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David Altschuler

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On the Ropes

New Regulations and State Cooperation Step
into the Ring to Protect Boxing from Itself

by David Altschuler

I. Introduction

Few have seen more boxing—up close—than Ray Arcel.¹ And no one knew or loved the sport better.² Arcel served in the corners of thousands of fighters, and groomed nearly two dozen world champions during his seventy year career.³ But in 1989 Arcel voiced concerns about boxing's future.⁴ He opined that boxing was longer the sport he remembered but had become "exploitation" and "theatre." By Arcel's estimation, the sickness plaguing boxing was a familiar one: money.⁵

Arcel was certainly not the first commentator to lament boxing's eroding integrity. But, now, more than ten years after Arcel fell into lockstep with critics of professional boxing, it appears that the final piece in a governmental scheme to save the sport from itself is being put into place. If adopted by states and successfully implemented, the recent efforts by the National Association of Attorneys General (the "NAAG") Boxing Task Force should work in conjunction with pre-existing regulations to cure the ills that have long plagued boxing. It is the central thesis of this Note that the NAAGs recommendations represent the necessary linchpin in creating a coherent regulatory regime for ensuring that professional boxing is both safe and legitimate.

In order to place a discussion of regulatory solutions in a proper frame, this Note begins by describing the problems that have long plagued professional boxing. This Note next explicates two federal laws designed to redress the corruption and abuses lawmakers found to be inherent in professional boxing. These laws are the Professional Boxing Safety Act ("PBSA")⁶ and the Muhammad Ali Boxing Reform Act ("Ali Act").⁷ This Note then addresses regulations of boxing operating at the state level, paying particular attention to the May 2000 recommendations for state action promulgated by the NAAG. Finally, this Note concludes by considering whether the matrix of regulation designed to reform boxing will achieve its much-anticipated end.

II. A Brief History of Boxing's Ills

During the last century, American sporting culture has changed in ways that have chipped away at the legitimacy and safety of boxing. The boxing audience was once comprised of live spectators concentrated in urban centers. Tensions between immigrant groups spilled over into a passion for organized fights. However, with the advent (and resultant ubiquity) of televi-

sion, people began watching boxing differently. At first, the small screen expanded boxing's audience dramatically. As late as the 1970's boxing held its own; Friday Night Fights received high ratings.⁸ Public interest began to wane in weekly fights because the nature of boxing demands that its superstars fight only a few times each year. And boxing, in turn, started losing its place in the programming schedule. Networks believed all but the most die-hard boxing fans⁹ had too many broadcast sporting options to be enthralled by anything short of a championship match.

As a result, boxing evolved into a high grossing pay-per-view spectacle—with the focus on the glitz and glamour of heavyweight championship bouts. Boxing came to be known more for corruption and less for sweat, glory, and golden gloves. Of course, it is well known that boxing's history has been filled with corruption and violence. But as the television spotlight grew brighter and the fighters' purses swelled, the elements that represented this aspect of boxing came to dominate the sport.

Under the controlling influence of promoters and corrupt sanctioning organizations, professional boxing has developed into a multi-billion dollar industry.¹⁰ Boxing's success, however, has not trickled down to the fighters themselves. Despite the wealth of the boxing industry, and the enormous financial success of a few elite fighters, few of the over 8,400 licensed professional boxers in the United States earn enough to support themselves and their families.¹¹ Anti-competitive and fraudulent business practices are the norm, and professional boxers—often poorly educated, and rising from abject poverty—are exploited by industry sharks.¹² The sport has left many boxers "destitute, penniless, and punch drunk."¹³

Superstar fighters are extraordinarily rare, but even these exceptionally talented fighters have no real moneymaking ability without a promotion contract.¹⁴ A boxer's promoter assumes the financial risk of a match by paying all promotion expenses and guaranteeing each fighter a certain purse.¹⁵ Traditionally, a promoter's compensation is the difference between the total revenues and total expenses paid for promoting a fight.¹⁶ Promoters are not entitled to a percentage of the boxer's purse.¹⁷

Promoters are integral to the sport of boxing. They provide financial backing, support, consistently line up bouts, and necessarily wield great control over the

fighters.¹⁸ Promoters are fully aware of this power and often use it to their advantage.¹⁹ To manipulate the prohibition preventing promoters from taking a percentage of the boxer's purse, some promoters demand that the boxer hire the promoter's relatives as managers and trainers and pay them a third or more of every fight purse.²⁰ This further erodes a boxer's autonomy, because the (biased) manager is responsible for negotiating a promotion contract on the boxer's behalf (i.e., to represent the boxer's interests to the promoter). A corrupt promoter, therefore, may end up with complete control over the contractual relationship.²¹

Don King's relationships with his fighters provide a good example of this sort of manipulation. To evade laws in many states prohibiting a promoter-manager dual role, Don King appointed his son, Carl King, to serve as manager for the heavyweight fighters he promoted.²² The fighters were then charged a fifty percent managerial fee (as opposed to the standard thirty-three percent fee) for Carl King's services.²³ Carl King's salary was paid to Don King Productions.²⁴

Promotional contracts often serve as vehicles to exploit fighters. Reports suggest that some promoters use option contracts to bind boxers to them "for a number of years," at the promoter's discretion.²⁵ Others require boxers to sign blank contracts, the terms of which are filled in later by the promoter.²⁶ Some even file inaccurate versions of these contracts with governing agencies designed to protect boxers' interests.²⁷ Even boxers who are not under a promotion contract may become "indentured."²⁸ Promoters who control champion fighters force potential challengers to enter into contracts with them before giving them an opportunity to fight for the championship.²⁹ "If the challenger refuses, he is blackballed."³⁰

But promoters are only part of the problem. Sanctioning organizations³¹ which are responsible for recognizing the world champion and the ten leading contenders in each weight class also contribute to boxing's evils.³² Throughout their careers, boxers seek to be ranked as contenders in their respective weight classes,³³ and to hopefully earn the title of world champion.³⁴ The sanctioning organizations, involved

in championship and title-elimination matches, must officially approve a fight in order for it to be recognized as a "championship bout." This form of approval is, as can be imagined, appealing to both broadcasting executives and the viewing public.³⁵

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influenced as much by promoter payoffs as by honest talent.³⁶ This state of affairs creates a dangerous situation because a boxer on the wrong end of a mismatched fight could be seriously injured, even killed.³⁷ This was most certainly the case in the 1982³⁸ match between Ray "Boom-Boom" Mancini and Duk Koo Kim of South Korea.³⁹ The WBA rated Kim as a top contender, though he did not even rank in Korea's top forty fighters at the time. Mancini knocked Kim out, and Kim fell into a coma and later died.⁴⁰

Perhaps the most outrageous instance of corruption by a sanctioning organization surfaced in February 2001 when the media discovered that the WBO left a boxer who had been dead for four months in the top ten of its super middleweight division.⁴¹ The WBO's website later reported that the fighter was dropped from the rankings because of "inactivity!"⁴² Ironically, the WBO's slogan is "dignity, democracy, honesty."⁴³

III. Regulation of Boxing by the Federal Government

Beginning in 1960, the federal government has stepped into the ring to regulate aspects of professional boxing.⁴⁴ Legislative efforts with respect to boxing have typically fallen on the heels of some particularly egregious revelations. And in 1960, "[t]he Senate Subcommittee on Antitrust and Monopoly conducted a four-year investigation [into] the effects of organized crime on boxing."⁴⁵ Congress considered creating a commission within the Department of Justice that would regulate contracts and physical exams and collect data on fighters.⁴⁶ Ultimately, however, Congress enacted only

a law criminalizing bribes to participants in sporting contests.⁴⁷

Congress addressed boxing corruption again in 1977 after it surfaced that boxers participating in the "U.S. Boxing Championships" had fabricated records.⁴⁸ However, the investigation did not result in the passage of any legislation. Two years later, the House again failed to act on a bill that would have required all boxers to register with a federal agency and would have implemented certain safety measures.⁴⁹

