

Outside 4/22

BOXING COMMISSION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the)	BX 89-1
)	
Boxing Promoter's)	COMMISSION'S FINAL
License of)	ORDER
)	
INTERNATIONAL BOXING)	
SHOWCASE, INC.,)	
)	
Respondent.)	

APR 28 11 30 AM '89

COMMISSION'S FINAL ORDER

On July 28, 1989, the duly appointed Hearings Officer submitted his proposed Findings of Fact, Conclusions of Law and Recommended Order in the above-entitled matter to the Boxing Commission ("Commission"). The parties were given an opportunity to file written exceptions; however, no written exceptions were filed.

Upon review of the entire record of these proceedings, the Commission adopts the Hearings Officer's proposed decision as the Commission's final order and finds and concludes that Respondent International Boxing Showcase ("Respondent") violated the provisions Hawaii Revised Statutes § 440-36 and Hawaii Administrative Rules §§ 16-74-5(c), 16-74-216, and 16-74-217.

For the violations found, the Commission orders that Respondent's boxing promoter's license be revoked. However, the

Commission further orders that the revocation of Respondent's boxing promoter's license be stayed on the following conditions:

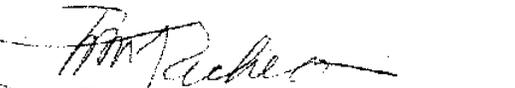
- 1) Respondent shall pay the following amounts within sixty (60) days from the date of the Commission's final order:
 - a) \$1,171.48 to Mr. Sajatovich;
 - b) \$5,000.00 to Mr. Salud ;
 - c) \$ 700.00 to Mr. Lizzarraga;
 - d) \$1,200.00 to the N.A.B.F.; and
 - e) \$ 425.00 to the Department of Commerce and Consumer Affairs
- 2) Respondent shall pay a fine of \$2,000.00 within sixty (60) days of the date of the Commission's final order;
- 3) Respondent's boxing promoter's license shall be suspended for a period of one (1) year from the date of the Commission's final order; and
- 4) if Respondent fails pay the amounts and fine set forth above within sixty (60) days of the Commission's final order, Respondent's boxing promoter's license shall be immediately revoked without further proceedings.

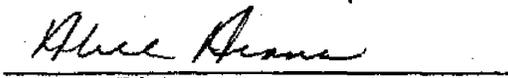
The Commission further orders that if Respondent complies with the conditions set forth above and the revocation of Respondent's boxing promoter's license is stayed, any requests by Respondent for permission to stage another boxing

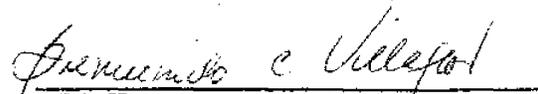
contest will not be granted by the Commission, unless Respondent satisfies the Commission that Respondent has paid all reasonable and appropriate costs and expenses related to the May 25, 1989 boxing contest, which are not specified above.

DATED: Honolulu, Hawaii, August 23, 1989.


BENJAMIN C. RODRIGUES
Chairperson


WILLIAM V. PACHECO
Commissioner


ABEL AIONA
Commissioner


BIENVENIDO C. VILLAFIOR
Commissioner

TED COOK
Commissioner

Outside

BOXING COMMISSION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the)	BX 89-1
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Boxing Promoter's)	HEARINGS OFFICER'S
License of)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
INTERNATIONAL BOXING)	AND RECOMMENDED ORDER
SHOWCASE, INC.,)	
)	
Respondent.)	
)	

JUL 28 10 38 AM '89
COMMUNICATIONS SECTION

HEARINGS OFFICER'S
FINDINGS OF FACT
CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

I. CHRONOLOGY OF CASE

On May 26, 1989, the Department of Commerce and Consumer Affairs, State of Hawaii ("State"), by and through its attorneys Susan L. Gochros and Owen K. Tamamoto, filed a petition for disciplinary action against the boxing promoter's license of International Boxing Showcase, Inc. ("Respondent").

The matter was duly set for hearing, and the Notice of Hearing and Pre-hearing Conference was transmitted to the parties. The hearing was rescheduled once by stipulation of the parties.

On July 25, 1989, at 9:16 a.m., the hearing in the above-captioned matter was convened by the undersigned Hearings

Officer pursuant to Hawaii Revised Statutes ("HRS") Chapters 91 and 440. The State was represented by its attorney Susan L. Gochros. Respondent was represented by its president, Martin Puna Titcomb, and Respondent was represented by its attorney Peter A. Donahoe. Prior to the commencement of the hearing, the parties filed their Stipulated Facts and Admissions.

Having reviewed and considered the evidence and arguments presented at the hearing, together with the entire record of these proceedings, the Hearings Officer hereby renders the following findings of fact, conclusions of law and recommended order.

II. FINDINGS OF FACT

1. Respondent was licensed as a boxing promoter by the Boxing Commission ("Commission"), and holds an annual boxing promoter's license, License No. PRO-2, issued by the Commission on February 17, 1989.

