

BANKSTON & ASSOCIATES, L.L.C.

DOCKET NO.:

665348
SEC. 25
DIVISION

VERSUS

19TH JUDICIAL DISTRICT COURT

THE LA DEPARTMENT OF
JUSTICE & JEFF LANDRY
IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL FOR
THE STATE OF LOUISIANA

PARISH OF EAST BATON Rouge

STATE OF LOUISIANA

BY JD
CLERK OF COURT

DEMAND FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

NOW INTO COURT, THROUGH UNDERSIGNED COUNSEL, COMES, Plaintiff,
BANKSTON & ASSOCIATES, LLC., a Louisiana limited liability company, who respectfully
requests declaratory judgment and injunctive relief against Defendants, The Louisiana
Department of Justice and JEFF LANDRY in his official capacity as Attorney General, to
wit:

1.

NAMED DEFENDANTS

THE LOUISIANA DEPARTMENT OF JUSTICE and ATTORNEY GENERAL JEFF
LANDRY, in his official capacity as Attorney General for the State of Louisiana are the named
Defendants.

Attorney General Landry is the head of the Department of Justice, "who shall be the chief
legal officer of the State". La Const. Art. 4. Sec. 8.

2.

BANKSTON & ASSOCIATES, L.L.C. has served as legal counsel for the Louisiana State
Licensing Board for Contractors ("LBC") since February 2016. The initial contract between the
parties was approved by Attorney General Jeff Landry on March 8, 2016. (Exhibit A). This
contract would expire on August 1, 2016.

3.

On January 19, 2017, the LBC issued an extension of the contract to BANKSTON &
ASSOCIATES, L.L.C. for an additional term of August 1, 2016 through July 31, 2017. The
approval of the contract was delayed until certain anti-discrimination language was removed from
the contract. Subsequently, the Attorney General approved this contract, on February 7, 2017.
(Exhibit B).

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4.

On May 17, 2017, only three months after the approval of the extension of the prior contract, the LBC approved and submitted an amendment to the 2016-2017 contract to extend the agreement until December 31, 2018 under the exact same terms and conditions previously approved by Attorney General Jeff Landry. (Exhibit C).

5.

Since the submission of the amended contract in May 2017, Attorney General Jeff Landry has consistently abused his authority and discretion (to the extent he has any under the facts of this case) by arbitrarily refusing and/or failing to comply with La. R.S. 42:262 F(3)(d) and F(4) by not providing a written reason, much less a "valid" reason not to ratify or approve the contract. In fact, Attorney General Landry has failed and refused to provide any response regarding the submission of said amended contract.

6.

On November 30, 2017, BANKSTON & ASSOCIATES, L.L.C. wrote to Attorney General Jeff Landry, by certified mail, demanding a written response concerning his failure to address and/or approve the pending amended contract.¹ (Exhibit D). Although the letter was received by the defendant on December 5, 2017, Attorney General Jeff Landry has arbitrarily, persistently and consistently refused and/or failed to approve the contract or provide any written response concerning his refusal to perform his duty pursuant to LSA-R.S. 42:262 F(3)(d) and F(4).

7.

The LBC has statutory authority to select special attorney or counsel in accordance with the provisions of R.S. 42:262 and R.S. 37:2153(C)(1).

8.

The contract and resolution of the LBC complies with all of the requirements of La. R.S. 42:262. The Board and Bankston & Associates, L.L.C have complied with all of the formalities provided in section 262.

9.

All attorneys appointed as private legal counsel shall meet or exceed written minimum qualifications required in La. R.S. 49:258 and as published in the Louisiana Bar Journal, Volume 65, Number 2. BANKSTON & ASSOCIATES, L.L.C. meets all the qualifications required in this

¹ Exhibit C.

statute and Article. In addition to these qualifications: (a) On November 16, 2011, Larry S. Bankston of BANKSTON & ASSOCIATES, L.L.C. was appointed by Attorney General James D. "Buddy" Caldwell as a Special Assistant Attorney General in accordance with the provision of La. R.S. 49: 258 and 39: 1533(B); and (b) On May 26, 2016, a contract between Bankston and Associates and the Louisiana Auctioneers Licensing Board was approved by Attorney General Jeff Landry.

10.

At no time during the approval process did the Attorney General raise any objection to the three contracts concerning BANKSTON & ASSOCIATES, L.L.C. Furthermore, the Attorney General has arbitrarily refused and completely failed to comply with the requirements of the statute to provide a written response. Therefore, we respectfully submit that the Attorney General has no valid objection and has waived his ability and or right to object to the extension of the contract with the Contractor's Board.

11.

The prolonged lack of legal representation of the Licensing Board for Contractors is detrimental to the citizens of the State of Louisiana and will potentially result in irreparable harm to the Board in connection with its legal duties and statutory obligations.

12.

It is very clear that, without the intervention of and an order of this Court, the Attorney General will continue to assert authority that is beyond his constitutional and statutory rights and responsibilities and that he will continue with his arbitrary, blatant and obvious abuse of whatever discretion he may have and that he will continue to violate his obligations pursuant to LSA-R.S. 42:262.

