

ROBERT BURNS, REV. FREDDIE LEE  
PHILLIPS

NUMBER 631669 DOCKET: 24

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, JEFFREY HENDERSON,  
TESSA STEINKAMP, CHARLES "CLAYTON" BRISTER

STATE OF LOUISIANA

\*\*\*\*\*

**MEMORANDUM IN OPPOSITION TO  
EXCEPTION OF NO CAUSE OF ACTION AND, ALTERNVATIELY,  
EXCEPTION OF IMPROPER JOINDER AND/OR CUMULATION**

NOW UNTO COURT come Plaintiffs, Robert Edwin Burns and Rev. Freddie Lee Phillips, in proper person, who submit to this Honorable Court this Memorandum in Opposition to Defendant's Exception of No Cause of Action and, alternatively, Exception Improper Joinder and/or Cumulation which is scheduled for hearing on Monday, February 23, 2015 at 9:30 a.m.

Defense Counsel Linn is fond of placing words in bold (see top of page five of memorandum) to emphasize a point (e.g. LA R. S. 42:23(B) "A public body **shall** establish standards....."). Plaintiffs are more than willing to add their own bold face emphasis within the same statute section: ".....**to insure proper decorum....**" Plaintiffs have repeatedly requested that Defendants demonstrate how their previously-enjoyed latitude of being able to utilize a mere electrical outlet and an unimposing unipod somehow caused any disruption in decorum. Every invitation, including invitations in open court for Defendants to make such an assertion, have been ignored. The reason is simple. They can't.

Defendants have taken the position of "we'll do what we want, when we want, and if you don't like it, take us to court!" Plaintiffs can produce audio recordings of such statements to Plaintiffs (e.g. "Go get your attorney, do whatever you've got to do."). Then, when Plaintiffs come to court and this Honorable Court inquires if Plaintiffs have provided the opportunity for Defendants to reconsider these rules, despite the known-futility of doing so because of the adamant stand Defendants have taken as just relayed, Plaintiffs did as this Honorable Court suggested and asked for that item to be placed on the November 5, 2014 LALB meeting. The response was provided to this Honorable Court, which was "we're not doing anything until your court case if over." Hence,

CASE NO. 2014-00000  
015 01 11 2015  
CLERK OF COURT

Plaintiffs incur repeated instances analogous to a dog chasing its tail: Plaintiffs seek to have modest revisions to the rules (which are granted to others present at the meeting), only to be told “take us to court,” and, upon doing so, Defendants state, “Not until your court case is over.” That’s why the Declaratory Judgment was sought in the first place. If Plaintiffs were dealing with reasonable Defendants, it never would have been necessary. Instead, as Defense Counsel has pointed out, Plaintiffs have filed seven (7) lawsuits entailing Defendants’ blatant attempts to interfere with examination of public records, not permitting Plaintiffs to speak on topics clearly on Defendants’ agenda, Defendants convening illegal Executive Sessions to discuss Plaintiff Burns’ character (a case pending before the First Circuit Court of Appeals) all because Defendants, who are clearly violating their fiduciary duty regarding licensee funds, are more than happy to have expended approximately \$70,000 in legal fees to date to Mr. Bankston and Ms. Linn, virtually all of which have been to defend against what ought to be common sense accommodations which the public body is obligated to provide. That \$70,000 figure amounts to roughly 30 cents of every dollar Defendant LALB has, and it is reprehensible that such reckless disregard for licensee resources have been demonstrated, and even more reprehensible that the Attorney General’s Office, which is supposed to have a mission of promoting public-meeting transparency, has stood idly by and permitted this type of reckless behavior to transpire.