In the 1980's, Congress turned its attention to creating a national commission to regulate boxing in the United States. In 1983, three bills addressing this topic were proposed but none passed.⁵⁰ Two of the bills would have assembled state boxing officials, promoters, physicians, media representatives, professional boxers, and boxing experts together in an advisory commission to focus on ranking guidelines and professional fighters' health issues.⁵¹ The third bill would have created a Department of Labor commission to address boxer compensation, working conditions, and the safety of equipment and facilities.⁵² Two additional bills, one introduced in 1985 and another in 1987, likewise failed to establish commissions to regulate the industry.⁵³

The Professional Boxing and Safety Act (the "PBSA") and the Muhammad Ali Boxing Reform Act (the "Ali Act") were the first major pieces of legislation passed by Congress to address the problems plaguing professional boxing. Under the leadership of Sen. John McCain, and in reaction to contemporary boxing scandals, Congress enacted measures to regulate boxing.⁵⁴ McCain quickly became the prominent leader of the congressional boxing reform movement, asserting, "[e]very act of public officials and concerned citizens with respect to professional boxing should aim to protect the health and welfare of the athletes; promote open competition and fair business practices; and prevent restraints of trade, exploitation, and fraud."⁵⁵

A. The PBSA

The PBSA, enacted in January of 1997, establishes minimum health, safety, and ethical guidelines for the boxing industry.⁵⁶ The Act is described by its sponsors as a "modest" and "practical"⁵⁷ step, intended to protect the health and welfare of professional boxers and to ensure that boxing events in the United States are properly supervised.⁵⁸

Like many prior attempts to cure boxing's ills, a specific event provided the impetus for the enactment of the PBSA. On February 8, 1992, IBF middleweight champion James Toney stepped into the ring with a virtually unknown challenger Dave Tiberi.⁵⁹ Toney was the clear favorite, but Tiberi fought an excellent match and spectators were certain that Tiberi had upset the champion.⁶⁰ Nevertheless, the judges awarded Toney

the victory in a split decision—a decision that one commentator described as "the most disgusting decision" he had ever seen.⁶¹ Following the match, Senator Bill Roth (R-DE)⁶² asked the minority staff of the Permanent Subcommittee on Investigations to begin an inquiry into the regulation of professional boxing.⁶³ The Subcommittee found that: (1) private sanctioning organizations operated with practically no oversight or accountability; (2) the current system of state regulation could be "manipulated so as to create

harm to fighters;" and (3) credible evidence suggested that organized crime exerted its influence on professional boxing.⁶⁴

In response to these findings, Sen. Roth and Rep. Richardson introduced a bill called the Professional Boxing Corporation Act,⁶⁵ which would have created the Professional Boxing Corporation ("PBC"), a self-funded government corporation organized to set minimum standards for the regulation of professional boxing.⁶⁶ The PBC would oversee all private sanctioning bodies and establish a national registry system to identify and scrutinize professional boxers, managers, physicians, and promoters.⁶⁷ The bill received a great deal of criticism, however, because of federalism concerns and it ultimately died on the vine.⁶⁸

HOWEVER

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In 1994, McCain proposed the PBSA. The bill was designed to increase federal supervision of the boxing industry but allow state commissions to retain primary enforcement power.⁶⁹ Although the bill received tremendous backing in Congress, no action was taken during that year.⁷⁰ When McCain reintroduced the bill the following year, both houses passed it, and President Clinton signed it into law in 1997.

B. The Ali Act

The infamous Tyson-Holyfield ear-biting "incident" and the loophole in the PBSA it uncovered led to the introduction of the Ali Act three years later.⁷¹ In a widely publicized heavyweight bout, Mike Tyson was disqualified from the match in the third round for repeatedly biting Evander Holyfield's ear.⁷² Consequently, the Nevada State Athletic Commission (the "Nevada Commission") revoked Tyson's boxing license and ordered him to pay a three million dollar fine.⁷³ Tyson could reapply for his license one year later, at which time Nevada officials would determine whether he was fit to reenter to the ring.⁷⁴

After a year had passed, Tyson initiated the application process for a New Jersey license instead of reapplying in Nevada.⁷⁵ Ultimately, however, Tyson declined

for behavior in the ring rather than behavior outside the ring.⁷⁹ This led many to conclude that a legislative mechanism was needed to prevent the sort of commission shopping that Tyson's efforts showed was possible under the PBSA.⁸⁰

This incident brought painfully to the fore the need for interstate boxing regulation. One commentator remarked that boxing is "a professional sport where rules change as the participants cross state lines...where contracts valid in one state are invalid in another."⁸¹ In May 2000, Congress passed the Muhammad Ali Boxing Reform Act in order "[t]o reform unfair and anticompetitive practices in the boxing industry."⁸² In sum, the Ali Act operates to prevent exploitive, oppressive, and unethical business practices, assist state boxing commissions to effectively oversee the sport, and to promote honesty and integrity in the boxing industry.⁸³

In section two of the Act, Congress announced six findings to support the enactment of the legislation, which correspond with the sport's most significant deficiencies.⁸⁴ First, unlike other professional sports industries, boxing operates without any private sector association, league, or centralized organization. This has led to "repeated occurrences of disreputable and

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coercive business practices in the boxing industry, to the detriment of professional boxers nationwide."⁸⁵ Second, state officials are the proper regulators of professional boxing events and must protect boxers' welfare and serve the public interest by closely supervising boxing activity in their jurisdictions.⁸⁶ However, state boxing commissions "do not currently receive adequate information to determine whether boxers competing in their jurisdiction are being

to proceed with licensure in New Jersey and reapplied in Nevada. And the Nevada Commission reinstated him despite a psychological exam that revealed him to be "depressed" and lacking "self-esteem."⁷⁶

Though the Nevada Commission ultimately had the opportunity to resolve the issues involved in Tyson's suspension, legislators were troubled that Tyson had considered the option of avoiding the Nevada Commission judgment entirely by simply applying in another state.⁷⁷ The PBSA did not provide any authority to bar Tyson's participation under the commission of any another state while the Nevada Commission's suspension was in effect⁷⁸ because Tyson's suspension was

subjected to contract terms and business practices which may violate state regulations, or are onerous and confiscatory."⁸⁷ Third, promoters "who engage in illegal, coercive, or unethical business practices can take advantage of the lack of equitable business standards in the sport by holding boxing events in states with weaker regulatory oversight."⁸⁸ Fourth, boxing's sanctioning organizations "have not established credible and objective criteria to rate professional boxers."⁸⁹ Their ratings are subject to manipulation, have deprived boxers of fair chances for advancement, and have undermined public confidence in the integrity

of the sport.⁹⁰ Fifth, promoters' and sanctioning bodies' restrictive and anticompetitive business practices have interfered with open competition in the professional boxing industry to the detriment of athletes and the viewing public.⁹¹ Sixth, "national contracting reforms" are necessary to protect professional boxers and prevent "exploitive business practices, and to require enhanced financial disclosures to State athletic commissions to improve the public oversight of the sport."⁹²

C. The Regulatory Universe Created by the PBSA and the Ali Act

The provisions of the PBSA and the Ali Act appear together in the Federal Code, and together create a federal regulatory scheme to solve boxing's problems. And if properly enforced, the statutes should be effective in curing many of the abuses that have developed in the boxing industry over its long history. The legislation represents a major step toward protecting boxers (as well boxing enthusiasts) from boxing's ills. However, the scope of the legislation is not very broad. In fact, the funding provided in the Act is limited. As McCain has indicated, the legislation "requires no public funding, establishes no new bureaucracy, and casts no new burdens on state commissioners."⁹³ A close look at central statutory provisions makes it clear that the government did, however, intend a wholesale reform of boxing in the United States.

First, these laws strengthen the power of state commissions by providing that every professional boxing match must be "subject to the most recent version of the recommended regulatory guidelines certified and published by the Association of Boxing Commissions (the "ABC") as well as any additional, more stringent, professional boxing regulations and requirements" of the state where the match is held.⁹⁴ A promoter is not permitted to hold a match in a state with no governing commission to supervise it unless the match is supervised by a national association of boxing commissions to which at least a majority of states belong.⁹⁵ The commission supervision requirement mandates that all matches abide by a set of unified national guidelines, under state enforcement.

