

## Outside Counsel

## Expert Analysis

# The Regulation of Professional Boxing in New York

Professional boxing is unique from other sports because of its lack of a centralized governing body. The statutes and regulations governing boxing are an amalgam of federal and state law, and, in the cases of championship or championship elimination fights, rules enacted by private organizations, which act as “sanctioning organizations.”<sup>1</sup>

In New York, professional boxing is regulated by the New York State Athletic Commission (NYSAC), which is statutorily authorized to enact rules governing boxing.<sup>2</sup> No boxing contest may be held in the state except in accordance with NYSAC’s rules.<sup>3</sup>

Overlaid upon the rules enacted upon NYSAC is the federal Muhammad Ali Act,<sup>4</sup> which applies to boxing matches held in the United States.<sup>5</sup> The Ali Act is not a comprehensive set of rules governing matches; rather, it contains a discrete set of statutory requirements, which were enacted to specifically address safety standards for boxers and only those most perceived abuses of boxers by promoters and managers. The Ali Act specifically contemplates the continued existence of, and regulation by, state athletic and boxing commissions.<sup>6</sup>

### Respective Roles

While a professional boxing match contains three parties in the ring—the two boxers and the referee—the law governing professional boxing contemplates three principal legal protagonists—the boxer, the promoter and the manager. The law imposes different duties and responsibilities on each of these players.

The promoter is responsible for “organizing, promoting, and producing a professional boxing match.”<sup>7</sup> A simple way of looking at the promoter is that he is the person who bears the risk of earning a profit or incurring a loss in connection with a professional boxing match.

The manager is the exclusive representative or bargaining agent for the boxer.<sup>8</sup> It is the manager’s responsibility to negotiate with the promoter on behalf of the boxer and obtain the highest compensation (which is known as a purse) for

By  
**Bruce J.  
Zabarauskas**



the fighter. Typically, a manager’s compensation is a percentage of the boxer’s purse for each fight—the greater the purse, the greater the manager’s fee.

Thus, the promoter has an economic incentive to pay a lower purse to the boxer in order to increase his profit. As a result, it has been held that, generally, a promoter does not owe a fiduciary duty to the boxer.<sup>9</sup> Conversely, the manager has an incentive to obtain the highest possible purse for the boxer since a higher purse results in a higher management fee.

Both the Ali Act and NYSAC Rules recognize the conflicting roles of promoters and managers. Specifically, the Ali Act creates a statutory firewall

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The Muhammad Ali Act and New York State Athletic Commission Rules together provide the framework for regulating a decentralized sport.

between promoters and managers.<sup>10</sup> Under the Ali Act, a manager is prohibited from: (i) having a financial interest in the promotion of a boxer; and (ii) being employed or receiving compensation or other benefits from a promoter.<sup>11</sup> Similarly, the Ali Act prohibits a promoter from having a financial interest in the management of a boxer.<sup>12</sup> However, these federal statutory firewall provisions only apply to boxers participating in fights of 10 rounds or more.<sup>13</sup>

NYSAC Rules are more stringent than the firewall provisions of the Ali Act. Under NYSAC Rules, “no principal, director, officer, shareholder or owner of a promoter” may, directly or indirectly, serve as a manager for a fighter,<sup>14</sup> nor may a manager be employed by a promoter.<sup>15</sup> These rules apply to all fights occurring in New York, regardless as to whether they are scheduled for 10 rounds or more.

### Boxer-Manager Contracts

The Ali Act is silent as to the required terms of a management contract. This role is left to each state’s athletic or boxing commission. Only a manager licensed by NYSAC may be paid a management fee in connection with a fight occurring in New York.<sup>16</sup> In New York, a management contract is not valid unless it is filed with NYSAC, the boxer and promoter both appear before NYSAC at the same time, and the contract is approved by NYSAC.<sup>17</sup>

Management contracts in New York may not exceed three years in length.<sup>18</sup> Additionally, the contract must contain provisions governing the division of the boxer’s purse and the minimum sum guaranteed annually to the boxer by the manager.<sup>19</sup> Management contracts that violate these rules are unenforceable.<sup>20</sup>

### Boxer-Promoter Contracts

There are two types of contracts typically entered into between promoters and boxers—promotional agreements and bout agreements. Promotional agreements generally provide the promoter with an exclusive right to promote all of a boxer’s fights during the term of the agreement. The agreement typically sets forth the minimum number of fights that the promoter must obtain for the boxer each year. The promotional agreement also typically provides that the purse for each fight during the term of the promotional agreement will be negotiated between the parties, but shall not be less than a specified minimum purse.<sup>21</sup>

