

ROBERT BURNS, REV. FREDDIE LEE
PHILLIPS

NUMBER 619707 DOCKET: 27

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

LOUISIANA AUCTIONEER'S LICENSING BOARD,
JAMES M. SIMS, TESSA STEINKAMP, GREGORY L.
"GREG" BORDELON

STATE OF LOUISIANA

MEMORANDUM IN OPPOSITION TO DILATORY EXCEPTION

NOW UNTO COURT come Plaintiffs, Robert Edwin Burns and Rev. Freddie Lee Phillips, in proper person, who provide this Memorandum in Opposition to Defendants' Dilatory Exception scheduled to be heard by this Honorable Court on Monday, July 22, 2013 at 9:30 a.m.

Defendants' Motion to have this case dismissed based on an alleged

nonconformity with LA CCP Art. 891 and, more specifically, LA CCP Art. 854 is patently absurd on its face. What Defendants, in their brief Memorandum in Support of Dilatory Exception, reference as being "a multitude of irrelevant circumstances and stories" form the very foundation of motive as to why Defendants were so adamantly determined to refuse to permit Plaintiffs to speak! In order to find Defendants liable under LA R. S. 42:28, Plaintiffs must prove that Defendants "knowingly and willfully" violated LA R. S. 42:14(D). To suggest that Plaintiffs are not permitted to introduce motive into their pleadings as to why Defendants violated LA R. S. 42:14(D) is to deny Plaintiffs the opportunity to provide the very evidence necessary to obtain a favorable ruling under the statute! That's why the Dilatory Exception is absurd on its face.

Without question, Plaintiffs' cause of action against Defendants can be summarized in five (5) words: "They wouldn't let us speak." The broader question, however, which Plaintiffs are most certainly entitled to expand upon in their Petition to prove the "knowing and willful" aspect, is "why?"

As to motive regarding Petitioner Phillips' pleadings, Defendants Sims and Bordelon responded to the November 5, 2012 roll call with "I's here," and "I's here, too," respectively. Petitioner Phillips didn't even reference the fact that numerous other Board Members, Executive Assistant Sandy Edmonds, and others are heard giggling and laughing almost uncontrollably over the "I's here," and "I's here, too" roll call responses.

FILED
EAST BATON ROUGE PARISH, LA

2013 JUL -9 AM 11:55

DEPUTY CLERK OF COURT

The bottom line is that Petitioner Phillips' right to discuss the matter at the next Board Meeting, January 8, 2013, was **denied**, and that's a clear and unequivocal violation of LA R. S. 42:14(D). The added facts relative to Petitioner Phillips merely document pretty authoritatively, and in a manner difficult for Defendants to challenge, that the practice of denying any discussion on the prior meeting's minutes was most certainly not in conformity with past Board practices. Furthermore, no such limitation has been imposed during the two Board Meetings which have transpired subsequent to January 8, 2013. Those added facts certainly are not "immaterial," and conversely provide the very **motive** as to why Defendants were so dogmatically determined to violate LA R. S. 42:14(D). They wanted no discussion of the matter as Investigators from the Inspector General's Office were on-site for that meeting, and they conducted interviews regarding the roll call responses. Defendants Sims and Bordelon simply wanted the whole matter to evaporate; therefore, they urged Defense Counsel Bankston to shut down any such discussion, and Mr. Bankston did so in a most authoritative manner.

Regarding Petitioner Burns, the motive for Defendants insistence that he not be permitted to speak on Per Diem payments of September 17, 2012 is simple: the Defendants wanted to keep the money. Further, Defense Counsel Bankston was dogmatically determined to assist them in being able to keep the money. On December 3, 2012, Petitioner Burns sent an email to Defense Counsel Bankston and LALB Executive Assistant Sandy Edmonds. That email is attached hereto and made a part hereof as Exhibit P-7. In the email, Petitioner Burns inquired whether the per diem payments were deducted from the November 5, 2012 vouchers.

Upon petitioner Burns receiving no response, Petitioner Burns sent a follow-up email dated December 21, 2012 again to Defense Counsel Bankston and LALB Executive Assistant Sandy Edmonds, to which Defense Counsel Bankston responded within nine hours of Petitioner Burns sending the email. The email correspondence between Petitioner Burns and Defense Counsel Bankston is attached hereto and made a part hereof as Exhibit P-8. Defense Counsel Bankston responded to Petitioner Burns' observation that the November 5, 2012 vouchers were not reduced by the \$97 overpayments (\$585 total) and his inquiry as to whether the January 8, 2013 vouchers would be reduced accordingly. Mr. Bankston responded by stating: "**As a member of**

the public you will have an opportunity to bring any of this information to the attention of the board during 'public comment' portion of the meeting." Thereafter, at the January 8, 2013 meeting, Mr. Bankston reneged on his written assurance that Petitioner Burns would be permitted to speak on the matter by flatly and emphatically declaring that he would not be permitted to speak on the matter.