Most recently, at the January 13, 2015 LALB meeting, Defense Counsel Larry S. Bankston advised Defendant LALB members that they “resist” Plaintiffs’ stated intent to examine every single auctioneer file in the LALB’s office over a 2-3 year period (in sets of 10 each). Mr. Bankston’s absurd guidance was disseminated to a wide audience that very day via LAPA distribution network, was viewed by numerous attorneys, and was the subject of a blog entry for *Louisiana Voice*, a blog devoted to political corruption having nearly 3,000 subscribers. That blog entry is attached hereto and made a part hereof this opposition memorandum as MO-1. Well-respected local attorneys have witnessed Mr. Bankston’s performance, and Plaintiffs have been advised that, if the LALB does in fact refuse Plaintiffs the examination of such auctioneer file, they stand ready to take the case against the LALB and its custodian of records.

The reality is that Defendants don't want Plaintiffs examining auctioneer files because they readily reveal extensive problematic auctioneer behavior which does not make it to the level of LALB board discussions. They also don't like videos being made public of the treatment of elderly auction victims, including Ms. Betty Jo Story, with whom Plaintiffs worked extensively to obtain an award of \$4,102.29 in 36<sup>th</sup> Judicial District Court after Defendant LALB members literally kicked her to the curb and instructed her to "go out in the hallway and work something out." On Monday, January 26, 2015, Ms. Story astutely asked this Honorable Court, "Your Honor, why do we even have an auctioneer board?"

Curiously, only months after kicking Ms. Story to the curb and instructing her to "go out in the hallway and work something out," Defendants, despite an investigative report indicating no auctioneer wrongdoing, "reopened" a "closed" investigation and, despite not providing the bonding company with a copy of that investigative report (because it would have resulted in the bonding company denying the claim), filed a claim to compensate Mr. Brant Thompson, son of Louisiana State Senator Francis Thompson, and he was paid from the bond claim in October of 2014. Plaintiff Burns called the bonding company and spoke with Senior Claims Representative Roxanne Kasten of Travelers Group on November 14, 2014. Ms. Kasten was not happy at all to uncover the fact that an investigative report had been withheld from her, and Plaintiff Burns provided her with a copy of that investigative report via email. Ms. Kasten was stunned to learn of the concealment from her of an investigative report which point-blank stated that Mr. Thompson's merchandise (for which the investigator stated there was "no evidence whatsoever that any goods had even been consigned") was much more likely to have been stolen from the bonded deceased auctioneer's premises (and the investigator named a fellow auctioneer as a likely suspect) with no fault to the deceased bonded auctioneer than any sale to have transpired for which Thompson was not properly compensated. Ms. Kasten thanked Plaintiff Burns for providing the information, and she relayed that, at a minimum, she would be forwarding it to Travelers' underwriters in order for them to assess whether they desired to continue to underwrite auctioneer bonds in Louisiana.

It's the LALB's desire to keep all such cronyism and corruption outlined in the preceding paragraph "swept under the rug" and out of public view, and its Plaintiffs' mission to expose it irrespective of whether it takes 50 lawsuits to accomplish that goal.

Ms. Linn's reference to the Edmonson Amendment scandal as "irrelevant" misses the entire point of both the public and the media scrutinizing public-body operations. The reality is that Defendants have stated they will make an exception to their absurd rules for members of the working media. Well, Plaintiff Burns is a member of the Baton Rouge Press Club and has been for years, and he has joined Investigative Reporter Tom Aswell in now pursuing numerous investigative reports and articles on public corruption entailing public bodies. What's amazing is that those being scrutinized, while perhaps not happy about the situation, have been more than accommodating to permit such scrutiny. Specifically, the Louisiana State Police Retirement Board System, whose meetings Plaintiff Burns now routinely videotapes and disseminates out to approximately 65 retired Louisiana State Troopers who are most appreciative for same, have bent over backwards to accommodate Plaintiff Burns, have posed no objection to his use of a unipod, and have even permitted him to stand briefly to change positions to capture another speaker speaking on the opposite end of the table! This Board extends this common courtesy to Plaintiff Burns notwithstanding the fact that he has created a website, [www.lspripoff.com](http://www.lspripoff.com), which chronicles the entirety of the Edmonson Amendment scandal from video of its initial adoption of the conference committee report through and including Judge Clark's declaration of the Amendment as "unconstitutional on its face."