The statute takes significant measures to protect boxers' safety—both to ensure that boxers are fit to fight and that proper medical care is available at the venues where matches are held.⁹⁶ According to the statute, a boxer must undergo a prefight physical examina-

tion conducted by a physician,⁹⁷ and file the result of the exam with the supervising commission.⁹⁸ Ambulance or medical personnel with appropriate equipment and a physician must also be present at ringside at all times.⁹⁹ Furthermore, boxers must have health insurance for injuries sustained during bouts.¹⁰⁰

Each boxer must register with the appropriate boxing commission,¹⁰¹ which should issue the boxer an identification card bearing his personal identification number.¹⁰² When issuing the card, a boxing commission official should explain relevant health and safety risks associated with boxing, including the risk and frequency of brain injury, and advise boxers to periodically undergo medical testing designed to detect brain injuries.¹⁰³ The boxer may not fight without presenting the identification card to the appropriate boxing commission by the time of the pre-fight weigh-in.¹⁰⁴

Each boxing commission must establish official procedures to ensure that boxers are safe when fighting and that the fights themselves are clean. First, it must set guidelines to evaluate the professional records and physician's certification of each boxer in the state, denying authorization to participate in fights where appropriate.¹⁰⁵ Second, it must establish a procedure to ensure that no boxer competes in that state while suspended by another state's commission.¹⁰⁶ This requirement protects against the kind of forum-shopping Tyson engaged in following his suspension in the Holyfield bout. Additionally, the commission must establish procedures to review or revoke the suspension of a boxer, promoter, or other boxing service provider in all situations, including when a boxer suspended for medical reasons demonstrates that his condition has improved or when any suspension was not, or is no longer, justified on the facts.¹⁰⁷

These laws also go beyond simply protecting fighters' physical safety. They also address the coercive bargaining situations under which most fighters enter contracts with promoters and broadcasters. These provisions affect all contracts entered into after May 26, 2000.¹⁰⁸ The scheme also mandate that "no boxing service provider may require a boxer to grant any future promotional rights as a requirement of competing in a professional boxing match that is a mandatory bout under the rules of the sanctioning organization."¹⁰⁹

Sanctioning organizations must adopt and follow objective criteria to rate professional boxers. It is the sole responsibility of the ABC to establish these

criteria.¹¹⁰ All sanctioning organizations must publicly disclose their bylaws, ratings criteria, and roster of officials who vote on the ratings.¹¹¹ If a sanctioning organization changes a boxer's rating, it must inform the boxer in writing of the reasons for the change, and provide an appeals process.¹¹²

The federal scheme also includes disclosure provisions to curb corruption and the appearance of corruption. For instance, a sanctioning organization may not receive compensation in connection with a boxing match until it provides the regulating boxing commission with specific disclosures, including an assessment of all costs the organization will assess against any boxer and payments and benefits the organization will receive in connection with the event from the promoter, event host, or any other source.¹¹³

The scheme requires similar disclosures by promoters. A promoter may not receive any compensation until it provides the responsible boxing commission with (1) a copy of the promotion agreement; (2) a statement assuring that there are no other agreements¹¹⁴ between the promoter and the boxer with respect to the match; (3) a statement of all fees and expenses due to the promoter from the boxer, including training expenses and any portion of the boxer's purse that the promoter will receive; (4) a statement of all payments and benefits the promoter is providing to any sanctioning organization affiliated with the event; and (5) any reduction in a boxer's purse contrary to a previous agreement.¹¹⁵ Additionally, the promoter must disclose to the boxer all amounts the promoter will receive in connection with the match, including payments that the promoter has contracted to receive from the match, all event fees and expenses that will be assessed by or through the promoter on the boxer, and any reduction in a boxer's purse contrary to a previous agreement between the promoter and the boxer.¹¹⁶

Judges and referees are also bound by disclosure requirements. A judge or referee may not receive any compensation in connection with a boxing match without providing the commission a statement of all consideration, including reimbursement for expenses that he or she will receive from any source for participation in the match.¹¹⁷ Furthermore, judges and referees must be certified and approved by the boxing commission responsible for regulating the match in the state where the match is held.¹¹⁸

The scheme also provides measures to control cer-

tain types of conflicts of interest that in the past have tarnished boxing's image. First, no commission member, or state or federal boxing administrator, may contract with or receive any compensation from any individual "who sanctions, arranges, or promotes professional boxing matches or who otherwise has a financial interest in an active boxer currently registered with a boxing registry."¹¹⁹ Second, the Act establishes a "firewall" between promoters and managers of boxers involved in a boxing match of ten rounds or more.¹²⁰ That is, a promoter may not have any financial interest in the management of a boxer, nor may a manager have any financial interest in the promotion of a boxer except as provided in the manager's contract with the boxer.¹²¹ A boxer may, however, act as his own promoter or manager.¹²² Third, no sanctioning organization official may receive any compensation, gift, or benefit from a promoter, boxer, or manager other than (1) payment of the sanctioning organization's published fee; (2) any reasonable additional related expenses for sanctioning a professional boxing match; or (3) a gift or benefit of *de minimis* value.¹²³ All payments must be reported to the appropriate boxing commission.¹²⁴

The scheme's many provisions are enforceable by the United States Attorney General,¹²⁵ the chief law enforcement officer of any state, as well as any boxer harmed under the Act.¹²⁶ A manager, promoter, or matchmaker who "knowingly violates, or coerces or causes any other person to violate any provision of this Act" may be found criminally liable.¹²⁷ Knowing violations of any anti-exploitation, sanctioning, disclosure,¹²⁸ or conflicts of interest provisions¹²⁹ by a boxer may also result in criminal penalties.¹³⁰

The chief law enforcement officer of any state may bring a state civil action against any person the officer believes to be violating the requirements of the federal scheme. The Attorney General may enjoin any professional boxing match, levy fines or provide for appropriate restitution, or seek to obtain any other appropriate relief.¹³¹ A boxer suffering economic injury as a result of a statutory violation may bring an action for damages, court costs, and reasonable attorneys' fees.¹³²

Finally, the law provides that states may adopt or provide more stringent legislation than is required by this scheme.¹³³ Nothing in the Act prohibits states from passing supplemental penalties, including criminal, civil, or administrative fines.¹³⁴ However, any additional legislation by the states must be consistent with the federal scheme.¹³⁵

IV. Regulation of Boxing by the States

Regulations imposed on professional boxing by state governments is particularly significant because the PBSA and the Ali Act require boxing commissions of the states in which fights take place to oversee every fight. As mentioned above, state commissions must establish and enforce health and safety standards and set guidelines for selecting judges in non-championship bouts. So far, forty-four states have official boxing commissions, each with its own rules and procedures.¹³⁶ In reaction to the recent federal legislation, state commissions have begun to work together with the ABC to craft unified national rules to promote interstate consistency in some aspects of boxing regulation.¹³⁷

The adequacy of state statutory schemes is crucial; it is important that there are not inadvertent gaps in state law.¹³⁸ This is because courts have been traditionally reluctant to find liability in cases where boxers are hurt during a fight in a state where boxing is subject to state regulation. This reluctance is no doubt premised on the notion that if the state regulatory regime is silent on this issue, then the legislators meant to place the risk of injury squarely with the boxers themselves.¹³⁹ The three most active boxing states, New York, New Jersey, and Nevada,¹⁴⁰ have comprehensive schemes that effectively regulate professional boxing and protect the fighters.¹⁴¹ However, a wide disparity exists between these states' efforts and those of states with less connection to professional boxing.

A. The NAAG Boxing Task Force

Efforts by state Attorneys General may significantly improve the conditions and legitimacy of boxing in the United States. Following the passage of the Ali Act, the Federal Trade Commission issued a statement to the effect that because boxing is regulated at the state level by independent boxing commissions, state Attorneys General could play a pivotal role in "investigating and perhaps curbing potential abuse in this industry."¹⁴² The NAAG agreed to form a task force comprised of the major "boxing states,"¹⁴³ with New York Attorney General Eliot Spitzer as its chair.¹⁴⁴ The task force was specifically instructed to examine the boxing industry, identify the existing problems, and propose recommendations to reform the industry.¹⁴⁵ This cooperation by the Attorneys General may result in some degree of national boxing regulation, as each of the participating Attorneys General is now urging her state's boxing

commission to adopt the report's recommendations.¹⁴⁶ The recommendations would become law in the states where they were adopted.