The Ali Act is also silent as to the required terms of a promotional contract. This role is left to each state’s athletic or boxing commission. Under NYSAC Rules, a promotional agreement between a promoter, who must be licensed by NYSAC, and the boxer must be approved by NYSAC.<sup>22</sup> No promotional agreement may be for a fixed term of more than three years, excluding any time that a boxer is unable to compete due to injury or other cause; provided however, that the contract may grant the promoter two options to renew the promotional agreement for one year each.<sup>23</sup>

Bout agreements are contracts between a promoter and a boxer with respect to a specific fight. Bout agreements must be signed by the promoter, the boxer and his manager and must be filed with NYSAC. The principal elements of

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BRUCE J. ZABARAUSKAS is counsel to Crowell & Moring. His practice consists primarily of representing boxers, managers and promoters in professional boxing disputes.

the bout agreement are the date and location of the bout in New York, and the amount of the boxer's purse. The bout agreement is not binding upon the parties unless and until approved by NYSAC.<sup>24</sup> NYSAC will not approve the bout agreements for a fight until it has received executed bout agreements from both boxers from the same promoter.<sup>25</sup>

In addition to the contractual obligations owed by the promoter to the boxer, the Ali Act requires that the promoter make financial disclosure to the boxer prior to the promoter receiving any compensation from the promotion of a fight. This disclosure includes inter alia, the amounts of any compensation or consideration that the promoter has contracted to receive from the fight.<sup>26</sup>

### Title Fights

The Ali Act also contains restrictions which usually come into play only with respect to title fights. Title fights usually generate substantially greater revenues than non-title fights. When there is a title fight between two fighters who have the same promoter, the promoter is ensured that after the fight, regardless of who wins, he will continue to be the promoter of the champion. However, where the promoter promotes a fight between the champion that he promotes and a fighter that he does not promote, the promoter bears the risk that he will no longer hold promotional rights to the next title fight if the champion loses the title. Historically, promoters have sought to eliminate or reduce this risk by requiring the challenger, as a condition to obtaining the right to challenge for the title, to either enter into a promotional contract with the promoter or provide the promoter with options to promote the challenger's fight for an extended period of time should the challenger win the title fight.

Congress was troubled by this practice, which it believed to be coercive and a restraint upon the boxer's trade, and enacted several provisions in the Ali Act to regulate and restrict this practice. The extent of these restrictions depends upon whether the title fight at issue is a "mandatory" or "optional" title defense.

Each sanctioning organization has, in its own rules, a concept of the mandatory title defense. Typically, it is a requirement that the champion defend his title every nine or 12 months against a challenger who is designated by the sanctioning organization's rules as the mandatory or official challenger. For example, under the World Boxing Council's Rules, a champion is required to make an annual title defense against the WBC's designated mandatory challenger, who is either the highest rated available boxer, the winner of an elimination contest between the two highest available contenders or a "legendary boxer" or champion of a lower weight class.<sup>27</sup>

Under the Ali Act, in the case of a mandatory title challenge, a promoter is prohibited from requiring the challenger to grant any future promotional rights to the champion's promoter.<sup>28</sup> Thus, in the case of a mandatory title defense, the champion's promoter bears the risk that he will no longer be promoting the champion in the event that the mandatory title challenger wins the title fight.

The promoter cannot elude this risk by refusing to promote a title fight against the mandatory challenger. The rules of each sanctioning organization provide that if the champion, or more aptly the champion's promoter, and the mandatory challenger cannot agree on the terms for the mandatory title fight within the timeframe required by the sanctioning organization (what is known as the free or open negotiation period), then a purse bid will be held for such fight.<sup>29</sup>

A purse bid is a procedure pursuant to which boxing promoters submit bids of the combined purses they would pay the boxers for a mandatory title defense. The promoter submitting the highest purse bid has the right to promote such fight, regardless as to whether he holds promotional rights to either fighter, and the fighters are required to engage in such fight for the winning promoter for the purse contained in the winning purse bid, subject to such purse being split between the champion and challenger under the sanctioning organization's rules.<sup>30</sup> Each of the sanctioning organization's rules provide that a champion may be stripped of his title if he fails to sign a bout agreement with the promoter who submitted the winning bid.<sup>31</sup>

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The Ali Act imposes lesser restrictions on the promoter with respect to an optional title defense. An optional title defense is a defense against a challenger who is not the mandatory or official challenger. In such a case, a promoter may require the challenger to sign a promotional agreement or provide options to promote the challenger's title fights if he wins the championship fight. However, the Ali Act limits the grant of such promotional rights to one year.<sup>32</sup> It is in this manner that the Ali Act seeks to prevent promoters from hoarding titles and preventing boxers, who have worked hard to earn title challengers, from obtaining a title fight unless they enter into an unfavorable and/or long-term promotional agreement with the existing champion's promoter.