Similarly, Plaintiff Burns just completed a recent thorough investigative report on the practices of Orleans Parish Assessor Erroll Williams. Follow-up articles are going to be provided entailing video footage of multiple Louisiana Tax Commission (LTC) meetings. Not only did all members of the LTC make every conceivable accommodation for Plaintiff Burns' videotaping imaginable, but they rolled out the red carpet and relayed just how "pleased" there were to have him at the meeting and, upon the conclusion of his first meeting for videotaping, they indicated in unison, "You come back as often as you like." Plaintiff Burns would also emphasize that the LTC provided responses to a public records request made by Burns in astonishingly-quick fashion and provided exactly the information Plaintiff Burns was seeking in exactly the format requested. Likewise the

East Baton Rouge Metro Council has done the same regarding email correspondence between Parish Attorney Lee Anne Batson and Councilman from District 4, Scott Wilson. In sharp contrast, the LALB tries every imaginable effort to block public scrutiny of its records, even going to the degree of Mr. Bankston, at the January 13, 2015 LALB meeting, as plainly captured on videotape, outright telling his clients to “resist” providing auctioneer files for Plaintiffs’ future inspections!

At the last hearing on this matter, this Honorable Court indicated that the request for Declaratory Judgment was “the most difficult relief being sought for this court to dismiss,” and Plaintiffs did as the Court desired and provided Defendants an opportunity to reconsider their meeting rules. Plaintiffs assert that it is beyond ludicrous that they be left with no other relief available than seeking a Declaratory Judgment to be afforded such simple latitudes extended by other State agencies for their meetings, but that’s where Plaintiffs are as a result of the steadfast reckless actions of Defendants together with the complete absence of rationale for those actions, along with the aforementioned total disregard for their fiduciary duties to the auction licensees of this state regarding their licensee fees. Plaintiff Burns would also argue before this court that there can be little doubt he is a member of the working media and that he should be exempted by virtue of the fact Defendants have stated an indication to lift such restrictions for any members of the working media.

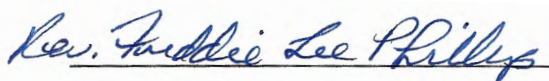
With regard to the Exception of No Cause of Action, the Petition has been amended to state, within its four corners (together with extensive evidence of same via exhibit) that Defendants have indeed discriminated against Plaintiff Phillips based upon his race. That is a point-blank statement of a cause of action, plain and simple. It can be assessed by this Honorable Court via discovery and trial as to whether this Honorable Court is moved to rule that such discrimination has transpired; however, what is irrefutable is that a cause of action for discrimination has been stated in a point-blank, unequivocal statement in the amended pleadings. Additionally, Plaintiff Phillips looks **very** forward to calling Defendant Board Members, both past and present, as witnesses and questioning them on racist statements and/or actions they have made for which LAPA is openly making available to the public via audio and video links on its LAPA website (which is asserted to be the **real** reason Defendant LALB is so steadfast to keep a

LAPA link off its website). It won't be a pretty picture in court at all, but upon the conclusion of the trial, Plaintiff Phillips asserts that this Honorable Court will have little choice but to see the extensive racism and discrimination that has permeated Defendant LALB and its membership and thus order a Writ of Mandamus commanding the LALB to add the LAPA link. Simply put, exposure of LALB racism is not a valid reason for steadfastly refusing the public with a direct link to LAPA's website while simultaneously providing such a link to two other trade associations, namely the Louisiana Auctioneer Association and the National Auctioneer Association.

