

ROBERT BURNS

NUMBER C595035 DOCKET: 23

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BOARD

STATE OF LOUISIANA

MOTION AND ORDER FOR TRIAL

Considering the foregoing, on motion of Plaintiff, Robert Edwin Burns, in proper person, suggests to the Court that neither discovery nor status conference is applicable for this matter. Therefore, Plaintiff desires that a trial date be set for in this matter.

WHEREFORE, IT IS ORDERED that the above captioned matter be hereby set for trial before this Court at _____ o'clock at _____ m. on the _____ day of _____, 2010, at Baton Rouge, Louisiana.

Signed in Baton Rouge, Louisiana, this _____ day of _____, 2010.

19TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA
FILE
2010 OCT 18 PM 2:10
BY DEPUTY CLERK RECORDER FOR
DOUG WELBORN
CLERK OF COURT FOR PARISH

DISTRICT JUDGE

Respectfully Submitted,

Robert Edwin Burns, in proper person
President, Auction Sells Fast, LLC
4155 Essen Lane, Ste 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (office) (225) 235-4346
E-mail: Robert@AuctionSellsFast.com

Robert Edwin Burns

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 18th day of October, 2010.

Robert Edwin Burns

ROBERT BURNS

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PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BOARD

STATE OF LOUISIANA

AMENDMENT TO RELIEF PLEADINGS

NOW UNTO COURT comes Plaintiff, Robert Edwin Burns, in proper person, who asserts that he wishes to amend his relief pleadings to the following:

WHEREFORE, petitioner, ROBERT EDWIN BURNS, 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, ROBERT EDWIN BURNS, and against defendant, LOUISIANA AUCTIONEER'S LICENSING BOARD, awarding him 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. **Further, Plaintiff also asserts R. S. 42:24 in requesting that this Honorable Court issue a declaratory judgment that item III-6-1, Reinstatement of Revoked License of Ken Buhler, be declared void.**

Respectfully Submitted,

Robert Edwin Burns, in proper person
President, Auction Sells Fast, LLC
4155 Essen Lane, Ste 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (office) (225) 235-4346
E-mail: Robert@AuctionSellsFast.com



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19TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA
2010 OCT 18 PM 2:10
BY DEPUTY CLERK & RECORDER FOR
DOUG WELBORN
CLERK OF COURT FOR PARISH

ROBERT BURNS

NUMBER C595035 DOCKET: 23

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BOARD

STATE OF LOUISIANA

MEMORANDUM IN SUPPORT OF ORDER FOR TRIAL

MAY IT PLEASE THE COURT:

NOW UNTO COURT comes Plaintiff, in proper person, who asserts to this Honorable Court certain responses to Defendant's Answer to his petition which, in concert with other relevant assertions posed in this memorandum, support Plaintiff's request for an order for trial of this matter by this Honorable Court. Further, Plaintiff wishes to amend his pleading to include this Honorable Court declaring **void** the action Defendant took in reinstating the license of auctioneer Ken Buhler at its meeting of September 20, 2010.

Defense counsel states, "at all times herein Plaintiff was in the meeting room, as stated in his petition." This statement is blatantly false. Defense counsel apparently seeks to infer from the fact Plaintiff was in sight of LALB Chairman Ken Comer to infer he was in the meeting room. As Plaintiff relayed in his complaint to the Attorney General's Office dated September 30, 2010: "I twice sought to be recognized to speak at the meeting by quietly holding my arm and hand up in direct sight of LALB Chairman Comer **as I stood out in the hallway and jockeyed for position to be seen by the Chairman.**"

Therefore, as defense counsel knows full well, Plaintiff was **NOT** permitted in the meeting room, nor were any other members of the public with the exception of Advocate reporter Ted Griggs, and again as stated in Plaintiff's complaint to the Attorney General's Office: "Reporter Griggs stated it would be impossible for him to make note of who was saying what if he were required to stand out in the hallway. He further inquired of LALB Legal Counsel Anna Dow as to what Louisiana Statute she could cite giving her the authority to mandate that he could not be in the meeting room. Ms. Dow acquiesced to Mr. Griggs remaining in the room; however, he was the only public member permitted to do so."