13.

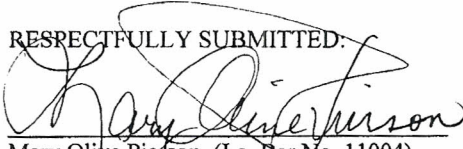
BANKSTON & ASSOCIATES, LLC, requests that this Court grant preliminary and permanent mandatory injunctions, ordering the Attorney General to perform his duties in good faith and approve the Contract which has been submitted to him by the LBC and Bankston and Associates.

Petitioner, **BANKSTON & ASSOCIATES, LLC**, therefore prays for:

- A) A judgment declaring that the Attorney General has failed and refused to comply with the provisions of LSA-R.S. 42:262 F(3)(d) and F(4) by arbitrarily refusing to review and approve the contract under submission to his office between Bankston and Associates, LLC and the Licensing Board for Contractors and that by this arbitrary and extended failure or refusal has waived and/or lost his right or authority to do so;
- B) A judgment granting preliminary and permanent mandatory injunctions ordering the Attorney General to approve the contract under submission between the Licensing Board for Contractors and Bankston and Associates as presented;
- C) A Rule to Show Cause to be issued and directed to the Louisiana Department of Justice and to Attorney General Jeff Landry ordered them to show cause, if any they can, on a date and at an hour fixed by this Court, why a preliminary and permanent mandatory injunction should not issue in the form and substance of the injunction described in the preceding prayer; and
- D) A judgment against the defendants for all costs of these proceedings, fees allowed by law including, but not limited to, attorney's fees and for all other general and equitable relief.

FILED
EAST BATON ROUGE PARISH
2018 JAN 12 PM 3:01
CLERK OF COURT

RESPECTFULLY SUBMITTED:


Mary Olive Pierson, (La. Bar No. 11004)
8702 Jefferson Hwy., Suite B (70809)
P.O. Box 14647
Baton Rouge, LA 70898
Ofc: (225) 927-6765
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Email: mop@mopslaw.com

PLEASE SERVE:

The Louisiana Department of Justice
1885 North Third Street
Baton Rouge, LA 70802

JEFF LANDRY in his official capacity as Attorney General
1885 North Third Street
Baton Rouge, LA 70802

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BANKSTON & ASSOCIATES
A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

Larry S. Bankston
lsbank@bankstonlaw.net

Jenna H. Linn
jhl@bankstonlaw.net

November 30, 2017

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Honorable Jeff Landry
Attorney General
State of Louisiana
P.O. Box 94005
Baton Rouge, Louisiana 70804

Dear Attorney General Landry:

As you know, your office has a pending amendment to the Louisiana State Licensing Board for Contractors' contract for Bankston & Associates, L.L.C. The approval of the amendment to the agreement has been pending with your office since May 2017. The amendment simply extends the original contract through December 2018 at the same billing rates as found in the original contract. Your office approved the 2016-2017 contract in February 2017. There are critical issues before the Board that affect the citizens of this State, and the current agreement expired on July 31, 2017. This lag time has left the Board in an untenable position.

Your office previously approved three separate legal contracts for Bankston & Associates, L.L.C. on nearly identical terms and conditions. We appreciate your office's assistance in approving the prior contracts. Pursuant to La. R.S. 37:2153, the Board is authorized to retain special counsel in accordance with La. R.S. 42:262. As provided for in La. R.S. 42:262(F)(2), we are again providing the Board's formal resolution authorizing the subject contract as well as a copy of the proposed contract described in the resolution.

Further, as you are aware, Bankston & Associates, L.L.C. has met all of the qualifications required by La. R.S. 49:258 and as published in the Louisiana Bar Journal, Volume 65, No. 2.

The selection of Bankston & Associates, L.L.C. was made by Board appointees of the previous administration after interviews with several law firms. This was done in February 2016 and was reaffirmed by a unanimous vote of the Board at its July 2017 meeting. Our office has been incredibly attentive to the Board's needs and the Board has been sincerely satisfied with the services provided by Bankston & Associates, LLC.

8708 Jefferson Highway, Suite A • Baton Rouge, LA 70809
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Your office previously requested the Board provide a written request to approve the prior contract. The Board provided that letter to you in August 2016. Please allow this letter to again serve as a formal request that your office approve the pending contract. Pursuant to La. R.S. 42:262(F)(4), "the governor or attorney general shall respond to the application in writing by giving approval or rejection with reasons." To date, it has been nearly seven months, and neither the Board nor our office has received an approval or rejection with reasons from the governor or attorney general.

If you are unwilling to sign this amendment, we would request that you provide written response as to what has transpired since the prior approval to justify your lack of action on this matter.

The Board's Executive Director, Chairman, and I stand ready to meet with you to discuss this matter. The Board has pressing issues that require our office's advice and attention in order to best serve the people of this State. Thank you in advance for your attention to this very important matter.

Sincerely,

BANKSTON & ASSOCIATES, L.L.C.

By: 
Larry S. Bankston

C.c. Michael McDuff, Executive Director
Lee Mallet, Chairman