

**TENNESSEE
ATHLETIC COMMISSION
MINUTES**

DATE: May 27, 2010

PLACE: Davy Crockett Tower, Room 160
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Commission Members:
Joe Smith, Chairman
Chuck Clark (via teleconference)
Neal Frauwirth, M.D.
Stuart Howard
Teri Mast
Jack Sammons (via teleconference)

PRESENT: Staff Members:
Jeff Mullen, Executive Director
Ed Scudder, Staff Attorney
Susan Lockhart, Executive Administrative Assistant

ABSENT: Commission Members:
Steve Hannah, Vice-Chairman
R. Warne Fitch
Scott White

CALL TO ORDER

Chairman Smith called the meeting to order at 12:15 p.m. and the following business was transacted:

ROLL CALL

Mr. Mullen called the roll. Four Commission members were present, two were present via teleconference, and three were absent.

Mr. Clark, one of the members participating via teleconference, advised that he may need to leave the meeting early.

MINUTES

Ms. Mast made a motion to approve the minutes of the last meeting, seconded by Dr. Frauwirth.
Motion Carried.

LEGAL REPORT

Mr. Scudder advised Dr. Frauwirth that he may have prior knowledge regarding the complaints to be presented as they all related to the same event. Therefore, Dr. Frauwirth recused himself from participating in the discussions or votes related to the following Legal Report that was presented by Mr. Scudder -

1. L10-TAC-RBS-2010013301

The complaint against this licensed combatant alleges that the Respondent engaged in conduct that was detrimental to a professional contest of unarmed combat, by participating in a brawl after a nationally-televised professional MMA contest. In his response, the Respondent apologized for his actions; stated that he had just completed a hard-fought bout; and that the brawl began when he attempted to separate one of the other Respondents from his teammate.

Recommendation: Authorization for a Formal Hearing for a civil penalty of twenty thousand dollars (\$20,000), associated costs, and nine (9) months suspension; with authority to settle by Consent Order with a civil penalty of five thousand dollars (\$5,000) and three (3) months suspension.

Motion: Mr. Howard made a motion to accept Legal's recommendation, seconded by Ms. Mast. Motion carried unopposed. (Dr. Frauwirth abstained from voting.)

2. L10-TAC-RBS-2010013311

The complaint against this licensed combatant alleges that the Respondent engaged in conduct that was detrimental to a professional contest of unarmed combat, by participating in a brawl after a nationally-televised professional MMA contest. The response stated that the Respondent was sorry and apologized for the incident; that challenging someone to a fight is not unusual in the context of the MMA profession; that he did not make any threatening gesture; and that he did not strike anyone.

Recommendation: Authorization for a Formal Hearing for a civil penalty of twenty thousand dollars (\$20,000), associated costs, and nine (9) months suspension; with authority to settle by Consent Order with a civil penalty of five thousand dollars (\$5,000) and three (3) months suspension.

Motion: Ms. Mast made a motion to accept Legal's recommendation, seconded by Mr. Howard. Motion carried unopposed. (Dr. Frauwirth abstained from voting.)

3. L10-TAC-RBS-2010013341

The complaint against this licensed combatant alleges that the Respondent engaged in conduct that was detrimental to a professional contest of unarmed combat, by participating in a brawl after a nationally-televised professional MMA contest. In his Response, the Respondent stated that he was sorry for the incident; that he intervened to protect his teammate from what he perceived as a threat to him; and that he did not throw a punch during the incident.

Recommendation: Authorization for a Formal Hearing for a civil penalty of twenty thousand dollars (\$20,000), associated costs, and nine (9) months suspension; with authority to settle by Consent Order with a civil penalty of five thousand dollars (\$5,000) and three (3) months suspension.

Motion: Mr. Howard made a motion to accept Legal's recommendation, seconded by Ms. Mast. Motion carried unopposed. (Dr. Frauwirth abstained from voting. Mr. Clark left the meeting at 12:30 p.m. and did not participate in the vote.)