As evidenced by Mr. Bankston's legal invoice to the LALB for January of 2013, which is attached hereto and made a part hereof as Exhibit P-9, Mr. Bankston **finally**, on January 14, 2013, reviewed Governor Jindal's Executive Order and drafted a letter to Governor Jindal's Executive Counsel to confirm that the per diem payments did in fact have to be refunded, and each Board Member subsequently wrote personal checks to reimburse the LALB for the \$585 (\$97 x 5) overpayments.

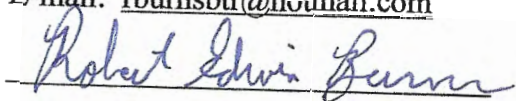
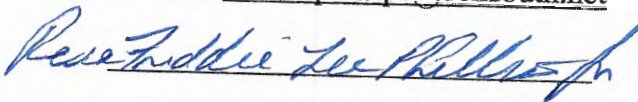
As proving the "knowing and willful" aspect of Defendants' blatant violation of LA R. S. 42:14(D) is essential to Plaintiffs' case, dismissing the case based on the fact they have provided motive for why they were not permitted to speak would be completely inappropriate. Therefore, Petitioners Burns and Phillips urge this Honorable Court to deny the Dilatory Exception and direct Defendants to file an answer to the Petition.

WHEREFORE, petitioners, ROBERT EDWIN BURNS and REV. FREDDIE LEE PHILLIPS, pray that Defendants' Dilatory Exception be denied and that this Honorable Court direct Defendants to file an answer to the Petition.

Respectfully Submitted,

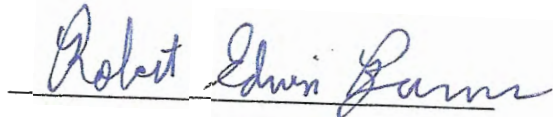
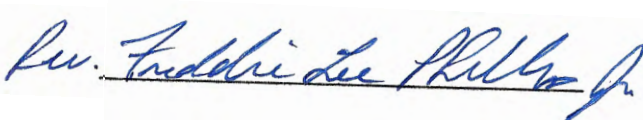
Rev. Freddie Lee Phillips, in proper person
8055 Hanks Drive
Baton Rouge, LA 70812-4122
(225) 358-4463 (home)
(225) 229-3341 (cell)
E-mail: freddiephillips@bellsouth.net

Robert Edwin Burns, in proper person
4155 Essen Lane, Apt 228
Baton Rouge, LA 70809-2152
(225) 201-0390 (home)
(225) 235-4346 (cell)
E-mail: rburnsbtr@hotmail.com



Certificate of Service:

We 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 9th day of July, 2013.



Robert Burns

From: Robert Burns <robert@auctionsellfast.com>
Sent: Monday, December 03, 2012 11:35 PM
To: 'Larry Bankston'; 'admin@lalb.org'
Subject: LALB Reimbursed for Per Diem Payments for September 17, 2012 LALB Meeting?

Mr. Bankston and/or Ms. Edmonds:

Having now listened to the entirety of the LALB audio tape for the meeting of 11/5/12, I do have a question. The effective date of Governor Jindal's Executive Order regarding freezing per diem was upon his signature, which took place on August 5, 2012.

Accordingly, the per diem payments to all Board Members for the September 17, 2012 LALB meeting were in direct violation of his Executive Order and therefore obviously inappropriate.

Having not requested the travel vouchers for the November 5, 2012 meeting, I'm inquiring if the respective \$97 was deducted from the applicable mileage reimbursements for those members attending for the November 5, 2012 meeting? If not, is that intended to take place for the January 8, 2013 LALB meeting? Lastly, if anyone opts to resign from the Board over the issue (as a couple indicated may be the case), and that mileage was NOT reduced for the November 5, 2012 voucher by \$97, may I assume the LALB would send letters to the applicable resigning Board Members seeking repayment of the \$97 which was inappropriately paid for the September 17, 2012 LALB meeting?

Thanks.



LOUISIANA ASSOCIATION OF
PROFESSIONAL AUCTIONEERS

Robert Edwin Burns, Vice President

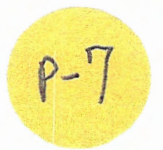
LA Association of Professional Auctioneers (LAPA)

4155 Essen Lane, Ste 228

Baton Rouge, LA 70809-2152

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

www.auctioneer-la.org



From: Larry Bankston [<mailto:larry@bblawyers.net>]

Sent: Friday, December 21, 2012 8:57 AM

To: Robert Burns

Subject: Re: Failure to Deduct September LALB Per Diem Payments from Mileage Reimbursement for November

Mr. Robert Burns

I was in receipt of your previous email. Any information you provide is forwarded to Sandy Edmonds. I am the attorney for the board. As such, my obligations are to the board and not to you. It would be inappropriate to respond to your emails. I am sending this email to explain to you my position.

I will advise the board of its legal obligations. As a member of the public you will have an opportunity to bring any of this information to the attention to the board during "public comment" portion of the meeting.

You should not expect any response more than this. I am sure you have already made everyone aware of the contents of you email.