004312
2010 OCT 8 PM 2:10
DEPT. OF CLERK & DISTRICT CLERK
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
CLERK OF COURT
DEPT. OF CLERK & DISTRICT CLERK
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA
CLERK OF COURT

Further, Plaintiff videotaped a 32-minute segment of the meeting. That video will be introduced as evidence at trial, and it will clearly depict the position that Plaintiff was forced to assume in the hallway thus forcing him to have to zoom the camera in to get close-up footage of speakers. Further, the video footage will depict occasional movements on the part of Plaintiff which were unavoidable as other audience members sought to get near the entrance door of the hallway in attempts to hear or to pass by to go to the restroom, etc. Defense counsel knows full well that the forced placement of audience members in the hallway, which thereby meant that the vast majority of the 15-20 audience members had no choice but to be out of earshot of the meeting, violated Louisiana's Constitution as stated in Plaintiff's complaint to the Attorney General's Office: "Further, the Constitution of Louisiana was blatantly violated regarding Article 12, Section 3, which states: No person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law."

Additionally, East Baton Rouge Parish Sheriff's Deputy Ronald Landry, who was hired by the LALB to serve as security for the meeting, made it known to all audience members that they would be required to stand in the hallway. When Plaintiff stated that had never been a requirement in any previous meeting, Officer Landry responded by displaying two open palms near his shoulders and stating, "I'm only doing what I was instructed to do by those who hired me for today's proceeding." Mr. Landry will be subpoenaed by Plaintiff to serve as a witness at trial, as will Advocate reporter Ted Griggs.

Defense counsel asserts "Plaintiff has failed to state a cause of action in that no damages are due under the statute cited by Plaintiff." As clearly outlined in R. S. 42:25(C), Plaintiff has the right to seek enforcement of the statute and seek to recover any costs and damages commensurate with the cause of action associated with seeking that enforcement. Further, R. S. 42:26(C) clearly conveys that, should Plaintiff prevail in this cause of action, "he shall be awarded reasonable attorney fees and other costs of litigation." R. S. 42:26(A)(5) also clearly indicates Plaintiff may also be entitled to civil penalties as outlined in R. S. 42:28. It is abundantly apparent that defense counsel is aware of R. S. 42:26(C) because she references its wording in stating, "this petition is of

a frivolous nature and was brought with no substantial justification,” (wording taken directly from the statute) in thus continuing, “therefore entitling Defendant to payment of reasonable attorney fees by Plaintiff.” Defense counsel’s assertion that this petition is of a frivolous nature is ludicrous on its face!

Defense counsel asserts “Plaintiff has failed to state a right of action for damages in that the statute cited protects the public, not an individual.” Although defense counsel’s assertion is illogical (individuals are the public!), again referencing R. S. 42:25(C), which states, “Any person who has been denied any right conferred by the provisions of this Chapter or who has reason to believe that the provisions of this Chapter have been violated may institute enforcement proceedings,” clearly states the provision under which Plaintiff can commence the subject cause of action and seek enforcement of the statute as well as seek to recover any costs and damages commensurate with its enforcement.

Defense counsel asserts, “Plaintiff has failed to state a cause of action in that he has failed to state the agenda items about which he attempted to speak.” While Plaintiff does not concur with the need to state the agenda items in his pleadings, the two agenda items were the approval of minutes from the prior meeting of August 2, 2010 (item II) and also the item entitled, “Enhancing website by adding Charity auctioneers (info to be gathered on renewal),” which was item IV-4. Additionally, Plaintiff certainly would have sought to speak on item III-6-1, Ken Buhler revoked license reinstatement; however, as LALB Chairman Comer had previously made it emphatically clear that Plaintiff would not be recognized to speak, he did not seek to speak on that item knowing such an effort would be fruitless.