### Conclusion

The Ali Act and NYSAC Rules together provide the framework for regulating a decentralized sport. The Ali Act provides some degree of uniformity of boxing laws across the nation by addressing the most perceived abuses of boxers, who unlike other athletes do not have a bargaining organization to address their interests. However, the Ali Act recognizes the need for local regulation of boxing as well. Thus, the Ali Act relies upon the athletic and boxing commissions of each state to address the specific details relating to each professional boxing match. NYSAC is responsible for this regulation in New York state. Thus, a professional addressing a professional boxing matter on behalf

of a client must be cognizant of both federal and state law governing boxing, as well as the rules enacted by any sanctioning organization that may be involved in the matter.

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1. Sanctioning organizations are those private organizations that determine title holders in each weight class. See *M/Baye v. World Boxing Association*, 429 F. Supp.2d 660 (SDNY 2006). The principal sanctioning organizations are the World Boxing Council (WBC), the World Boxing Association (WBA), the International Boxing Federation (IBF) and the World Boxing Organization (WBO).

2. 25 Unsol. Law §8901.

3. 19 NYCRR §206.2.

4. 15 USC §§6301, et seq.

5. *Echols v. Pelluto*, 2003 U.S. Dist. LEXIS 9583 (E.D. Pa. 2003).

6. 15 USC §6302 ("The purposes of this Act [15 USC §§6301 et seq.] are...to assist State boxing commissions.").

7. 15 USC §6301(9); 19 NYCRR §205.1(m).

8. 19 NYCRR §205.1(g). 15 USC §6301(5). See also 19 NYCRR §208.11 ("Manager to be boxer's exclusive representative").

9. *Don King Productions Inc. v. Douglas*, 742 F. Supp. 741, 769 (SDNY 1990).

10. 15 USC §6308(b).

11. 15 USC §6308(b)(1)(B).

12. 15 USC §6308(b)(1)(A).

13. 15 USC §6308(b)(2)(B).

14. 19 NYCRR §207.19.

15. 19 NYCRR §207.18.

16. However, New York law does not govern the payment of a manager's purse for a fight occurring outside of New York. In such a case, the law of the state where the fight takes place governs. *Zwirn v. Galento*, 288 N.Y. 428, 43 N.E.2d 474 (1942).

17. 19 NYCRR §208.5.

18. 19 NYCRR §208.6.

19. 19 NYCRR §208.10.

20. *Baksi v. Wallman*, 271 A.D. 422, 65 N.Y.S.2d 894 (1st Dept. 1946).

21. Attacks upon promotional agreements based on the alleged indefiniteness of consideration because the actual purses for fights are to be negotiated in the future have been rejected. See, e.g., *Don King Productions Inc. v. Douglas*, 742 F.Supp. 741, 761 (SDNY 1990).

22. 19 NYCRR §§208.1-208.2.

23. 19 NYCRR §208.17.

24. *Gotham Boxing Inc. v. Finkel*, 18 Misc.2d 1114A, 856 N.Y.S.2d 498, 2008 N.Y. Misc. LEXIS 32 (Sup. Ct. 2008).

25. 19 NYCRR §208.14.

26. 15 USC §6307e(b).

27. WBC Rule 1.21. See also IBF/USBA Rules Governing Championship Contest Rule 5.a.1 ("IBF Rules"); WBO Regulations of World Championship Contests ("WBO Rules") at §§6, 10; WBA Rules §C.11, 12. The WBC Rules are available at [www.wbcbboxing.com](http://www.wbcbboxing.com). The IBF Rules are available at [www.ibf-usba-boxing.com](http://www.ibf-usba-boxing.com). The WBO Rules are available at [www.wbo-int.com](http://www.wbo-int.com). The WBA Rules are available at [www.wbaonline.com](http://www.wbaonline.com).

28. 15 USC §6307b(b).

29. WBC Rule 2; WBA Rules §D; IBF Rule 10; WBO Rules §11.

30. WBC Rule 2.12; WBA Rules §D.9; IBF Rule 10.E.; WBO Rules §13. Most promotional agreements provide that notwithstanding the boxer's grant of exclusive promotional rights to the promoter, the boxer may participate in an event promoted by a different promoter in the event that: (i) a purse bid is held by a sanctioning organization for a fight involving the fighter; and (ii) the fighter's promoter fails to win the purse bid.

31. WBC Rule 1.23; WBA Rules § D.15; IBF Rule 14; WBO Rules §19.

32. 15 USC §6307b(a). NYSAC Rule 208.17(c) contains a similar restriction upon promoters. 19 NYCRR §208.17(c).