

ROBERT BURNS,
REV. FREDDIE LEE PHILLIPS

NUMBER 619707 DOCKET: 27

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

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

STATE OF LOUISIANA

RULE TO SHOW CAUSE

CONSIDERING THE FOREGOING Motion for Summary Judgment filed by
Plaintiffs, in proper person:

IT IS ORDERED that Defendants, Louisiana Auctioneer's Licensing Board,
James M. Sims, Gregory L. "Greg" Bordelon, and Tessa Steinkamp appear and show
cause, if any they may have, on the _____ day of _____, 2014, at _____
_____ o'clock _____ .m., why the motion should not be granted.

Baton Rouge, Louisiana, this _____ day of _____, 2014

FILED
EAST BATON ROUGE PARISH, LA
2014 MAY 12 PM 1:02
DEPUTY CLERK OF COURT

JUDGE

PLEASE SERVE:
Larry S. Bankston, Attorney for Defendants
8708 Jefferson Highway, Suite A
Baton Rouge LA 70809

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MOTION FOR SUMMARY JUDGMENT

NOW UNTO COURT comes Plaintiffs, Robert Edwin Burns and Rev. Freddie Lee Phillips, in proper person, who pursuant to Article 966 of the Louisiana Code of Civil Procedure and for reasons expanded upon in the attached memorandum, move this Honorable Court for a Summary Judgment, granting Plaintiffs a Judgment against each named individual Defendant, JAMES M. SIMS, TESSA STEINKAMP, and GREGORY L. "GREG" BORDELON, in the amount of \$100 in Civil Penalties to each Plaintiff (\$200 total against each Defendant) pursuant to LA R. S. 42:28 along with each Board Member being assessed a 33.33% (one-third) share of Plaintiffs' court costs in initiating this Petition as provided for under LA R. S. 42:26(C).

Respectfully submitted:

Robert Burns, in proper person
4155 Essen Lane, Apt. 228
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Telephone No.: (225) 235-4346
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Rev. Freddie Lee Phillips, in proper person
8055 Hanks Drive
Baton Rouge, LA 70812-4122
Telephone No.: (225) 229-3341
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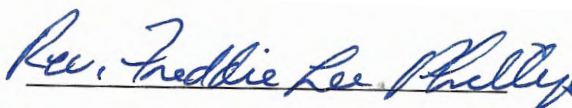
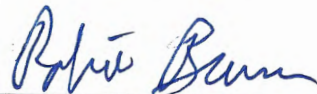
Robert Burns, in proper person



Rev. Freddie Lee Phillips, in proper person

Certificate of Service:

We hereby certify, on this 12th day of May, 2014, 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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MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

MAY IT PLEAE THE COURT:

Plaintiffs, Robert Edwin Burns and Rev. Freddie Lee Phillips, move for Summary Judgment on the grounds that there are no genuine issues of material fact, thus entitling Plaintiffs to judgment as a matter of law. In support of Plaintiffs' Motion for Summary Judgment, Plaintiffs submit this Memorandum to this Honorable Court.

I. FACTUAL BACKGROUND

Defendants, Tessa Steinkamp, James Sims, and Greg Bordelon, serving in their official capacities as Members of the Louisiana Auctioneer's Licensing Board (LALB), participated in a regularly-scheduled meeting on January 8, 2013. At the outset of that meeting, public comment on agenda items was scheduled to transpire (see Exhibit P-1).

Petitioner Phillips sought to speak on Item III on the agenda, approval of minutes of November 5, 2012. He desired to express his request that the roll-call responses of Defendants Sims and Bordelon be recorded verbatim as "I's here," and "I's here, too," respectively. Board Member Darlene Jacobs-Levy stated on the record that she had "no objection" to either Petitioner speaking. Similarly, Board Member Charles "Hal" McMillin has repeatedly voiced his opposition to the Board's "public comment policy," and even voted against the public comment policy. Accordingly, Ms. Jacobs-Levy and Mr. McMillan are not named as Defendants in this Petition. The named Defendants, acting through legal counsel Larry S. Bankston, were emphatic that Petitioner Phillips would not be permitted to discuss anything regarding the content of the prior meeting of November 5, 2012. Furthermore, they were equally adamant that Petitioner Burns would not be permitted to discuss Board Per Diem payments for September 17, 2012

notwithstanding the fact that those payments directly affected the financial statements which the Board would approve as Item V1 (see Exhibit P-1), “approval of financials.”