Since Plaintiff was denied the opportunity to speak on item IV-4, he drafted an email to LALB Executive Assistant Sandy Edmonds the next day regarding his concerns. That email is attached hereto and made a part hereof and is identified as “P-1.”

That email was apparently taken to heart as the renewal applications for 2011, which Plaintiff has already completed and obtained his 2011 auctioneer’s license, were devoid of any reference to charity auctions. Plaintiff suggests that denial of public members the opportunity to speak on important topics such as this deprives the Board of the wisdom of those public members and, in the case of Plaintiff’s disallowed input, he

sought to protect the LALB against litigation claims, which almost assuredly would have arisen had the LALB gone through with its intention regarding placing charity auctions on its renewal applications.

Plaintiff further submits as evidence indications of past likely violations of Louisiana's Open Meetings Laws as evidenced by a letter from the Louisiana Office of Inspector General dated October 8, 2009 addressed to Defendant clearly outlining that Defendant may have engaged in actions constituting procedural violations of those open meetings laws. That letter is attached hereto and made a part hereof and is identified as "P-2."

Plaintiff further submits as evidence of violations of Louisiana's Open Meetings Laws a letter drafted by Board Member Freddie Phillips with Mr. Phillips' relevant concerns regarding the September 20, 2010 meeting highlighted regarding the previously-referenced actions of Defendant not allowing public discussion prior to agenda item actions and not allowing public members to be in the meeting room during discussion of agenda items. LALB Member Phillips has been gracious enough to provide Plaintiff with a copy of that letter, and it is attached hereto and made a part hereof and is identified as "P-3."

Plaintiff asserts that discovery is not applicable for this matter; furthermore, no status conference is required as all evidence is readily obtainable through witnesses for each side to be subpoenaed for trial. Therefore, Plaintiff respectfully requests that this Honorable Court schedule a date for trial of this matter.

Respectfully Submitted,

Robert Edwin Burns, in proper person
President, Auction Sells Fast, LLC
4155 Essen Lane, Ste 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (office) (225) 235-4346
E-mail: 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 18th day of October, 2010.



Robert Burns

From: Robert Burns <Robert@AuctionSellsFast.com>
Sent: Tuesday, September 21, 2010 2:17 PM
To: Sandy Edmonds (admin@lalb.org)
Cc: Rich Haas (auctioneerschool@hotmail.com)
Subject: Meeting Thursday.....Charity Auctions

Sandy:

Following up on our conversation at yesterday's meeting, please advise if Thursday morning at 10:00 a.m. will be fine by you for me looking at the auctioneer files I specified. For the record, I expect Board Member Freddie Phillips to accompany me. In my opinion, Freddie, in his official capacity, can serve as a "monitor;" however, if the Board feels an additional monitor is required, that is fine by me.

The tape from yesterday's meeting will reflect that I sought to be recognized during the discussion of placing free charity auctioneers on the LALB website; however, as I made note of verbally at yesterday's meeting, Chairman Comer refused me the right to speak (on that topic or any other), so I will relay my sentiments here for the record (since the vote was taken and thus my discussion would have been moot at the opportunity Chairman Comer said I was welcome to speak).

- I believe the concept of placing, on a volunteer basis, auctioneers willing to conduct free benefit auctions for charities is a noble idea. Nevertheless:
- A designation exists for professional benefit auctioneers (Benefit Auctioneer Specialist - BAS). They focus solely and exclusively on benefit auctions. The designation is conferred by the NAA. Here's a typical website: <http://www.benefitauctioneer.org/?gclid=CMvY85KamaQCFQHW5wodVzr0Dw>. In fact, a female BAS auctioneer conducted the CE at this year's LAA Convention.
- These people are specialists and many of them view with disdain those who choose to conduct benefit auctions for free.
- While there is nothing they can do about individual auctioneers choosing to provide this service for free, they may have strong legal ground to pursue the Board regarding, in essence, advertising cut-rate (i.e. free) purveyors of a service for which they charge. Even if such a legal challenge fails to produce fruit (and I personally think such a suit WILL produce fruit), the Board will expend funds defending it.
- Many auction school owners are adamant that providing benefit auctions for free is abhorrent (which is their right to have that opinion) and believe firmly in the employment of professional BASs for benefit auctions. One such school owner is Rich Haas, President of Continental Auction School, whom I've copied on this email. You can see his sentiments on the matter at <http://www.auctioneerschool.com/fundraising.htm>.