Spitzer hopes that the NAAG task force will help this ailing sport. In his view

[t]he sport of boxing is in serious need of reform. One of its chief problems is the dubious alliance between promoters and sanctioning organizations. This relationship regularly produces events that undermine the credibility of the sport and jeopardize the health and safety of fighters."¹⁴⁷ Spitzer and other commentators believe action at the state and federal level can, "return to boxing the integrity and credibility that its been lacking for far too long."¹⁴⁸

B. NAAG Task Force Recommendations for Boxing Regulation

In 1999, the NAAG task force held hearings to investigate the concerns of boxers, managers, judges, doctors, referees, promoters, sanctioning organizations, financial advisors, athletic commission members, and television officials.¹⁴⁹ The task force also appointed a Boxing Advisory Committee (the "BAC") composed of various boxing industry experts¹⁵⁰ to advise the group and help "fine tune" its recommendations.¹⁵¹ In May 2000, the task force released its findings and recommendations to the public and to the state boxing commissions. It made seven significant findings, most of which mirror earlier federal findings. For instance, the task force found that boxing lacks a centralized association, union of athletes, or collective body of promotion contractors. It also found that boxers must frequently accept unfavorable contracts and may be ranked on the basis of unsound or corrupt factors. Additionally, it found that there is insufficient medical research dedicated to identifying why boxers are more susceptible to brain injury.¹⁵²

In response to these problems, the task force issued the following recommendations with confidence that "integrity can be returned to the sport of boxing by curbing anti-competitive and fraudulent business practices, and protecting the health and safety of boxers."¹⁵³ The task force, unlike many commentators and legislators who have sought to redress boxing's problems, has made suggestions to improve professional boxing.

These recommendations, if adopted by the respective states, will provide boxers expansive protections against corruption, manipulation, and unsafe boxing conditions.

First, the task force concluded that each state commission should retain exclusive control over the appointment of all referees and judges.¹⁵⁴ To ensure quality, the ABC should develop a standardized testing program through which judges and referees should pass before receiving a license.¹⁵⁵ The task force recommended that approved judges and referees should have prior experience at the amateur level or in other states.¹⁵⁶ When selecting judges and referees¹⁵⁷ the commission may weigh any additional training as a relevant factor.¹⁵⁸ Officers and directors of sanctioning organizations should generally be disqualified to act as referees or judges in bouts sanctioned by their organization. Likewise, approved judges and referees should be discouraged from joining a sanctioning organization.¹⁵⁹

The task force recommended that in order to receive a license from the state boxing commission to be a ringside physician, a physician must be in good standing and licensed in the appropriate state.¹⁶⁰ Instruction in ringside medicine should be mandatory for all ringside physicians.¹⁶¹ The task force recommended that promoters and managers conduct their activities in a "professional and responsible manner."¹⁶² Accordingly, each must be licensed.¹⁶³ Broadcast companies that promote matches or pay purses should also be subject to similar licensing requirements.¹⁶⁴

In an effort to promote interstate uniformity, the task force recommended that state commissions pass uniform rules and regulations to "provide a foundation for the integrity all have come to expect and demand of other professional sports." Each commission should make appropriate efforts to ensure that a proposed match will be competitive. This requires that commissions rely on accurate statistical information when identifying participants' relative abilities—including the participant's age, experience, medical condition, and his amateur and professional records. Furthermore, the task force recommended that promoters should be required to file fight contracts (containing the boxer's weight) with the commission at least seven days before

any scheduled event. There should be two weigh-ins—the first seven days before the bout, the second, "the pre-bout weigh-in," less than twenty-four hours before the fight's opening bell. State commissions should set strict limits restricting drastic weight changes between the initial and pre-bout weigh-ins. Additionally, the task force recommended uniform standards for the boxing ring, boxing equipment, and bout rules to promote safety.

Addressing a concern for boxers' financial instability, the task force recommended that Congress consider legislation creating a "mandatory qualified boxer pension plan sufficiently flexible to accommodate the dynamic nature of the sport."¹⁶⁵ More immediately, however, the task force recommended that a charitable organization be established to provide financial assistance to needy boxers in the United States, such as the Retired Boxer Charitable Trust suggested by the

ABC.¹⁶⁶ The task force also suggested the creation of federal legislation requiring boxing industry members—promoters, broadcasters, and sanctioning organizations—to contribute to the trust. Furthermore, the task force recommended that a "single page boxer registry" be created and maintained by state boxing commissions. The registry would be used to centralize all information regarding each licensed active or retired boxer (e.g., medical,¹⁶⁷ professional, trust information). Such an effort would facilitate information retrieval and reduce opportunities for corruption and falsification.

All commissions should implement a "medical risk-assessment classification" system to protect boxers' health. Such a system should be able to identify high-risk medical situations, and state commissions should be required to order a temporary suspension while the boxer undergoes appropriate medical tests.¹⁶⁸ Test results should be published in the single page boxer registry. The fighter should have access to this data, and any released data must be held in strict confidentiality.

Recognizing the Ali Act's concern about blatant contractual exploitation of professional boxers,¹⁶⁹ the task force has also drawn up both a model bout contract and a model management contract. Both require

In an effort to promote interstate uniformity, the task force recommended that state commissions pass uniform rules and regulations to "provide a foundation for the integrity all have come to expect and demand of other professional sports." Each commission should make appropriate efforts to ensure that a proposed match will be competitive.

financial disclosure, specify the rights and responsibilities of all parties, including compensation,¹⁷⁰ licensure, and remedies available in case of lack of good faith, collusion, or breach of contract. In addition, the task force recommended that state commissions empower boxers further by adopting a model Professional Boxers' Bill of Rights.¹⁷¹

After a widely criticized decision in the 1999 heavyweight championship fight between Lennox Lewis and Evander Holyfield,¹⁷² the task force suggested that state commissions evaluate alternative scoring systems to "maximize fair and accurate results."¹⁷³ Under the traditional system, boxing matches are almost universally scored by three judges using the "ten-point must system," in which the winner of a round¹⁷⁴ receives ten points, and the loser nine or less.¹⁷⁵ At the end of each round, each judge writes his or her score on a slip and gives it to the referee, who turns it in to the person keeping a master score sheet. At the end of the fight, the points of each judge are tallied and the winner is the boxer who won on a majority of the score cards.

Although the task force did not specifically recommend any particular scoring system, it has tested consensus scoring. Consensus scoring is an attractive method because it requires that all of the judges pool their scores and agree on a consensus score on a "round-by-round basis."¹⁷⁶ Though consensus scoring cannot completely guard against scoring corruption, it helps ensure that the better boxer will win, as judges can manipulate a fight's outcome only by a "wholesale miscalling"¹⁷⁷ or an "active collaboration."¹⁷⁸ Neither consensus scoring, nor any other particular scoring system, is a replacement for "setting standards, training and evaluating judges, or for assuring that judges are nominated and selected by people who do not have a financial stake in the outcome of the fight."¹⁷⁹

The task force also recommended that a private organization of boxing writers, broadcasters, and historians develop a new ranking system.¹⁸⁰ Current sanctioning organizations "have failed to establish objective and consistent criteria" and "their rankings are highly suspect, resulting in mismatches, and an unhealthy control over bouts, championships, and fighters' careers."¹⁸¹ A trustworthy poll maintained by industry insiders would pressure sanctioning organizers to accordingly increase the fidelity of their rankings.¹⁸² According to the task force, poll officials would

establish criteria to dismiss any poll participant who lack integrity.¹⁸³ Current sanctioning organization officials and others with conflicting interests would be prohibited from participating in polling.¹⁸⁴