4. L10-TAC-RBS-2010013371

The complaint against this licensed participant/corner man alleges that the Respondent engaged in conduct that was detrimental to a professional contest of unarmed combat, by participating in a brawl after a nationally-televised professional MMA contest. The letter of complaint was sent certified mail and was signed for on April 28, 2010. There has been no response.

Recommendation: Authorization for a Formal Hearing for a civil penalty of twenty thousand dollars (\$20,000), associated costs, and nine (9) months suspension; with authority to settle by Consent Order with a civil penalty of seven thousand, five hundred dollars (\$7,500) and three (3) months suspension of license. The amount represents an additional civil penalty for failing to respond to an inquiry from the Commission.

Motion: Mr. Howard made a motion to accept Legal's recommendation, seconded by Ms. Mast. Motion carried unopposed. (Dr. Frauwirth abstained from voting.)

5. L10-TAC-RBS-2010013391

The complaint against this unlicensed individual alleges that the Respondent engaged in conduct that was detrimental to a professional contest of unarmed combat, by participating in a brawl after a nationally-televised professional MMA contest. Additionally, the complaint alleges that the Respondent engaged in unlicensed activity by participating as a 'second' in a professional contest of unarmed combat without receiving a license from the commission. The letter of complaint was sent certified mail and was signed for on April 28, 2010. There has been no response.

Recommendation: Authorization for a Formal Hearing for a civil penalty of twenty thousand dollars (\$20,000), associated costs, and nine (9) months suspension; with authority to settle by

Consent Order with a civil penalty of seven thousand, five hundred dollars (\$7,500) and a prohibition from licensure in Tennessee until this amount is paid. This amount represents an additional civil penalty for failing to respond to an inquiry from the Commission.

Motion: Mr. Sammons made a motion to accept Legal's recommendation, seconded by Ms. Mast. Motion carried unopposed. (Dr. Frauwirth abstained from voting.)

Mr. Scudder advised that there will be another Respondent arising from this set of facts as the individual was only recently identified and the Respondent's address information is still unknown.

**6. L10-TAC-RBS-2009021211
L10-TAC-RBS-2009021212
L10-TAC-RBS-2009021213**

The complaint in this case arises from a professional MMA contest. The complainant alleged that he was the victim of an illegal eye poke which ended the bout; that his opponent's gloves were not inspected; and that after the bout, the referee and his opponent acknowledged the eye poke. The Respondents are the referee and two ringside physicians. Commission investigators contacted the complainant, who stated that he would provide additional information and a sworn affidavit, but this was not provided. He did not return repeated phone calls from the investigator. The referee stated that he inspected the seams and padding of both combatants' gloves and checked for foreign substances or any other alterations. He further states that he did not observe an eye poke during the bout and did not make any acknowledgement of it. The ringside physician (Respondent 2009021212) states that he evaluated the complainant's eyes after the bout and that "he did not suffer any permanent damage and declined further medical evaluation." The ringside physician stated that he could not comment on any other matters. Respondent 2009021213 apparently worked at the contest, but had no involvement in the case.

Recommendation: Close.

Motion: Mr. Sammons made a motion to accept Legal's recommendation, seconded by Mr. Howard. Motion carried unopposed. (Dr. Frauwirth abstained from voting.)

Mr. Scudder advised that on February 5, 2010, the Commission received a citizen complaint alleging that the Commission was not requiring MMA promoters to obtain the proper amounts and types of insurance coverage required by Tenn. Code Ann. § 68-115-211.*

*§ 68-115-211. Proof of medical insurance

Every promoter of a professional contest of unarmed combat shall provide proof of medical insurance coverage for medical, surgical and hospital care, to cover injuries sustained by a combatant while engaged in professional contests of unarmed combat, in an amount not less than fifty thousand dollars (\$50,000).