I do not believe Chairman Comer was within his rights to deny a public member the right to speak on a topic before the Board prior to the Board taking its vote, but I realize very little that the Board does conform with any type of adherence to laws, particularly with regard to adherence to open meetings. I believe yesterday was merely another such instance. I also believe that Freddie's suggestion to refer inquiring people to either the LAA or NAA website (preferably both) where they can choose any auctioneer (including those listing benefit auctions as their specialty) is a better approach. The office can send those folk the links via email.

So, as the old saying goes, "No good deed goes unpunished," so I'm just forewarning that, while the concept is noble, once implemented, be on guard for imminent litigation by those who have chosen to specialize in the arena of providing benefit auctions for a living.



Please let me know the status of a Thursday meeting at 10:00 a.m.

Thanks.



Robert Edwin Burns

Real Estate Broker / Certified Real Estate Auctioneer

Auction Sells Fast / BWW Realty

4155 Essen Lane, Ste 228

Baton Rouge, LA 70809-2152

(225) 201-0390 (225) 235-4346

LA Lic. #: 1536

www.AuctionSellsFast.com

BOBBY JINDAL
GOVERNOR



STEPHEN B. STREET, JR.
STATE INSPECTOR GENERAL

State of Louisiana
Office of the Governor
Office of State Inspector General

October 8, 2009

Mr. Ken Comer, Chairman
Louisiana Auctioneers Licensing Board
5222 Summa Ct., Ste. 352
Baton Rouge, LA 70809

Re: Case No. 1100003

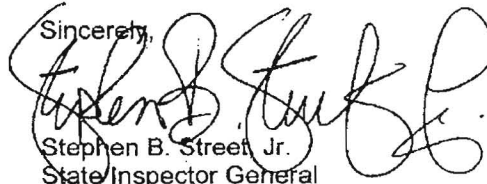
Dear Mr. Comer:

My office recently investigated a complaint alleging that the Louisiana Auctioneers Licensing Board gave preferential treatment to a board member for ad violations and violated the Open Meetings Law on numerous occasions by discussing issues not published on agendas for regular and executive sessions of board meetings.

Based on interviews and documents provided to our office, we found the allegation of preferential treatment to a board member to be without merit. However, we did find that the Board discussed ad violations of a board member during the regular session of its November 17, 2008 board meeting, and personnel issues concerning its Executive Assistant during its executive session of the January 26, 2009 board meeting. These discussions were not published on the meeting agendas and official votes by the Board to include the discussions were not taken. As a result, the inclusion of these discussions may be procedural violations of Louisiana's Open Meetings Laws, La. R.S. 42.6(A) and 42.7(A). The Board should implement controls to ensure that the Board is in full compliance with all procedures of the Open Meetings Law.

I appreciate the cooperation that your department extended to my office. This letter serves as notice that we are taking no further action and closing the case file on this matter. If I may assist you further, please call me at (225) 342-4262 or email me at Stephen.Street@la.gov.



Sincerely,

Stephen B. Street, Jr.
State Inspector General

SBS/VC

8055 Hanks Drive
Baton Rouge, LA 70812-4122

October 4, 2010

KEN COMER, CHAIRMAN, LALB
1158 GALLAUGHER RD
JENNINGS LA 70546-3238

Dear Mr. Comer:

This letter regards the reinstatement application for a RESIDENTIAL Louisiana license of Mr. Ken Buhler and the Board's consideration thereof. Relevant facts follow:

- Original LA license revoked due to Mr. Buhler's past auction practices which resulted in substantial losses of money and/or property.
- Payments from Mr. Buhler's bond were grossly inadequate to cover losses; furthermore, Mr. Buhler's actions resulted in losses to those bonding companies which Mr. Buhler **has not reimbursed** to the bonding companies as required by terms of the bonds.
- In the five (5) years since Mr. Buhler's license revocation, Mr. Buhler **has not repaid** the people who suffered losses. Instead, he seeks to deploy the "carrot" that his prior victims will be repaid "contingent on me re-obtaining my license." In so doing, Mr. Buhler is essentially leveraging his supposed willingness to repay victims in order to procure a license reinstatement. Those prior losses, which as I pointed out at the September 20, 2010 meeting, are certainly not minor, represent only the known losses which have been documented through the LALB's complaint process.
- Mr. Buhler has the following balances owing to taxing authorities:
 - State of Louisiana (unpaid sales and withholding taxes): \$154,937 (documentation attached).
 - Internal Revenue Service: \$356,625 (documentation attached).
 - EBRP Sales Taxes: Approximately \$8,000.
- Mr. Buhler is **NOT** a resident of LA for licensure purposes but rather resides in TX and therefore is **not eligible** to have his Louisiana residential license reinstated!!
- Mr. Buhler is on record as stating he wants his LA **residential** license reinstated **so he can obtain a license in Texas**. This is undeniable evidence that he is trying to obtain a reciprocal license in his home state of Texas using a falsified "residential" Louisiana license. Given this knowledge one cannot help but ask the question "**Why?**" Why doesn't Mr. Buhler simply take the Texas exam and get a residential license in his residential state?"

P3

- The answer to the preceding question is that Mr. Buhler is clearly trying to circumvent the licensing requirements in Texas and “back door” his way into his residential state.
- The fact that the address listed on Mr. Buhler’s application is a **Texas** address, and the voter’s registration he submitted is a **Texas** voter registration proves without a doubt that Mr. Buhler, as a resident of Texas, is **ineligible** for a Louisiana residential license, and therefore his request for reinstatement of his Louisiana license **MUST BE DENIED!!**
- The preceding application irregularity should have been brought to the attention of the Board by the Executive Assistant and it was not. This begs the question as to whether the Executive Assistant has failed to grasp this basic concept after 13 months on the job or whether she has that basic knowledge but knowingly aided and abetted submitting the application to the Board with this clear irregularity intact.
- The above irregularity, when combined with the fact the Board’s Executive Assistant failed to alert auctioneer Daniel Mahaney, an auctioneer based in Indiana, that he needed a firm license in order to conduct a real estate auction in New Orleans several months ago, calls into question the Board’s Executive Assistant’s job knowledge and the potential need for remedial training. In the case of Mr. Mahaney’s oversight, he incurred a loss of a significant sum of money as he had to face one of two choices: #1) postpone the auction, or #2) agree to have another auctioneer take over the auction and assume full responsibility for its conduct. Mr. Mahaney opted for the latter at a significant cost to him in the form of having to pay Dave Gilmore a substantial co-listing fee. The Board remains vulnerable to a cause of action on the part of Mr. Mahaney until the one-year prescription period is up in about nine months or so.
- Had the Board possessed knowledge that information in Mr. Buhler’s package was not in conformity with his request and had a full discussion of same been allowed prior to a vote (rather than my discussion being abruptly cut-off by Mr. Little’s demand to “call for the question,”) the Board may have spared itself the embarrassment of voting as it did on September 20, 2010 to reinstate Mr. Buhler’s license when it now appears nothing short of irresponsible and reckless to have done so.
- Additional cause for concern surrounds the fact that the Board, for the first time during my tenure and in **DIRECT** violation of the State’s Open Meetings Laws, did **not** allow members of the public to be in the meeting room but rather forced all public members to stand in the hallway (most of whom had no choice to be out of earshot of the proceedings). Further, in blatant violation of LA R. S. 42:14(D), the Board did **not** allow public comment prior to a vote on **any** agenda items. It is my understanding that former Board Member Robert Burns has filed a formal complaint with the Attorney General’s Office regarding these two matters.
- Mr. Buhler claimed **repeatedly** that he had not filed bankruptcy then finally admitted he had done so after Ms. Dow subtly stated that he had. Even then, however, Mr. Buhler indicated that he

“voluntarily withdrew it.” I am now in possession of documented evidence that:

#1) Mr. Buhler initiated bankruptcy proceedings and provided **no** supporting schedules, asset listings, liability listings, income figures, etc. as required by the Bankruptcy Court.

