



Louisiana
Office of the Governor
Auctioneers Licensing Board

Bobby Jindal
Governor

March 5, 2015

Ms. Judy Fasola
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RE: Louisiana Auctioneers Licensing Board
Kenneth Buhler & Estate Auction Services

Sent via certified mail 7003226000008342324

Dear Ms. Fasola:

We are in receipt of your letter dated February 9, 2015 concerning the above-mentioned administrative adjudicatory hearing and licensees. At your request, I asked legal counsel to review your letter and consider your request. Your letter goes into numerous unrelated matters that do not bear on the ultimate demand within the letter. Your letter does not provide any information on the amount of the alleged damages. You simply seek an explanation as to why her "bond claim" has not be processed. It is my understanding that you contacted the Board office to inquire as to how to file a claim and the procedures to make such a claim. There was not authority for our staff to file such a claim.

As you will recall, an administrative hearing was held on March 26, 2013. In that hearing there was a finding that Estate Auction Services did violate several statutes including the following: La. R.S. 37:3125(B) and R.S. 37: 3121(A)(5). Fines were imposed on Estate Auction Services for these violations. No fine was imposed against Kenneth Buhler. There was no appeal or request for rehearing concerning the Findings of Fact and Conclusions of Law. This matter became final on April 27, 2013. As I recall, there was no evidence submitted concerning the nature or extent of any damages. It is my recollection that no such amount was due since you were paid for each item or the item was returned to you.

After this hearing you filed suit in proper person in small claims court. The attorney for the Defendants removed the matter to City Court. The matter was set for trial, but you failed to timely appear. The matter was dismissed without prejudice. This allowed you to re-file the lawsuit. You filed a second suit in Baton Rouge City Court. The second suit is only against Malcolm Buhler. This matter is presently pending in City Court. There has been no action on the matter since discovery was answered on December 16, 2014. There is no trial date and the matter remains unresolved.

La. R.S. 37: 1881 sets forth the requirements concerning the auctioneers bond. The bond is made payable to the board, for the use, benefit and indemnity of any person who suffers any loss as a result of a violation of the statutes. While there was a violation of statutes as noted above, there has been no determination in the hearing that there has been an actual "loss." Until such time there is a determination of such a loss, there is no action necessary by the Board. It is the opinion of our legal counsel that neither the executive director, nor the Board's legal counsel has the authority to submit a claim to the

bonding company. A claim against the bond is reserved to the Board. Further, it is his opinion that until a judgment is rendered in the Baton Rouge City Court, no action is necessary or appropriate by the Board. Upon receipt of such a judgment, the Board would certainly consider your request to make a claim on the bond.

Please let us know if you have any questions or would like any additional information regarding this matter.

Sincerely,

TESSA STEINKAMP

c.c. Sandy Edmonds (via email)
Anna Dow (via email)