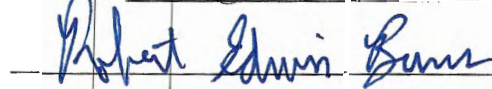
For the reasons outlined in this Opposition Memorandum, Plaintiffs Robert Edwin Burns and Rev. Freddie Lee Phillips respectively move that this Honorable Court DENY Defendants' Exception of No Cause of Action and, alternatively, Exception of Improper Joinder and/or Cumulation and instruct Defendants to file an Answer to their Petition.

Respectfully Submitted,

Rev. Freddie Lee Phillips, in proper person  
8055 Hanks Drive  
Baton Rouge, LA 70812-4122  
(225) 358-4463 (home)  
(225) 229-3341 (cell)  
E-mail: [freddiephillips@bellsouth.net](mailto:freddiephillips@bellsouth.net)

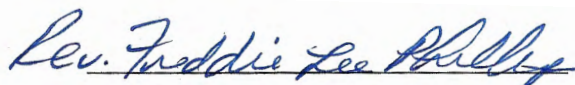


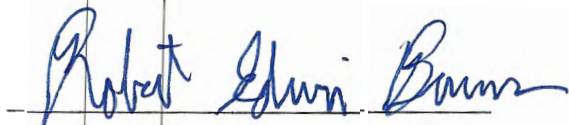
Robert Edwin Burns, in proper person  
4155 Essen Lane, Apt 228  
Baton Rouge, LA 70809-2152  
(225) 636-5506 (home)  
(225) 235-4346 (cell)  
E-mail: [Robert@AuctionSellsFast.com](mailto:Robert@AuctionSellsFast.com)



Certificate of Service:

We hereby certify, on this 10<sup>th</sup> day of February, 2015, that a copy of the foregoing has been served upon counsel for all parties to this proceeding by submitting a copy of same via electronic mail, facsimile, or First Class United States Mail, properly addressed and postage prepaid.



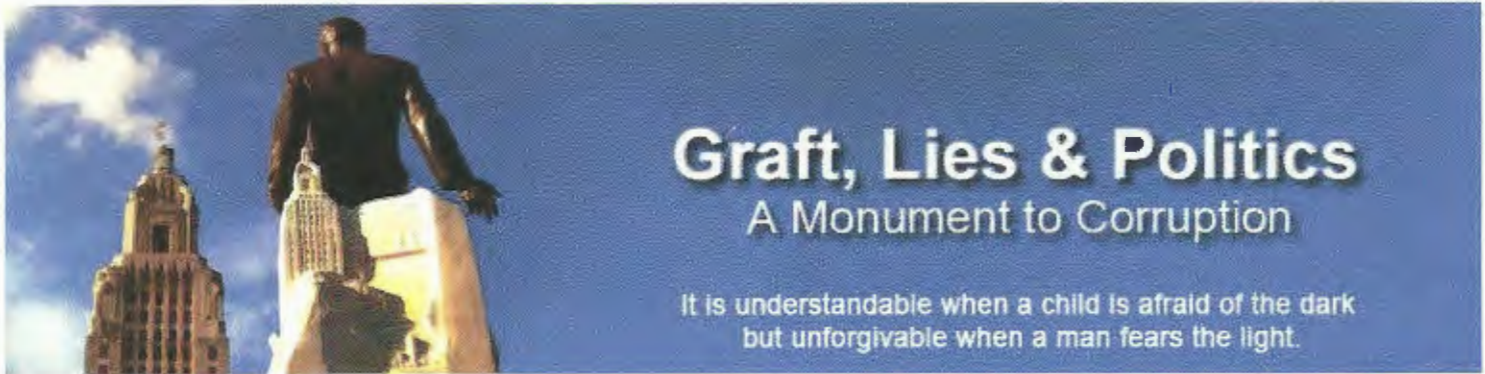


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## Auctioneer Board attorney Larry Bankston advises denial of inspection of auctioneer files that clearly are public records

January 14, 2015 by [tomaswell](#)

By **Robert Burns**

Special to *LouisianaVoice*

As many *Louisiana Voice* readers are aware, I am a former auctioneer and was appointed by Gov. Jindal to the Louisiana Auctioneer Licensing Board (LALB) during the early months of his first term. What I encountered was corruption both on the board itself and among auctioneers in the industry. I sent regular emails to the head of boards and commissions routinely expressing my shock and dismay. In less than two years, Jindal terminated my services, providing no other explanation other than, "things just aren't working out."