THE *history of boxing, in many respects, has been a history replete with corruption. However, it seems that the sport, with the help of the government, is beginning to chart a new course. The systemic ills of the sport are slowly being remedied.*

V. Do Further Steps Remain?

Earlier this year, members of the professional boxing community evaluated the current regulations affecting boxing and debated possible additional reforms to be pursued before the Senate Committee on Commerce, Science, and Transportation.¹⁸⁵ Participants generally opined that current legislation has made dramatic strides in improving industry failures, but that additional safeguards are necessary. Industry officials praised the new regulations requiring anti-coercive provisions and prohibitions against manager-promoter conflicts of interest,¹⁸⁶ published criteria for ratings and ratings changes,¹⁸⁷ identification cards bearing the six digit number assigned to each boxer,¹⁸⁸ the national suspension list,¹⁸⁹ and mandatory disclosure provisions.¹⁹⁰

They urged, however, that boxing is not yet cured—the industry is still fighting weak and inconsistent enforcement and residual corruption. Participants noted more specific faults in the current system, including that states do not have the resources or the will to investigate wrongdoing,¹⁹¹ and managers and promoters are still finding ways to manipulate contractual relations.¹⁹² One commentator advocated additional federal and state cooperation in the regulation of professional boxing, and argued that a confidential "central repository where fighters can send their medical examinations and tests" would save boxers from duplicating medical tests each time they apply for a license in a different state and would allow information to be immediately accessed by state officials.¹⁹³ Commentators also pushed for more pervasive uniform rules to govern fights, so that fighters and referees could concentrate on the fight rather than "trying to remember

things like whether this particular state uses the 'three knockdown rule' or not."¹⁹⁴

ABC President Greg Sirb argued for an alternative to the NAAG system; in his view the current system is not sufficiently effective to promote interstate uniformity.¹⁹⁵ Other commentators expressly lobbied for a "national commission."¹⁹⁶ Additionally, Sirb argued for one universally accepted form, complete with a mandatory arbitration agreement,¹⁹⁷ for bout, management, and promotion contracts.¹⁹⁸ Sirb also argued that there should be more uniformity in regulating sanctioning organizations and medical requirements.¹⁹⁹

Boxers, themselves, also weighed in on the state of professional boxing. Roy Jones Jr.²⁰⁰ commended the current legislation as effective, but argued that broadcasters and promoters still exert too much control over the sport. He argued

[e]very sport has a governing body. We have the television networks and the promoters governing our sport. This is the problem...I don't know how to do this, but I hope this committee will study the problem and use its influence to try to get a legitimate boxing ruling body that will control the sport. What we have today is a joke!²⁰¹

AND *all of the recommendations currently in force and envisioned by the NAAG are appropriately tailored to preserving the spirit of boxing while exorcising its demons. They are aimed at eradicating the entrenched corrupt practices as well as ensuring the safety of the sports participants.*

VI. Enough Already: Together the NAAG Task Force's Recommendations and Federal Regulations Should Solve Boxing's Problems

The history of boxing, in many respects, has been a history replete with corruption. However, it seems that the sport, with the help of the government, is beginning to chart a new course. The systemic ills of the sport are slowly being remedied. Boxing enthusiasts and insiders may never be completely satisfied with professional boxing. After all, boxing is an inherently violent sport and can never be made totally "safe." A sad testament of that reality is the recent death

of Beethavean Scotland.²⁰² All the new regulations designed to save boxing and protect its participants didn't prevent Scotland's death in the ring this year.²⁰³ When Scotland died there were medical personnel at the facility to help him, he had not exhibited particular medical predispositions, and the rules of the match were properly officiated by an unbiased and competent referee.²⁰⁴

History has shown, however, that without appropriate legal safeguards in place, Scotland's colleagues would not have been guaranteed the same protections. The very nature of boxing—the massive venues, rich purses, and necessarily infrequent championship matches—make the sport particularly susceptible to corruption by promoters and officials. Although commentators remain critical of the NAAG scheme, it seems to be the best option to promote uniformity among state boxing commissions without violating our notions of federalism. Commentators urge that a national commission would be the best body to promote uniform regulation. Prior legislative efforts to establish a national commission were unable to proceed through Congress because certain legislators were concerned that a federal commission would infringe upon states' prerogatives to regulate the sport as they see fit.²⁰⁵

Leadership of the NAAG Task Force and the ABC operating against the backdrop of the PBSA and the Ali Act may well be the best current alternative to a national boxing commission, private or public. The ABC and state Attorneys General have demonstrated a true commitment to improving boxing conditions and to promoting uniformity. The many provisions they have recommended signal significant strides toward protecting boxers' health and curbing promoter and manager exploitation. The provisions will also impact sanctioning organizations, primarily through disclosure requirements. The scheme represents a form of unique federal and state cooperation. Both lawmakers and task force members made efforts to assess the true regulatory needs of the sport by turning to industry insiders from all segments of boxing—athletes, promoters, broadcasters, managers, medical providers, journalists, as well as business persons. Their inclusive effort add particular legitimacy to their recommendations. Furthermore, during the 2001 Senate hearings a cross section of influential industry representatives declared

overwhelmingly that the current legislation had effectively improved boxing.²⁰⁶ Boxing, it seemed to them, is now less corrupt. They also concluded that professional boxing has been making a long overdue effort to adopt pervasive and unified measures to protect boxers' safety.

Of course, all of boxing's problems have not been solved.²⁰⁷ Enforcement has not yet been unified and there are still gaps in the legislation and some states have not empanelled boxing commissions. However, an aggressive coalition of state Attorneys General, under the leadership of the major boxing states—Nevada, New Jersey and New York—seems committed to implementing appropriate boxing safeguards. The PBSA and Ali Act form a sufficient foundation on which the NAAG can build to further ensure interstate uniformity in the regulation of boxing. Individuals in the boxing industry are also pushing for a new wave of specific provisions to facilitate additional changes. They want to adopt form contracts containing binding arbitration clauses and medical requirements mandating particular tests, to be given at a particular time, to be reported in a particular way. Specific concerns can be addressed in the current scheme, as well, by allowing the ABC to issue recommendations.

Though some commentators urge that privatization may be a sensible alternative to the current structure, boxing does not lend itself to a single private league structure. There are many different classes and each state controls its own "league." Further, the "league" aspects of other professional sports do not translate to boxing. One immediate problem is that there are very

few superstars. For every Oscar de la Hoya, there are numerous lesser-known boxers who fail to draw the attention of spectators. Because of the variation in boxing at different levels and weight classes, a one league promotional scheme would probably be unsuccessful. Boxing cannot hold elimination tournaments. That means that there can be no World Series or Super Bowl. Repeated bouts would pose severe risks to the boxers' safety.

The current legislative scheme, while it may be imperfect, is one better suited for redressing the problems that have long plagued professional boxing than a wholly private scheme would be. The current scheme, augmented by adoption by the states of the recommendations of the NAAG task force, recognizes the special place boxing holds in our culture. The Mike Tysons and Don Kings of the professional boxing world have indeed tarnished boxing's image. But names like Joe Lewis, "Sugar" Ray Leonard, Thomas "Hitman" Hearns, "Marvelous" Marvin Hagler, and Muhammad Ali hold a special place in the collective American heart. And all of the recommendations currently in force and envisioned by the NAAG are appropriately tailored to preserving the spirit of boxing while exorcising its demons. They are aimed at eradicating the entrenched corrupt practices as well as ensuring the safety of the sports participants. **JELD**

J.D. Candidate, Vanderbilt University Law School, 2002; B.A. Washington University, 1998. Thanks are due to Dora Basu, my parents, my Note editors, and Professor Robert Covington who provided me invaluable support throughout the writing process.