The complaint was referred to the Department of Commerce and Insurance, Office of Internal Audit. The Internal Audit Office, in consultation with the Assistant Commissioner of Insurance, reviewed the documentation for every professional contest permitted by the Tennessee Athletic Commission since its inception.

The Office of Internal Audit identified some files where the insurance coverage could have been documented more fully. The Office recommended that the Commission require the submission of the entire insurance policy prior to the approval of a professional contest permit. The complete insurance policy will fully document the type of insurance coverage provided and policy amounts. The commission administrator has been advised of these recommendations and has adopted them as a standard operating procedure.

Recommendation: Close with a letter to the complainant advising them of the action taken by the Commission.

Motion: Dr. Frauwirth made a motion to accept Legal's recommendation, seconded by Mr. Howard. Motion carried unopposed.

EXECUTIVE DIRECTOR'S UPDATE

Mr. Mullen advised \$900 is due for television from the New Daisy Fight. He further advised that he has contacted the co-promoter to remind him that payment is due.

Mr. Mullen gave an oral report regarding recent events in Nashville, Knoxville and Johnson City and the revenues generated. He also gave an update of events that are scheduled for June 2010 and July 2010.

Chairman Smith asked if Mr. Mullen spoke with Mr. Atlas. Mr. Mullen advised that he did not speak with him but hoped to at the next event he attends in Tennessee.

OLD BUSINESS

No old business was discussed.

NEW BUSINESS

Rule meeting date – The Commission was advised that a rule making discussion must be set at least thirty (30) days in advance and a rule making hearing must be set at least forty-five (45) days in advance. The Commission agreed to discuss possible rules at their next meeting set for July 8, 2010 and to set a date for a rule making hearing at that time. Mr. Mullen advised that he

has not prepared a document regarding possible rules but will forward the suggestions that he has received to the Commission members for their review prior to the next meeting.

Chairman Smith advised that Mr. Mullen was restricted from officiating events when he accepted the Executive Director position and therefore recommended that Commission members be held to the same standard. Mr. Scudder read TCA 68-115-103(h) into the record advising that Commission members should not receive compensation from promoters.

Chairman Smith and Mr. Sammons expressed their concerns regarding a recent event that resulted in Dr. Frauwirth, a fellow Commission member, entering the cage. Dr. Frauwirth advised that he entered the cage and shut the door to prevent anyone else from entering for the public's safety. Chairman Smith advised that he is concerned any time a Commission member or representative of the Commission becomes intimately involved in an event.

Amateur MMA Report – Mr. Hannah was not available to present this report. However, Mr. Mullen advised that there were a couple of key points that Mr. Hannah planned to present that he would like to mention.

Mr. Mullen advised that the sub-committee had discussed concerns regarding the public being lead to believe that amateur events are professional events. Although amateur events are not regulated by the Commission, it was determined that the Commission could make a recommendation to the sanctioning bodies. Ms. Mast made a motion to advise the sanctioning bodies that the Tennessee Athletic Commission recommends that "Amateur MMA" be prominently displayed on all promotional materials within thirty (30) days from the date of the recommendation notification, seconded by Mr. Sammons. **Motion Carried.**

Mr. Mullen advised that the sub-committee also has concerns with the insurance requirements for amateur combatants. Ms. Mast advised that Mr. Hannah planned to check on the premium difference for \$50,000 insurance per as opposed to \$20,000 which is currently required. The Commission decided to wait to discuss the matter until Mr. Hannah is available to present his findings.

Mr. Mullen also mentioned that there was some discussion relating to the use and/or misuse of prescription and over the counter substances. Chairman Smith said there are specific concerns being raised regarding the use of medications typically used to treat patients with Attention Deficit Disorder (ADD). Dr. Frauwirth advised that the International Sport Karate Association (ISKA) recently decided to adopt the list of prohibited substances developed by the World Anti-Doping Agency (WADA).

Adjourn – There being no further business to discuss, Mr. Sammons made a motion to adjourn, seconded by Mr. Howard. **Motion Carried**, meeting adjourned at 1:42 p.m.