The next meeting after my termination, I began videotaping auctioneer meetings and have continued to do so to this day. I also have made occasional public records requests to view auctioneer files. My purpose in reviewing those files is that often times consumer complaints are filed and LALB attorney Anna Dow works with the complainant and the auctioneer to work the complaint out. These solutions, however, are never even referenced to the board itself and even board members themselves are in the dark as to their existence. Basically, Dow keeps the board members on a "needs to know basis," and it was my experience as a board member that she deemed me to "need to know" very little. Hence, the only way anyone (board member or member of the public) can know of these complaints and other auctioneer issues is to examine the auctioneers' files.

Louisiana Association of Professional Auctioneer (LAPA)'s founder and President, Rev. Freddie Lee Phillips, and I have been concerned about the sheer number of such complaints and some troubling details of these "workouts." Examples

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Tom Aswell, Publisher

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MO-1

include: One auctioneer, William Jones, deceiving the LALB for eight years about his state of residency; [National Auctioneer Association \(NAA\) Hall-of-Famer Keith Babb threatening a complainant against pursuing a complaint against him](#), and complainant [Robert Kite alleging collusion and shill bidding entailing NAA Hall-of-Famer Marvin Henderson and NAA Past-President Joe Wilson](#). None of this type of information is available anywhere but in auctioneer files. Accordingly, we decided the best thing for us to do is conduct an audit of all auctioneer files. Because the LALB is a one-person office (with the individual almost never actually working in the office but rather working from home), we knew this should be a project extended out over a 2-3 year timeframe so as not to impose too great of a burden on the office. Accordingly, I made [this simple public records request of 12/4/14](#) for the first 10 files. Material gleaned from the files is incorporated into [this indexed webpage of auctioneers having issues with the LALB](#).

The one-person executive director of the LALB, Sandy Edmonds, balked at the public records requests associated with the project. Edmonds is the same one who has been [cited by the Inspector General's Office for payroll fraud](#) and lying about it to investigators. Specifically, she reported both to the LALB and the Interior Design Board that she was "on the clock" even though she actually was on vacation. They subpoenaed her cell phone records, after which she refused to answer any more of their questions.

Edmonds is paid \$32.67/hour, or \$25, 480 for the LALB and \$25/hour, or \$32,500 for the Interior Design Board (\$57,980 total). She received numerous pay raises which Legislative Auditor Daryl Purpera characterized as illegal.

In a meeting on January 3, 2013, Inspector General Lead Investigator Tom Boulton said, "There is no such thing as a performance-based employee. It's illegal." Both he and Inspector General Investigator Rob Chadwick said that they found it inconceivable that the office for both boards (it's a shared office) is almost never occupied, and both men wanted to know how much rent was being paid for an essentially-unoccupied building.

Purpera, whose office also investigated the work setup, issued [this damning report](#), and referred the whole matter to East Baton Rouge Parish District Attorney Hillar Moore for possible prosecution of Edmonds for payroll fraud. When Vice Chairman James Sims asked what the LALB should do about the Legislative Auditor report, [Board Attorney Anna Dow relayed "nothing," and Edmonds added, "Welcome to politics,"](#) and indicated that Jindal himself said they were not to worry about it and that the board "cannot" recover funds which Edmonds had been overpaid. Board Chairman Tessa Steinkamp said, "We have to follow the Governor."