1 Dave Anderson, *Sports of the Times, Boxing's Unique Nobleman*, N.Y. TIMES, March 9, 1994, at B11. Ninety-four year-old Ray Arcel died in 1994 as boxing's "resident oracle." *Id.* His was the only voice with the experience and acumen to really compare "Muhammad Ali to Joe Louis to Jack Dempsey, or Roberto Duran to Sugar Ray Robinson to Benny Leonard." *Id.*

2 *Id.*

3 *Id.*

4 *Id.*

5 *Id.*

6 Professional Boxing Safety Act of 1996, 15 U.S.C. §§ 6301-6313 (Supp. V 1999).

7 Muhammad Ali Boxing Reform Act, Pub. L. No. 106-210 (2000), 114 Stat. 312.

8 Steve Farhood, *Boxing Insiders Have Their Say*, THE RING, May 1993, at 27.

9 See Ron Borges, *Arum is Banking on Hispanic Market*, BOSTON GLOBE, Sept. 14, 1997, at C4. The strongest fan base for professional boxing is the Mexican-American community. *Id.* See also Barry Horn, *Keeping up the Fight, Mexican and Mexican-American Fighters, Fans are the Lifeblood of U.S. Boxing*, DALLAS MORNING NEWS, Sept. 13, 1998, at 20B.

10 See Scott Baglio, Note, *The Muhammad Ali Boxing Reform Act: The First Jab at Establishing Credibility in Professional Boxing*, 68 FORDHAM L. REV. 2257, 2260 (2000).

11 *Id.*, *Hearings on Business Practices in Boxing Before the Sen. Comm. on Commerce, Science & Transp.*, 107th Cong. 53 (2001) (testimony of Gregory P. Sirb, President, Ass'n of Boxing Comm'rs).

- 12 Baglio, *supra* note 10, at 2260; *National Association of Attorneys General Boxing Task Force, News Release of May 2000*, at http://www.oag.state.ny.us/press/reports/boxing_task_force/report.html (last visited Nov. 12, 2001) [hereinafter *NAAG News Release*]. There is evidence that among these "sharks" are a substantial number of known criminals and other "disreputable persons." *Id.* A recent survey conducted by THE RING magazine revealed that 49% of boxing industry insiders believe that fixed fights exist. Farhood, *supra* note 8, at 27. Furthermore, a 1980 undercover FBI investigation focused on then-assistant boxing commissioner of New Jersey, Bob Lee. Jonathan S. McElroy, *Current and Proposed Federal Regulation of Professional Boxing*, 9 SETON HALL J. SPORT L. 463, 481-83 (1999). Lee admitted accepting money and gifts from promoters Don King, Butch Lewis, Dan Duva, and Bob Arum while he attempted to gain higher posts in various sanctioning organizations. *Id.* When required to appear before a federal grand jury, Lee invoked his Fifth Amendment privilege against self-incrimination. *Id.* Lee is currently president of the powerful International Boxing Federation. Don King has also been linked to organized crime families. *Id.* Evidence showed that four organized crime families arranged a meeting with King and that King agreed to co-promote an event with the crime families. *Id.*
- 13 NAAG News Release, *supra* note 12.
- 14 *Id.*
- 15 Baglio, *supra* note 10, at 2261.
- 16 *Id.* The revenue for a boxing match generally comes from three sources: (1) the fight's live gate, or profits from admission to attend the actual match; (2) the sale of domestic and foreign television rights to air the fight; and (3) the sale of advertising rights, videocassettes, and fight programs. *Id.*
- 17 *Id.*
- 18 NAAG News Release, *supra* note 12.
- 19 *Id.*
- 20 *Id.*
- 21 Baglio, *supra* note 10, at 2262.
- 22 McElroy, *supra* note 12, at 488.
- 23 *Id.*
- 24 *Id.* at 488-89. Moreover, Mike Tyson alleged that King adopted other improper methods to recover from the boxer. *Id.* King allegedly reduced Tyson's share of profits and made "improper deductions." *Id.* Former King financial advisor, Joseph J. Maffia, corroborated these claims, alleging that to get around state law restrictions on the promoter's take, King took a third of Tyson's purse as his promoter's fee, then deducted \$100,000 for his wife, who was named as consultant, \$100,000 for each of his two sons, as consultants, and \$52,000 for his daughter, who was named as president of the Mike Tyson Fan Club. *Id.*
- 25 NAAG News Release, *supra* note 12.
- 26 *Id.*
- 27 *Id.*
- 28 *Id.*
- 29 *Id.*
- 30 *Id.*
- 31 Baglio, *supra* note 10, at 2263. The three major sanctioning bodies are the International Boxing Federation ("IBF"), the World Boxing Association ("WBO"), and the World Boxing Council ("WBC").
- 32 Baglio, *supra* note 10 at 2262-63.
- 33 Baglio, *supra* note 10, at 2294, n.46. There are currently seventeen weight classes ranging from 105 lbs. to unlimited heavyweights. The weight classification are as follow: strawweight – 105 lbs.; junior flyweight – 108 lbs.; flyweight – 112 lbs.; junior bantamweight – 115 lbs.; bantamweight – 118 lbs.; junior featherweight – 122 lbs.; featherweight – 126 lbs.; junior lightweight – 130 lbs.; lightweight – 135 lbs.; junior welterweight – 140 lbs.; welterweight – 147 lbs.; junior middleweight – 154 lbs.; middleweight – 160 lbs.; super middleweight – 168 lbs.; light heavyweight – 175 lbs.; cruiserweight – 190 lbs.; and heavyweight – unlimited. See *The Ring Rankings*, THE RING, August 1999, at 14-15.
- 34 Baglio, *supra* note 6, at 2261.
- 35 *Id.* at 2263 (citing *Muhammad Ali Boxing Reform Act: Hearings on S. 2238 Before the Sen. Comm. on Commerce, Science, & Transp.*, 105th Cong. 34 (1998) (statement of Walter R. Stone, General Counsel of the IBF)).
- 36 NAAG News Release, *supra* note 12.
- 37 *Id.*
- 38 A more recent example was the January 9, 1999 fight between Roy Jones Jr., a world champion in three weight divisions, and Richard Frazier, a 39-year-old, full-time New York City police officer. Frazier suffered a technical knockout in the second round, and luckily escaped without serious injury.
- 39 NAAG News Release, *supra* note 12.
- 40 *Id.*
- 41 Tim Graham, *New WBO division: Dead Weight*, ESPN Internet Ventures, at <http://espn.go.com/boxing/columns/graham/1097210.html> (Feb. 20, 2001). When the WBO finally realized that its No. 5 boxer, Darrin Morris, had died of HIV-related meningitis at age 32, its president Francisco Valcarcel explained, "[i]t is sometimes hard to get all the information on boxers, and we obviously missed the fact that Darrin was dead. It is regrettable." *Id.*
- 42 *Id.*

