prescribed procedure of the State Agencies, particularly when an agency lacks the statutory authority to issue instant subpoenas as does Plaintiff.

In short, the present Ex Parte Order for a Writ of Attachment is nothing more than pure and simple harassment on the part of Plaintiff and its Counsel, and its Counsel is well-aware that it is pure and simple harassment.

WHEREFORE, petitioner, ROBERT EDWIN BURNS, prays that this Honorable Court DENY Plaintiff's Ex Parte Motion for a Writ of Attachment for the foregoing reasons, and he further prays that this Honorable Court DENY Plaintiff's alternative of a Court Hearing for contempt of the oral instanter subpoena for the same foregoing reasons.

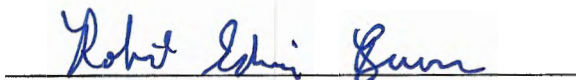
Respectfully Submitted,

Robert Edwin Burns, in proper person
4155 Essen Lane, Apt 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (office) (225) 235-4346
E-mail: rburnsbtr@hotmail.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 15th day of May, 2013.



Louisiana Auctioneers Licensing Board

11736 Newcastle Avenue, Bldg. 2, Suite C, Baton Rouge, LA 70816
Phone 225-295-8420 | Fax 225-372-8584

SUBPOENA

TO: Robert E. Burns
4155 Essen Lane
Apartment 228
Baton Rouge, LA 70809

You have been ordered by the Louisiana Auctioneers Licensing Board to testify under oath before the Louisiana Auctioneers Licensing Board at 12:30 P.M. ON THE 20TH DAY OF MAY, 2013, AT THE LOUISIANA DEPARTMENT OF JUSTICE, 1885 NORTH THIRD STREET (LIVINGSTON BUILDING), BATON ROUGE, LOUISIANA, 70802, regarding a complaint filed against Ken Buhler.

IF YOU DO NOT appear, you will be violating the law and may be subject to penalties. THIS IS YOUR ONLY NOTICE.

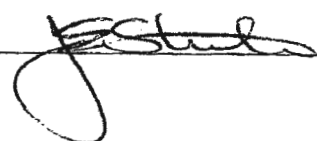
ORDERED BY the Louisiana Auctioneers Licensing Board pursuant to LSA-R.S. 37:3112 (B)(4), on this 30th day of April, 2013. This subpoena was requested by the Respondent.

Louisiana Auctioneers Licensing Board

By: 

Anna E. Dow
Attorney to the Board

Served by personal service on the 7TH day of MAY, 2013.



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