2. Sometime prior to May 25, 1989, Respondent obtained permission from the Commission to hold six (6) professional boxing matches on May 25, 1989, in Honolulu, Hawaii.

3. Prior to the May 25, 1989 boxing contest, the Commission determined that \$35,000.00 was the amount to be set aside for the total cost of the fighters' purses and the fees of the ring officials as estimated for the May 25, 1989 boxing contest. The Commission then notified Respondent that

Respondent would be required to submit \$35,000.00 not less than four (4) days prior to the May 25, 1989 boxing contest.

4. Respondent failed to submit the payment of \$35,000.00 to the Commission within four (4) days prior to the boxing contest which was held on May 25, 1989.

Aquino Travel Expenses

5. On or about May 20, 1989, Joe Sajatovich, as manager for Lupe Aquino, purchased two (2) round trip air tickets from California to Hawaii totalling \$1,171.48, for a boxing match to be held in Honolulu on May 25, 1989. Mr. Sajatovich was assured by Respondent's representatives that the airfare would be reimbursed.

6. On or about May 22, 1989, Mr. Aquino entered into an Official Boxing Contract with Respondent for a boxing match scheduled for May 25, 1989, in Honolulu, Hawaii. Mr. Aquino was to have received \$5,000.00, as well as room accommodations in Honolulu, per diem for two (2) persons, and two (2) round trip air tickets from San Diego to Honolulu.

7. After requesting reimbursement for the travel expenses incurred, Mr. Sajatovich was assured by Respondent's representatives that compensation would be made once Mr. Sajatovich and Mr. Aquino returned to California.

8. From approximately June 5, 1989, to June 16, 1989, Mr. Sajatovich repeatedly attempted to contact Lloyd Spangenburg, President of Respondent, to inquire about the money

owned; however, Mr. Sajatovich's calls were not returned by Mr. Spangenburg.

9. As of July 12, 1989, Respondent has not reimbursed Mr. Sajatovich \$1,171.48 for the round trip air tickets from California to Hawaii.

Salud Purse/Expenses

10. On or about April 25, 1989, Robert DePhillippis, manager of Jesus Salud, entered into an Official Boxing Contract with Respondent for a boxing match scheduled for May 25, 1989, in Honolulu, Hawaii, whereby Mr. Salud agreed to defend his N.A.B.F. Super Bantamweight championship title for \$12,500.00, plus \$2,500.00 for training expenses, travel expenses, room accommodations in Honolulu, and per diem for six (6) people.

11. On or about May 15, 1989, Mr. DePhillippis was given a check for \$5,000.00 as partial payment for Mr. Salud's purse. The check was written on Respondent's checking account and was signed by Mr. Spangenburg and Mr. Titcomb.

12. On May 25, 1989, Mr. Salud fought at the boxing match as specified in the April 25, 1989 contract.

13. Subsequent to May 25, 1989, Mr. DePhillippis was informed that the \$5,000.00 check from Respondent had been dishonored by his bank because of insufficient funds in Respondent's account. Mr. DePhillippis and his partner then called Mr. Spangenburg and Mr. Titcomb as president and vice-president of Respondent, as were repeatedly assured that

Respondent would provide payment in the amount of \$5,000.00 to cover the dishonored check.

14. As of July 14, 1989, neither Mr. Salud nor Mr. DePhilippis have received the \$5,000.00 payment from Respondent for Mr. Salud's purse as provided in the April 25, 1989 contract.

Lizzarraga Purse/Expenses

15. On or about May 22, 1989, Arturo Lizzarraga, entered into an Official Boxing Contract with Respondent for a boxing match scheduled for May 25, 1989, in Honolulu, Hawaii. Mr. Lizzarraga was informed by Mr. Spangenburg that Mr. Lizzarraga would be paid \$2,200.00, of which \$1,500.00 was supposed to be for "performance fees", and \$700.00 was supposed to be for "expenses."

16. Upon arriving in Honolulu, Mr. Lizzarraga was paid a total of \$1,500.00 in cash, as a partial payment of the contract amount.

17. At the conclusion of the boxing match on May 25, 1989, Mr. Spangenburg, as president of Respondent, assured Mr. Lizzarraga that the \$700.00 owed to Mr. Lizzarraga by Respondent, would be mailed to him once Mr. Lizzarraga returned to California.

18. As of July 13, 1989, despite repeated inquiries and requests for payment made to representatives of Respondent, Mr. Lizzarraga has not received the \$700.00 owed to him by Respondent.

N.A.B.F. Sanction Fees

19. Respondent was to have paid the North American Boxing Federation ("N.A.B.F.") sanction fees in the amount of \$1,200.00 for the May 25, 1989 boxing contest.

20. Numerous demands for payment of the N.A.B.F. sanction fees were made to representatives of Respondent, and repeated assurances were made by Respondent's representatives that payment of such fees would be made. However, as of July 20, 1989, Respondent has not paid the \$1,200.00 sanction fees to the N.A.B.F. for the May 25, 1989 boxing contest.