- 43 *Id.*
- 44 McElroy, *supra* note 12, at 470 (citing S. REP. NO. 103-408, at 3 (1994)).
- 45 *Id.*
- 46 *Id.* (citing S. REP. NO. 103-408, at 3, n.4 (1994)). See also Lawrence Bershad & Richard J. Ensor, *Boxing in the United States: Reform, Abolition or Federal Control? A New Jersey Case Study*, 19 SETON HALL L. REV. 865, 900 (1989).
- 47 *Id.* The bill was proposed by Sen. Estes Kefauver, who was very interested in regulating boxing; after his death, there was little Congressional interest in regulating the sport. *Id.*
- 48 *Id.* at 471. See also THOMAS HAUSER, *THE BLACK LIGHTS: INSIDE THE WORLD OF PROFESSIONAL BOXING* 91-92 (1986). For instance, Pat Dolan was found to have fabricated four wins in 1975. McElroy, *supra* note 12, at 470. Similarly, in 1976 Ike Fluellen purportedly had two wins in Mexico, was ranked third in tournament rankings and was given honorable mention as the most improved boxer. *Id.* In reality, Fluellen had not fought a single round that year. *Id.* U.S. Boxing Championships was a venture entered into by the American Broadcasting Company and Don King Productions. *Id.*
- 49 *Id.* The safety measures included an automatic thirty-day registration suspension after a knockout or technical knockout. *Id.*
- 50 *Id.*
- 51 *Id.* The first bill was brought by Rep. James Florio. *Id.* The second bill, brought by Rep. Bill Richardson differed only in the composition of the commission. *Id.*
- 52 *Id.* at 471-72. The third bill was introduced by Rep. Pat Williams. *Id.*
- 53 *Id.* at 472. Richardson brought the bill in 1985, seeking to use a non-profit entity to set minimum standards for boxing. *Id.* Rep. Byron Dorgan introduced the Federal Boxer Protection Act in 1987, which was similar to the 1983 and 1985 bills. *Id.*
- 54 Sen. John McCain is Chairman of the Committee on Commerce, Science, and Transportation.
- 55 Press Release, *Statement of Senator John McCain: National Association of Attorney General Boxing Task Force Hearing*, Office of John McCain, at <http://www.senate.gov/~mccain/boxag.htm> (Jan. 19, 1999) [hereinafter *McCain Press Release*].
- 56 15 U.S.C. § 6301 (Supp.V 1999).
- 57 Senators McCain and Richard Bryan have described the Act as "modest but practical."
- 58 NAAG News Release, *supra* note 12.
- 59 McElroy, *supra* note 12, at 472. See also Joseph C. Tintle, *Why James Toney Almost Lost to an Off-The-Board Underdog*, THE RING, June 1992, at 44.
- 60 *Id.* See also Kevin M. Walsh, *Boxing: Regulating a Health Hazard*, 11 J. CONTEMP. HEALTH L. & POL'Y 63, 78 (1994).
- 61 McElroy, *supra* note 12, at 472; Walsh, *supra* note 60, at 78.
- 62 Tibiri's home state was Delaware.
- 63 Kelley C. Howard, *Regulating the Sport of Boxing – Congress Throws the First Punch with the Professional Boxing Safety Act*, 7 SETON HALL J. SPORT L. 103, 108 (1997). The subcommittee heard testimony from one hundred and thirty members of the boxing community. *Id.*
- 64 *Id.* at 109-10.
- 65 *Id.* at 110.
- 66 *Id.*
- 67 *Id.*
- 68 *Id.* at 111.
- 69 *Id.*
- 70 *Id.* at 113.
- 71 Tyson was disqualified after twice biting Holyfield in the third round.
- 72 McElroy, *supra* note 12, at 507-508. See also Jon Saraceno, *Undisputed Champ Tyson Faces Disciplinary Hearing, \$3 Million Fine*, USA TODAY, July 10, 1997, at 1A.
- 73 McElroy, *supra* note 12, at 508.
- 74 *Id.*
- 75 *Id.* at 508, 511. Tyson declined to return to the Nevada Licensing Commission immediately because of his concern that it would continue his suspension. *Id.* Tyson failed to complete the New Jersey licensing procedure in New Jersey, however, presumably because he became "enraged" and cursed when the New Jersey Athletic Board questioned him about the Holyfield incident or because his advisors feared stepping on the toes of the powerful and influential Nevada commission. *Id.*
- 76 *Id.* at 509, 511.
- 77 *Id.* at 510.
- 78 *Id.*
- 79 *Id.* at 510. In such cases, the state where the suspended fighter wanted to fight could "notify in writing and consult with the designated official" of the suspending state. *Id.* However, the PBSA does require the suspending state to agree to the fighter's right to fight in other states. *Id.*
- 80 *Id.* at 512-13.

- 81 *Id.* at 513.
- 82 *Id.*
- 83 Muhammad Ali Boxing Reform Act, Pub. L. No. 106-210 (2000), 114 Stat. 312. See discussion of the Ali act *infra* at Section II.C.
- 84 *Id.*
- 85 *Id.*
- 86 *Id.*
- 87 *Id.*
- 88 *Id.*
- 89 *Id.*
- 90 *Id.*
- 91 *Id.*
- 92 *Id.*
- 93 McCain Press Release, *supra* note 55.
- 94 15 U.S.C.A. § 6303 (Supp. V 1999).
- 95 *Id.*
- 96 § 6304
- 97 *Id.*
- 98 *Id.*
- 99 *Id.*
- 100 *Id.*
- 101 § 6305. If the boxer resides in a state with a commission, he must register with his home state's commission. If the boxer resides in a foreign country or a state without a commission, the boxer must register in a state that has a commission.
- 102 *Id.*
- 103 *Id.*
- 104 *Id.*
- 105 § 6306.
- 106 *Id.* A boxer cannot fight in any state if suspended by any state's commission for: (A) a recent knockout or series of consecutive losses; (B) an injury, requirement for a medical procedure, or physician denial of certification; (C) failure of a drug test; (D) the use of false aliases, or falsifying, or attempting to falsify, official identification cards or documents; or (E) unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition in a professional boxing match. *Id.*
- 107 *Id.*
- 108 § 6307(b). This is the date that the Muhammad Ali Boxing Reform Act became effective. *Id.*
- 109 *Id.*
- 110 § 6307(c).
- 111 *Id.*
- 112 *Id.* The organization must also provide a copy of the rating change and an explanation to an association to which at least a majority of the state boxing commissions belong.
- 113 § 6307(d).
- 114 This statement must be made under penalty of perjury and may be written or oral. *Id.*
- 115 § 6307(e).
- 116 *Id.*
- 117 § 6307(f).
- 118 § 6307(h).
- 119 § 6308
- 120 *Id.* The firewall is aimed at preventing conflicts of interest between a promoter and a manager
- 121 *Id.*
- 122 *Id.*
- 123 *Id.*
- 124 *Id.*
- 125 § 6309. The U.S. Attorney General may bring a civil action in the appropriate district court and may request whatever relief she deems necessary—including injunctive relief—if there is reasonable cause to believe that any person is engaged in a violation of this Act. *Id.*
- 126 *Id.*
- 127 *Id.* Punishment may include imprisonment for up to one year, a fine of up to \$20,000, or both. *Id.*
- 128 *Id.* Punishment may include imprisonment for up to one year or a fine of up to \$100,000 (if the violation is in connection with a professional boxing match grossing in excess of \$2,000,000, then the fine may be for an additional amount which bears the same ratio of \$100,000 to \$2,000,000), or both. *Id.*
- 129 *Id.* Punishment may include imprisonment for up to a year, a fine of up to \$20,000, or both. *Id.*
- 130 *Id.* Any boxer who knowingly violates any provision of the Act may be fined up to \$1000. *Id.*
- 131 *Id.*

