

BETTY JO STORY

NUMBER \_\_\_\_\_ DOCKET:  
19<sup>TH</sup> JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BOARD

STATE OF LOUISIANA

\*\*\*\*\*

**PETITION FOR DAMAGES**

NOW UNTO COURT comes Plaintiff, Betty Jo Story, in proper person, who asserts the following:

1.

That she is a person of the full age of majority and resides in the Parish of Beauregard, State of Louisiana.

2.

Made Defendant in this petition for damages is:

**LOUISIANA AUCTIONEER'S LICENSING BOARD (LALB)**, an executive agency of the State of Louisiana and a body corporate with the power to sue and be sued whose office at all times pertinent herein is located in the Parish of East Baton Rouge, State of Louisiana, and whose Chairman and representative for Service of Process is Ms. Tessa Steinkamp, LALB Member and Chairman, 116 Rue Aries Road, Slidell, LA 70461-5226.

3.

The LALB conducted a hearing entitled "LALB v. Marlo Schmidt" on Tuesday, September 10, 2013.

4.

Said hearing entailed allegations Petitioner lodged against Mr. Schmidt regarding an auction conducted by him on or around November 17, 2012.

5.

At said hearing, Petitioner alleged that auctioneer Schmidt misled Petitioner, who was 82 years old at the time of the auction, by: 1) failing to reduce to writing Petitioner's desires for reserve prices to be established for certain personal items, including a mirror (\$300), an Ethan Allen wetbar (\$4,000), a set of sterling silverware (\$5,000), and an antique saddle (\$5,000); 2) failing to advise Petitioner that she would be charged a 40%

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commission if she bid on her own items at auction to protect against too low of sales prices and thereby became the successful high bidder; 3) “promising” Petitioner \$42,500 for a rental house which was not in the original auction but which auctioneer Schmidt appealed to Petitioner to include in the auction; 4) “promising” Petitioner \$120,000 for the auction of Petitioner’s personal residence which, similar to the rental house, was not a part of the originally-scheduled auction but which auctioneer Schmidt pleaded with Petitioner to include in the auction. In fact, auctioneer Schmidt pleaded with Petitioner to seek a cancellation of existing listings with ReMax on the two properties (which ReMax reluctantly granted).

6.

Auctioneer Schmidt was aware that Petitioner planned to utilize the proceeds of her auction to move into an assisted living facility in Alexandria, Louisiana. In fact, auctioneer Schmidt proposed that he purchase the rent house (for which he “promised” a sales price no less than \$42,500) in advance of the auction, agreeing to remit \$25,000 to Petitioner to allow Petitioner to proceed with moving into the assisted living facility and thereby avoid having to pay a deposit to the facility. Mr. Schmidt tendered \$25,000 for the home for which he obtained legal title prior to the auction. At auction, Mr. Schmidt’s nephew ended up high bidder on the rental home, and his nephew then refused to honor the auction purchase contract. Defendant Member and Vice Chairman James Sims relayed during the hearing that, under the circumstances, “this Board could easily assume something else given that you didn’t pursue your nephew to honor the contract.” Upon information and belief, Petitioner believes that the “something else” Mr. Sims referenced was shill bidding by Mr. Schmidt’s nephew, which is an illegal practice in Louisiana unless it’s fully disclosed to all bidders present, which it was not.

7.

Although Petitioner had to threaten to sue Mr. Schmidt for the balance of the \$42,500 purchase price that he “promised” Petitioner, he did finally remit the balance of \$17,500. Petitioner’s auction of her personal residence was a flop, thus resulting in Petitioner receiving nothing instead of the “promised” \$120,000.

8.

Upon learning of the disastrous auction results, Petitioner had to inform the assisted living facility, at which she had spent three (3) nights leading up to the auction, that she would have no choice but to return to her residence. Petitioner therefore had to remit \$1,500 to the assisted living facility for her three-night stay at the facility.

9.

Upon returning home from the assisted living facility, Petitioner inquired of Mr. Schmidt as to the amount she would receive from the sale of her personal items, which included all of her personal furniture and furnishings, resulting in Petitioner's residence being void of such basic living essentials. Mr. Schmidt informed Petitioner that she owed him \$201.11. When asked by Petitioner how something like that could happen, Mr. Schmidt responded, "Expenses eat it all up. I pay my help well."