Licensing Fees

21. Respondent made deductions from the boxers' total purses to pay licensing fees owed to the DCCA, but Respondent did not actually pay such licensing fees to the DCCA.

22. As of July 25, 1989, Respondent owes the DCCA licensing fees totalling \$425.00.

III. CONCLUSIONS OF LAW

State has charged Respondent with violating the provision of HRS § 440-36(a)(1), and Hawaii Administrative Rules ("Rules") §§ 16-74-5(c), 16-74-216, and 16-74-217, which state:

§440-36 Revocation; suspension; fine.

(a) The commission shall have the power to revoke or suspend the license of any person, partnership, or corporation licensed under any the classifications designated in this chapter, or fine the licensee, or both, for any of the following causes:

- (1) Violation of any provision of this chapter or the rules adopted

pursuant thereto or any other law, regulation, or rule which applies to those persons licensed under this chapter[.]

§16-74-5 Licenses and permits.

. . .
(c) Permit. Any organization or person holding an annual state promoter's license must obtain a separate permit or sanction from the commission before holding any specific boxing contest.

§16-74-216 Certified or cashier's check. A certified or cashier's check payable to the state boxing commission in an amount designated by the commission shall be submitted to the commission not less than four days prior to the staging of a scheduled, sanctioned boxing contest. The certified or cashier's check shall represent a reasonable guarantee of an amount set aside by the commission for the total cost of fighters' purses as estimated for the contest, and the fees of the ring officials. The commission may accept an irrevocable letter of credit in a form approved by the commission drawn upon a bank or savings and loan association authorized to do business in this State in lieu of a certified or cashier's check once the commission is satisfied that the promoter has established financial credibility.

§16-74-217 Sanction revocation. Every sanction for any bout issued by the commission shall be revocable by the commission at any time and every such sanction shall be revoked and shall stand ipso facto, absolutely revoked, without notice or any action by the commission, unless every guarantee or forfeit provided for hereinabove or hereinafter by any contract for any bout, or by these rules, shall be deposited with the commission in the manner and within the time prescribed by these rules.

Based upon the evidence presented at the hearing, the Hearings Officer concludes that the State has established that

Respondent violated the provisions HRS § 440-36(a)(1), and Rules §§ 16-74-5(c), 16-74-216, and 16-74-217.

First, Respondent admitted that it failed to submit payment of \$35,000.00 to the Commission, not less than four (4) days prior to the May 25, 1989 boxing contest, thereby violating the provisions of Rules § 16-74-216.

Second, by failing to submit the required payment of \$35,000.00 to the Commission in violation of Rules § 16-74-216, the Commission's sanction for Respondent's May 25, 1989 boxing contest was ipso facto revoked pursuant to Rules § 16-74-217. Consequently, Respondent violated the provisions of Rules § 16-74-5(c) by staging a boxing contest without a permit or sanction from the Commission.

Finally by violating the provisions of Rules § 16-74-5(c), 16-74-216, and 16-74-217, Respondent also violated the provisions of HRS § 440-36(a)(1).

IV. RECOMMENDED ORDER

For the reasons set forth above, the Hearings Officer would recommend that the Commission find and conclude that Respondent violated the provisions HRS § 440-36 and Rules §§ 16-74-5(c), 16-74-216, and 16-74-217.

For the violations found, and in light of the various amounts still owed by Respondent as of the date of the hearing, the Hearings Officer would recommend that the Commission revoke Respondent's boxing promoter's license. The Hearings Officer

would further recommend that the Commission stay the revocation of Respondent's boxing promoter's license on the following conditions:

- 1) that Respondent be ordered to pay the following amounts within sixty (60) days from the date of the Commission's final order:
 - a) \$1,171.48 to Mr. Sajatovich;
 - b) \$5,000.00 to Mr. Salud ;
 - c) \$ 700.00 to Mr. Lizzarraga;
 - d) \$1,200.00 to the N.A.B.F.; and
 - e) \$ 425.00 to the DCCA.
- 2) that Respondent be ordered to pay a fine of \$2,000.00 within sixty (60) days of the date of the Commission's final order;
- 3) that Respondent's boxing promoter's license be suspended for a period of one (1) year from the date of the Commission's final order; and
- 4) that if Respondent fails pay the amounts and fine set forth above within sixty (60) days of the Commission's final order, Respondent's boxing promoter's license shall be immediately revoked without further proceedings.

Lastly, if Respondent complies with the conditions set forth above and the revocation of Respondent's boxing promoter's license is stayed, the Hearings Officer would recommend that the Commission not approve any requests by Respondent for permission to stage another boxing contest, unless Respondent satisfies the Commission that Respondent has paid all reasonable and

appropriate costs and expenses related to the May 25, 1989
boxing contest, which are not specified above.

DATED: Honolulu, Hawaii, July 28, 1989.

Rodney A. Maile

RODNEY A. MAILE
Hearings Officer
Department of Commerce
and Consumer Affairs