- examinations should be added to the databank. *Id.*
- 168 Appropriate testing for possible brain injury may include an MRI, an EKG, and additional testing conducted by a neurologist, plus any follow-ups recommended by that neurologist. *Id.*
- 169 15 U.S.C.A. § 6301 (Supp. V 1999).
- 170 The contracts require parties to outline accounting and disclosure of all purse deductions.
- 171 See NAAG News Release, *supra* note 12.
- 172 Although most observers and commentators believed that the challenger, Lennox Lewis, had dominated the fight and beaten the champion, Evander Holyfield, the fight was declared a draw. One judge awarded the victory to Holyfield, one to Lewis, and a third scored the match even.
- 173 See NAAG News Release, *supra* note 12.
- 174 Each round is scored using four criteria: (1) clean punching; (3) effective aggressiveness; (3) ring generalship; and (4) defense.
- 175 Harold Lederman, *Herold Lederman on Scoring*, at <http://www.hbo.com/boxing/info/cmp/scoring.shtml> (last visited Nov 14, 2001).
- 176 *Id.*
- 177 *Id.*
- 178 *Id.*
- 179 *Id.*
- 180 *Id.* Such a boxing poll is currently being posted at Boxingranks.com. The Boxing Writers Ranking Poll was launched in April 2000. *Id.* It is not officially recognized, however. *Id.*
- 181 *Id.*
- 182 *Id.* A designated chair would select participants in the polling group. Poll membership would be open to approximately thirty to forty boxing writers, broadcasters, and historians from the United States and abroad. The poll membership must be sufficiently large so that bias will be minimized and should represent a "proportional cross-section of the international boxing community."
- 183 *Id.*
- 184 *Id.*
- 185 *Hearings on Reform of the Professional Boxing Indus. Before the Senate Comm. on Commerce, Science & Transp.*, 107th Cong. 53 (2001). These full committee hearings took place on May 23, 2001 and the Committee Chairman, Sen. John McCain presided. *Id.*
- 186 *Id.* (statement of Patrick English, attorney for Main Events promotion company).
- 187 *Id.* (statement of Patrick English; statement of Greg Sirb).
- 188 *Id.* (statement of Greg Sirb; statement of Dan Goosen).
- 189 *Id.* Sirb praised the list, available online at Sportsnetwork.com, which ensures that boxers are not suspended for medical reasons. *Id.*
- 190 *Id.* (statement of Greg Sirb). Sirb explained that disclosure provisions have acted as "sunshine laws," allowing boxers to see, for the first time, the type of revenues generated from the fights and the expenditures deducted from their purses. *Id.*
- 191 *Id.* (statement of Patrick English). English noted as an example that evidence emerged in a criminal trial that managers and promoters bribed sanctioning organizations in exchange for rankings, but there was no investigation or punishment of these individuals by the state boxing commission.
- 192 *Id.* (statement of Patrick English). English claimed, "[l]awlessness in the contractual aspects of the sport is as egregious as I have seen in twenty years," and gave an example of a boxer who approached the New Jersey Athletic Board to break a managerial contract. *Id.* The Executive Director of the New Jersey Athletic Control Board granted the parties' request for a full hearing. *Id.* After both sides presented their cases, the Executive Director ruled that the contract was valid and binding. *Id.* The boxer then fought in a different state, which did award the boxer the manager's share of the purse, but would not turn it over to him. *Id.* Instead it attempted to hand the money over to the New Jersey Athletic Control Board, which has had no mechanism to accept it. *Id.* Although the money remained undistributed to the manager, the boxer then went on to fight in yet another state. *Id.* That state declined to honor the New Jersey ruling. *Id.*
- 193 *Id.* (statement of Kirk Hendrick, Chief Deputy Attorney General for the State of Nevada).
- 194 *Id.* (statement of Kirk Hendrick). Hendrick also argued that uniformity is better for live and television audiences. *Id.* To achieve unity he seemed to suggest that other states follow Nevada's lead by modifying most rules to "mirror" those of the ABC's "Uniform Championship Rules" for title bouts. *Id.* Interestingly, Hendrick also suggested that other jurisdictions follow Nevada's lead in adopting binding arbitration processes so that fighters "can resolve disagreements with their managers in an expeditious manner." *Id.*
- 195 *Id.* (statement of Greg Sirb).
- 196 *Id.* (statement of Dan Goosen). In Goosen's view, the national commission would be headed by "an individual or individuals of unquestionable integrity, character, and knowledge of the boxing industry." *Id.* Specifically, as part of this national commission, he supported "binding arbitration whereby massive paperwork and clouding of the

- 132 *Id.* However, no action may be brought against the Federal Trade Commission, United States Attorney General, or the chief legal officer of any state for "acting or failing to act in an official capacity." *Id.*
- 133 § 6313.
- 134 *Id.*
- 135 *Id.*
- 136 Baglio, *supra* note 10, at 226-62.
- 137 See *Hearings on the Business Practices in Boxing Before the Senate Comm. on Commerce, Science, & Transp.*, 105th Cong. 43 (1998) (testimony of Gregory P. Sirb, President, Ass'n of Boxing Comm'rs, Executive Director of the Pennsylvania State Athletic Commission).
- 138 *Id.*
- 139 McElroy, *supra* note 12, at 493. See also *Classen v. Izquierdo*, 520 N.Y.S.2d 999, 1001 (1987) (finding that the defendant's responsibility was to conform to the guidelines of the sanctioning body); *Moss v. Ohio Ass'n of United States of Am./Amateur Boxing Fed'n, Inc.*, 1987 WL 9122, at *3 (stating that as long as there is compliance with state guidelines, the defendant will not be held liable).
- 140 McElroy, *supra* note 12, at 504-05. Some commentators believe that due to the "magnitude and complexity" of its system, Nevada could become the "pinnacle" of boxing regulation in the United States. *Id.*
- 141 N.Y. UNCONSOL. LAW 8901 (McKinney 1997); N.J. STAT. ANN. 5:2A (West 1998); NEV. REV. STAT. ANN. 467.012 (Michie 1997).
- 142 15 U.S.C.A. § 6301 (Supp. V 1999)
- 143 NAAG News Release, *supra* note 12. The eighteen states or territories represented were: Arizona, Connecticut, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nevada, New Jersey, New York, Oklahoma, Oregon, Pennsylvania and Puerto Rico. *Id.*
- 144 *Id.* The Attorney General's office already provided counsel and advice to the State Athletic Commissions in many states, and it was with the encouragement and backing of several state commissions that the NAAG undertook its mission. *Id.*
- 145 *Id.*
- 146 *Id.*
- 147 *Id.*
- 148 *Id.*
- 149 *Id.* For instance, in these hearings promoters testified about their industry roles and issuing long-term and exclusive contract options. *Id.* Sanctioning organization officials explained the methods they use to rank boxers. Medical experts outlined typical boxing injuries, stressed the necessity for medical care, and suggested appropriate ringside safety precautions and equipment. *Id.* Industry members and other experienced business persons discussed possible pension plans and charitable trusts for professional boxers. *Id.*
- 150 Some of those in the BAC are Teddy Atlas; Lou DiBella; Dino Duva; Patrick English; Steve Farhood; Shelly Finkel; Jeffrey Fried; Dan Goossen; Barry Jordan, M.D.; Mills Lane; Tom Levy; Wallace Matthews; Jack Newfield; Melville Southard; Greg Sirb; Marc Ratner; Joseph Spinelli; and Jose Torres. See NAAG News Release, *supra* note 12.
- 151 *Id.*
- 152 *Id.*
- 153 *Id.*
- 154 *Id.*
- 155 *Id.*
- 156 *Id.*
- 157 *Id.*
- 158 The state commission may also consider attendance at boxing seminars conducted by state commissions. *Id.*
- 159 *Id.*
- 160 *Id.*
- 161 *Id.*
- 162 *Id.*
- 163 *Id.* The task force adds that promoters and managers must be licensed, regardless of designation or "self-imposed title." *Id.* It is of no consequence that such individual may hold himself or herself out as an "advisor" or "booking agent." *Id.* Similarly, if a licensed professional, such as an attorney or certified public accountant, advises a boxer as a manager or promoter and receives payment for such advice, the licensed professional should also be licensed and regulated by the appropriate boxing commission. *Id.*
- 164 *Id.*
- 165 See NAAG News Release, *supra* note 12. The NAAG endorsed the comprehensive study completed in December 1997 by Thomas D. Levy, of the Segal Company, which details guidelines for such a plan. *Id.*
- 166 *Id.* Greg Sirb, the President of the Association of Boxing Commissioners has been actively promoting the Retired Boxer Charitable Trust, which is organized similarly to the trust that the film industry has created. *Id.*
- 167 The databank should include a boxer's baseline MRI, neurological examination, eye examination, EKG, and medical history. *Id.* The results of any additional required medical

issues can be minimized [by] permitting a knowledgeable authoritative body to address specific relevant issues as opposed to ancillary and sometimes irrelevant factors. *Id.* He did not indicate whether this national commission would be a public or private commission.

197 *Id.* (statement of Greg Sirb). Sirb noted that binding arbitration agreements would allow parties to settle disputes in a timely and efficient manner. *Id.*

198 *Id.* (statement of Greg Sirb).

199 *Id.* (statement of Greg Sirb). Sirb argued that there should be a uniformity of medical requirements for boxers between states and states should explicitly designate who is responsible for the payment of medical exams such as EKGs, EEGs, and eye exams. *Id.*

200 Roy Jones, Jr. is the light heavyweight champion at the time of this writing.

201 *Id.* (statement of Roy Jones Jr.).

202 Thomas Boswell, *Even When a Bout is Set Up Right, There May Be Eradicable Wrong*, WASH. POST, July 4, 2001, at D1.

203 *Id.*

204 *Id.*

205 See discussion of the Professional Boxing Corporation Act, *supra* at Section III.A.

206 See discussion *supra* at Section V.

207 See *id.*