Why re-hash old news? Well, at the LALB meeting of Tuesday, January 15, 2015, [Board Attorney \(and convicted felon\) Larry S. Bankston asked the Board to deny future requests from me](#) and to seek "legal instruction from the court." Notice how vague he is about the timeframe of the project (i.e. he neglects to inform the board that this is a 2-3 year project).

The board did not respond to Bankston's request for it to resist my public records requests, but in light of Edmonds' past employment reports issued by the Inspector General's Office and the Louisiana Legislative Auditor's Office, we feel the public has a right to full disclosure about auctioneer problems, and clearly this is a legal requirement Edmonds has no intention of meeting. She has even

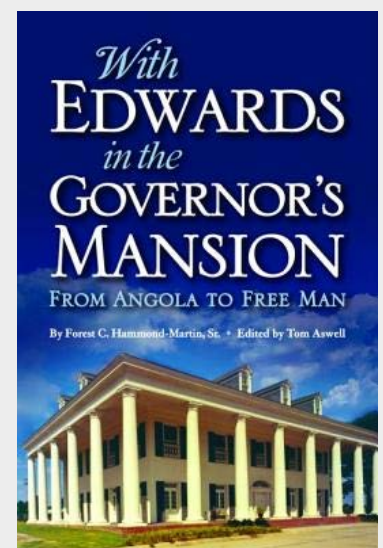
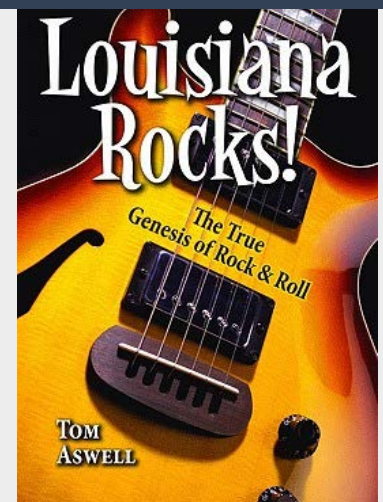
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insisted that public records requests be subcontracted out to the Attorney General's Office, which charges \$50 per hour for that service.

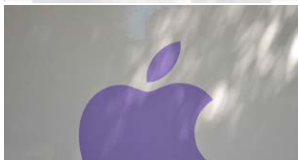
Just another episode of typical Louisiana political chicanery.



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[Former Auctioneer Board member provides more insider peeks at board turf protection through secrecy and racism](#)  
By Robert Burns

LouisianaVoice writer Following up our recent post regarding shill bidding and the Louisiana Auctioneer Licensing Board In "Boards"

[Former fraud investigator joins LouisianaVoice with rare insider's closeup look at State Auctioneer Licensing Board](#)

Robert Burns of Baton Rouge, a former fraud investigator, has agreed to join LouisianaVoice as an underpaid (read: gratis) researcher and In "Boards"

[Did Brant Thompson receive preferential treatment from Auctioneer Licensing Board](#)

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February 7, 2013

You may want to check out the latest

because he is senator's son?

By Guest Columnist Robert Burns Tom recently posted that Louisiana Sen. Rick Gallot may have used his influence to expedite and circumvent safety In "Boards"

Posted in Auditor, Boards, Corruption, Ethics, Governor's Office, Politicians, Public Records, Transparency | 11 Comments

11 Responses

stupidpoliticians

on January 14, 2015 at 12:46 pm | Reply

This issue must be forced. More and more these people are looking for ANY excuse to not provide what is plainly public information.



Time For C

on January 14, 2015 at 12:46 pm | Reply

Seems to me that what the State of Louisiana needs is a better EBRP DA. Then maybe something will get done to rein in state government corruption. It also would help if the State AG would practice prosecution to protect the state and not just defend it. It can be done. Just look at the "grandstanding" Caldwell did over the Ebola tainted articles disposal.