#2) Mr. Buhler was admonished by the Bankruptcy Judge **AND** the Bankruptcy Trustee for failing to conform to the Court’s procedures, and he was ordered to procure counsel (Mr. Buhler filed pro se) and conform to the Court’s requirements.

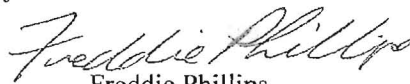
#3) Mr. Buhler’s bankruptcy went through the normal process **without** him requesting a dismissal. Instead, he filed to have his filing nullified “in equity” after the fact, and this request was denied by the Court.

#4) Mr. Buhler, in sharp contrast to his portrayal that he “sought to do the right thing by dismissing his bankruptcy case,” [after first having said he did not file bankruptcy] actually instead **INITIATED ADVERSIAL PROCEEDINGS** against his largest creditor (State Bank). That proceeding was dismissed by the Bankruptcy Court upon the initial challenge of it by State Bank.

Given these facts, I do not see how the Board can reinstate Mr. Buhler’s license. To do so would be to thumb our noses at the very laws we are sworn to enforce. Therefore I respectfully request that this matter be placed back on the agenda for full disclosure, discussion and appropriate action.

Enclosures: LA R. S. Section 3121, Mailing Matrix,
IRS Demand Letter & Assessment, LDR Notice of Assessment
& Lien

Sincerely,



Freddie Phillips
LALB Member

Note: Cell phone & Email for Freddie Phillips: (225) 229-3341 & freddiephillips@bellsouth.net.

MAILING MATRIX FOR FREDDIE PHILLIPS LETTER TO KEN COMER
DATED OCTOBER 4, 2010
ALL LETTERS SENT CERTIFIED AND REGULAR MAIL

KEN COMER, CHAIRMAN, LALB
1158 GALLAUGHER RD
JENNINGS LA 70546-3238

TESSA STEINKAMP, VICE CHAIRMAN, LALB
1330 ST CHARLES AVE
NEW ORLEANS LA 70130-4336

BUSTER GAY, MEMBER, LALB
180 TWIN OAKS RD
WEST MONORE LA 71291-8239

EWELL LAMAR LITTLE, MEMBER, LALB
16287 TIGER BEND RD
BATON ROUGE LA 70817-4824

GREGORY BORDELON, MEMBER, LALB
6173 MORGAN SHORES ROAD
LAKE AUTHUR LA 70549-5314

"CLAYTON" BRISTER, MEMBER, LALB
85 H BRISTER LOOP
SIEPER LA 71472-9746

MS ANNA DOW, LEGAL COUNSEL
LA AUCTIONEERS LICENSING BOARD
1434 N BURNSIDE STE 14
GONZALES LA 70737-2155

MS SARAH OLCOTT
DIRECTOR, LA BOARDS & COMMISSIONS
P O BOX 94004
BATON ROUGE LA 70804-9004

MS SANDY EDMONDS, EX. ASSIATANT
LA AUCTIONEERS LICENSING BOARD
5222 SUMMA CT STE 352
BATON ROUGE LA 70809-3727

MR STEPHEN STREET, LA INSPECTOR GEN.
P O BOX 94095
BATON ROUGE LA 70804-9095

JAMES D "BUDDY" CALDWELL
LA ATTORNEY GENERAL
P O BOX 94005
BATON ROUGE LA 70804-9005

HILLAR MOORE, EBRP DISTRICT ATTORNEY
222 ST LOUIS ST STE 550
BATON ROUGE LA 70802- 5816