Through their adamant stands that Petitioners would not be permitted to address agenda items which directly reflect upon the integrity and professionalism of Members of the Defendant LALB, Petitioners Phillips and Burns have been harmed through direct suppression of their First Amendment rights afforded under the Constitution of the United States of America. Further, Petitioners assert that, through such actions, the named Defendants are sending a message that essentially says, “You will be permitted to question us and voice statements on our conduct and motives if and only if we give you permission to do so.” Petitioners assert that such actions and implicit statements constitute knowing and wilful violation of LA R. S. 42:14(D), which states: “Except school boards, which shall be subject to the notice requirements of LA R. S. 42:15, each public body conducting a meeting which is subject to the notice requirements of LA R. S. 42:19(A) shall allow a public comment period at any point in the meeting prior to action on an agenda item upon which a vote is to be taken. The governing body may adopt reasonable rules and restrictions regarding such comment period.”

Petitioners further contend that, through such actions and implicit communication of dictatorial suppression of free speech and scrutiny, the named Defendants have, by their knowing and willful violations of LA R. S. 42:14(D) and pursuant to LA R. S. 42:28, made themselves each **personally** liable unto Petitioners for the amount of \$100 each to each Plaintiff, or \$200 total from each named LALB defendant. Further, Pursuant to LA R. S. 42:26(C), upon successful awarding of a Judgment of this Honorable Court in which such \$100 civil penalty is assessed against each Member and awarded to each Petitioner, Petitioners are also entitled to reasonable attorney fees and the costs of this Petition.

II. MATTERS OF UNCONTESTED FACTS

1. An LALB meeting was conducted on January 8, 2013.
2. Petitioners sought to address two items placed on the agenda of that meeting, both of which required votes on the part of the LALB Membership.
3. Petitioners were both told individually that they would not be permitted to speak on the issues which they sought to address.

4. Petitioner Burns was informed that he would not be permitted to address the issue of September 17, 2012 per diem payments notwithstanding the fact that Defense Counsel Larry S. Bankston provided **written** assurance that Petitioner Burns **would** be permitted to address his concerns via an email sent to Petitioner Burns dated December 21, 2012 (see Exhibit P-8).

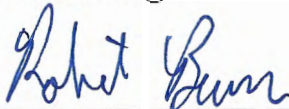
5. Board Members Darlene Jacobs-Levy and Charles "Hal" McMillin demonstrated behaviors indicating both their willingness and desire for Petitioners to speak on the topics of concern to them and are thus appropriately not named as Defendants.

CONCLUSION

Petitioners are entitled to a Judgment as a matter of law because there are no genuine issues of material fact to dispute that Defendants knowingly and wilfully violated LA R. S. 42:14(D) in denying Petitioners the right to address items specifically itemized on the agenda for the LALB meeting of January 8, 2013 for which votes were required. Therefore, Summary Judgment in favor of Plaintiffs is appropriate as a matter of law. That Judgment, as provided by LA R. S. 42:28, should be comprised of an award of \$100 in Civil Penalties from each Defendant to each Plaintiff (total of \$200 from each Defendant). Each Board Member, as provided for under LA R. S. 42:26(C), should additionally be assessed a 33.33% (one-third) share of Plaintiffs' court costs in initiating this Petition.


Respectfully submitted:

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Rev. Freddie Lee Phillips, in proper person

Certificate of Service:

We hereby certify, on this 12th day of May, 2014, 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.