Larry Bankston

On Dec 21, 2012, at 12:50 AM, Robert Burns wrote:

Ms. Edmonds and/or Mr. Bankston:

Since neither of you chose to respond to my email inquiry regarding whether or not the overpayment of \$97 in per diem to each Board Member for the 9/17/12 LALB meeting was recovered via mileage reductions from the November travel vouchers, and given that the 9/17/12 per diem payments appear to be in clear and unequivocal violation of Gov. Jindal's Executive Order (and he subsequently made it ABUNDANTLY clear that he could care less whether an entity is self-funded or that the funds didn't come from the State's General Fund), per diem payments were NOT to be remitted from the date of his signing of the original Executive Order, which was on the 24th day of August, 2012 (my prior email correspondence to you indicated August 5, 2012, an error on my part) forward. As such, I contend that the 9/17/12 per diem payments were unauthorized and inappropriate.

Having now observed the November 2012 travel vouchers and having ascertained the fact that Board Members' mileage was NOT reduced by the \$97 on those vouchers, I am looking for such a reduction on the January vouchers or a WRITTEN statement from the Governor's Office that the 9/17/12 per diem payments were appropriate in the Governor's opinion. If any Board Members opted to resign or may otherwise not be in their positions as Board Members for any other reason, then letters should be sent to those members requesting checks for \$97 representing the overpayments. This email will document the fact you've been made aware of what I consider a pretty obvious violation of Executive Order BJ-12-09.

Thank you for your attention to this matter.

Sincerely,

P-8



LOUISIANA ASSOCIATION OF
PROFESSIONAL AUCTIONEERS

Robert Edwin Burns, Vice President

LA Association of Professional Auctioneers (LAPA)

4155 Essen Lane, Ste 228

Baton Rouge, LA 70809-2152

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

www.auctioneer-la.org

Larry S. Bankston

Bankston & Associates, L.L.C.

8708 Jefferson Highway, Suite A

Baton Rouge, LA 70809

(225)766-3800

(225) 766-7800-fax

larry@bblawyers.net

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Bankston & Associates, L.L.C.

8708 Jefferson Highway

Suite A

Baton Rouge, LA 70809

Ph:(225) 766-3800

Fax:(225) 766-7800

Louisiana Auctioneers Licensing Board
11736 Newcastle Avenue, Building 2
Suite C
Baton Rouge, LA
70816

February 1, 2013

Attention: Ms. Sandy Edmonds

File #: 1107-0001

Inv #: 7744

RE: Louisiana Auctioneers Licensing Board

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-02-13	Telephone conference with Tessa Steinkamp and Sandy Edmonds	0.20	30.00	LSB
	Telephone call from Tessa Steinkamp	0.25	37.50	LSB
	Telephone call from Sandy Edmonds regarding meeting	0.20	30.00	LSB
Jan-03-13	Email from Edmonds; review of agenda	0.20	30.00	LSB
Jan-05-13	Review of email from Philip Mayeux; email to Matthew Edmonds	0.30	45.00	LSB
Jan-07-13	Meeting with Edmonds; meeting with [REDACTED]	1.25	187.50	LSB
Jan-08-13	Attend board meeting and continue hearing on Robert Burns	2.25	337.50	LSB
Jan-09-13	Telephone call from Sandy Edmonds; review of email from Burns	0.50	75.00	LSB
	Legal research [REDACTED] draft letter to Phillip Mayeux	1.00	150.00	LSB
	Research of LAPA; letter to S. Edmonds regarding LAPA	1.00	150.00	LSB
	Research federal statutes [REDACTED]	0.34	20.40	PL2

	Review case file on complaint that open meetings law was violated by Louisiana Auctioneer's Licensing Board.	0.50	30.00	PL2
	Research relevant Louisiana case law on procedural next steps following resolution of the subject of a complaint that respondent's [REDACTED]	1.75	105.00	PL2
Jan-10-13	Receipt and review of email from Mayeux	0.10	15.00	LSB
Jan-14-13	Receipt and review of email from Brantley regarding Burns	0.20	30.00	LSB
	Review of executive order and draft letter to Executive Counsel	0.50	75.00	LSB
	Telephone call from Sandy Edmonds regarding telephone call from Freddie Phillips regarding LAPA link	0.25	37.50	LSB
Jan-15-13	Telephone call to Rev. Freddie Phillips regarding link	0.10	15.00	LSB
	Telephone call from [REDACTED]; email to Sandy Edmonds	0.25	37.50	LSB
	Email to Mayeux on demand	0.20	30.00	LSB
	Telephone call to P. Mayeux	0.20	30.00	LSB
	Review of documents and email to [REDACTED] [REDACTED]	0.30	45.00	LSB
Jan-22-13	Receipt and review of email; Rev. Phillips' application; website; letter to Steinkamp; email to all	1.00	150.00	LSB
Jan-24-13	Telephone call to Tessa Steinkamp; relate issue on Phillips and Governor's office	0.20	30.00	LSB
Jan-28-13	Review of draft letter regarding use of auction in name; email to client	0.20	30.00	LSB
	Review of public records request from Burns on January 22, 2013	0.25	37.50	LSB

Invoice #: 7837

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March 4, 2013

PAYMENT DETAILS

Feb-08-13	For Services Rendered	2,088.10
	Total Payments	<hr/> \$2,088.10