10.

When Defendant LALB's attorney, Anna Dow, delivered closing arguments at the hearing of September 10, 2013, she advised Defendant Board Members that there was clear deception in terms of failing to advise Petitioner about reserves and that Mr. Schmidt had acted in a "negligent or grossly incompetent manner."

11.

Notwithstanding Defendant's attorney, Anna Dow, having admonished its Membership to find Mr. Schmidt guilty of auction violations, the Membership chose instead to administer a strong "tongue-lashing" but nevertheless found him "not guilty," with said "not guilty" verdict being unanimous. Board Member Darlene Jacobs-Levy, an attorney with 44 years of practicing law in Louisiana, even said, "Mr. Schmidt, you certainly owe Ms. Story more than the \$1,300 you've offered her to settle this dispute." Ms. Jacobs-Levy then instructed Mr. Schmidt to "go out in the hallway and work this situation out with Ms. Story."

12.

Instead of "working" with Petitioner, Mr. Schmidt walked right past Petitioner in the hallway and drove his home to DeRidder, Louisiana, and consistently refused to even communicate with Petitioner.

13.

As a result of Mr. Schmidt's failure to communicate with Petitioner, she filed a lawsuit against Mr. Schmidt in Small Claims Court in DeRidder. Said case is scheduled to be tried on October 29, 2014. Even if Petitioner recovers the full limit of \$5,000 from that case, however, the capped amount is grossly deficient to cure Petitioner's injuries resulting from Mr. Schmidt's egregious auction conduct.

14.

As a result of Defendant LALB membership's reckless disregard for its duty to do as its own attorney advised and find Mr. Schmidt guilty, Petitioner was left in the position of being unable to file a bond claim against Mr. Schmidt's bond. Such inability arose from the fact that the first defense of the bonding company would be "the auctioneer licensing board found me guilty of nothing." Similarly, in his answer to Petitioner's lawsuit in Small Claims Court, Schmidt has asserted the same defense in the civil trial scheduled for October 29, 2014.

15.

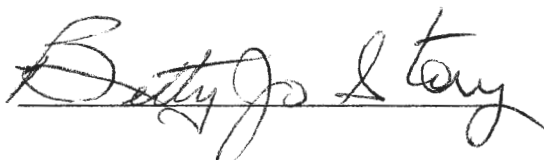
As a result of Defendant's reckless disregard of its obligation, including an indication by its own attorney, Anna Dow, prior to executive-session deliberations, to find Mr. Schmidt guilty and thereby enable Petitioner to recover on Mr. Schmidt's bond, Petitioner asserts that Defendant LALB is liable for the full amount of the otherwise-recoverable bond face value of \$10,000, and Petitioner seeks that full amount of \$10,000 from this proceeding against Defendant together with court filing costs associated with this Petition.

WHEREFORE, petitioner, BETTY JO STORY, prays that Defendant, LOUISIANA AUCTIONEER'S LICENSING BOARD, be duly served with a copy of this petition, and cited to appear and answer same and, after all legal delays and due proceedings had, there be a judgment herein in favor of Petitioner, BETTY JO STORY, and against Defendant, LOUISIANA AUCTIONEER'S LICENSING BOARD, awarding her \$10,000 for the damages she would have been able to recover from Mr. Schmidt's bond were it not for the gross negligence and reckless action of Defendant in failing to find Mr. Schmidt guilty. Petitioner further seeks all damages for the

prosecution of this action, including costs associated with the action and for any and all other relief, legal or equitable, which may be available under the premise of this cause.

Respectfully Submitted,

Betty Jo Story, in proper person  
209 Broad Street  
DeRidder, LA 70634-3837  
(337) 202-7033 (res.) (337) 396-4655 (cell)

A handwritten signature in cursive script that reads "Betty Jo Story". The signature is written in black ink and is positioned below the typed name and contact information.

**PLEASE SERVE:**

**LOUISIANA AUCTIONEERS LICENSING BOARD**

James D. "Buddy" Caldwell, Attorney General, State of Louisiana  
1885 N Third St  
Baton Rouge LA 70802

**TESSA STEINKAMP**

Chairman and Member, LALB  
116 Rue Aries Road  
Slidell, LA 70461-5226