Robert Burns

on January 14, 2015 at 2:13 pm | Reply

Time for C....I think Hillar Moore had little choice but to refer the matter on to the Inspector General's office (which is what he did) because Larry Bankston's brother, Jesse, works for Moore, so there was an inherent conflict. You may recall Jesse got himself in hot water about racist comments following the Trayvon Martin incident in Florida: <http://theadvocate.com/home/7018069-125/ebr-prosecutor-accused-of-racist>.



Sidwit

on January 14, 2015 at 1:00 pm | Reply

Hmm, methinks that if Bobby would spend more time in the state he could clean up all this mess. Nah, his rhetoric and propaganda machine have this under control.



fairness2014

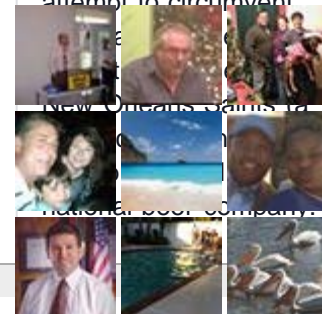
on January 14, 2015 at 3:18 pm | Reply

Most of these boards need to be disbanded. Believing than an auctioneer license makes you a better auctioneer is akin to believing a driver's license makes you a better driver. These boards serve as ways for power



LouisianaVoice post about how false accusations against Murphy Painter may have cost him his job as head of the Louisiana Commission on Alcohol and Tobacco Control

You and 1,429 others like LouisianaVoice. 1,429 people like LouisianaVoice simply because he refused to go along with Gov. Bobby Jindal's attempt to circumvent



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- Civil Service
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- Contract, Contracts
- Contracts
- Corruption
- Courts
- Crime

hungry, political numbskulls to control the profession and act in anti-competitive ways.

**LA Cesspool**

on January 14, 2015 at 4:50 pm | Reply

No wonder they don't want him to review more files. Shill bidding collusion, threats against complainant, screwing old ladies, payroll fraud, convicted felon attorney. That's all from just a sampling of those in the Hall Of Fame. Yeah, I'm all set to go hire me an auctioneer for my estate sale. NOT!



**Bo Weathers**

on January 14, 2015 at 8:09 pm | Reply

Looks like "things just aren't working out" for Jindal now.



**Say It Ain't So**

on January 15, 2015 at 12:29 am | Reply

Is having a felony conviction a requirement for auction licensure in Louisiana?



**former state employee.**

on January 15, 2015 at 9:23 am | Reply

These people just don't get it. State agencies are here to serve the public. What they do... good, bad, or otherwise, is open to public scrutiny. Their employees are "public servants"... and are there to serve! When I was a state employee I had to be in my office, on time, every day! I even had a board member that would "drop by" unexpectedly with great regularity to make sure I was there. As for not allowing one to know what is in a licensees file... What would happen is the contractors board refused to tell people about complaints on contractors? Would they be allowed to get away with that? Or how about electricians, or plumbers... Can their boards "hide" information from the public if they have licensees with lots of complaints? NO! IT'S PUBLIC INFORMATION.



**Randy Theriot**

on January 15, 2015 at 11:21 am | Reply

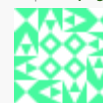
If these board members are supposed to protect us from auctioneers, who is protecting us from them?



**Leon Winters**

on January 16, 2015 at 9:59 pm | Reply

This dude Babb's letter to Henson reads like a mafia kingpin. If this is the way the attorney work things out for somebody like Henson who have trouble breathing no wonder the files are locked like Fort Knox. And Babb in the Hall Of Fame! I don't buy all the B/S on redact either. She just don't won't to work. They spoil her and now she can't handle even a little work. She wouldn't last a week in a private company with an attitude like that. Better hope that gig lasts or she's asking if the customer wants fries with that order.



- DEQ
- DHH
- DOA
- Earl Long
- Earl Long, Huey Long
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- Exemptions
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- Grant, Grants
- Grants
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- OGB, Office of Group Benefits
- ORM
- ORM, Office of Risk Management
- PACs