

# Janitor or Savior: The Role of Congress in Professional Boxing Reform

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*For good reason, boxing fans and insiders share the belief that their sport is dying. Not convinced? Try naming one of the four current heavyweight champions. There are four heavyweight champions, you ask? While only one team wins the Super Bowl each year and only one golfer is fitted for a Green Jacket after winning The Masters, boxing is in a league of its own by recognizing four “world champions” in each of its weight divisions. With a modern history touting names such as Muhammad Ali, Rocky Marciano, Joe Frazier, Joe Louis, Sugar Ray Leonard, and George Foreman, one can ponder how a sport that at one time was second in popularity only to baseball has fallen from such greatness. Years of corruption, manipulation, and scandal have tarnished the sport to the point that it is hardly covered by the mainstream media. In fact, up-and-coming sports like mixed martial arts—The Ultimate Fighting Championship, for example—have surpassed it in popularity.*

*Some believe that Congress can be boxing’s savior. Over the last decade, Congress has passed the Professional Boxing Safety Act of 1996—aimed at protecting boxers in the ring—and the Muhammad Ali Boxing Reform Act of 2000—aimed at further improving safety, as well as giving boxers leverage at the bargaining table. In May 2005, the Senate passed the Professional Boxing Amendments Act of 2005, which would create the United States Boxing Commission to give punch to the sparsely enforced provisions of the law currently on the books.*

*The intervention of Congress begs the question: given enough time and the right legislation, can Congress “save” boxing? The traditional view in academia seems to be that Congress can “save” professional boxing. However, this Note explores the unfortunate reality that Congress cannot save boxing—it can only clean up certain aspects of the sport because the business of professional boxing dictates otherwise. The business of boxing is driven by the interconnectedness of promoters, managers, and sanctioning organizations. Unless Congress gets into the business of mandating bouts and promulgating rankings, the business of boxing will continue to rule the day—and drive the sport into the ground. Given boxing’s current state, legislative reform can ameliorate several aspects of the sport such as safety in the ring and protecting fighters from coercive contracts. Yet, this Note discusses the reality that the business side of boxing will always govern and legislative efforts will always have a limited effect.*

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## I. INTRODUCTION

It has all of the ingredients of an Oscar-winning movie or a best-selling novel—passion, glory, manipulation, scandal, corruption, a fall from greatness, and a desperate fight for survival. This storyline is not the vision of a screenwriter or novelist, but rather the nightmarish reality of the current state of professional boxing. The sport that was once second in popularity only to baseball<sup>1</sup> is believed by many to be dying.<sup>2</sup> Sports like mixed martial arts, arguably surpassing boxing in popularity through the Ultimate Fighting Championship (better known as “UFC”), should be of major concern to boxing fans and those involved in the sport.<sup>3</sup> Years of manipulation, corruption, scandal, and occasional deaths in the ring have scarred boxing to the point where its popularity is at an all time low.<sup>4</sup> There is a prevailing view among boxing insiders and fans that the sport as a whole needs to be “saved”<sup>5</sup>—otherwise it could be “down for the count.”<sup>6</sup> The question remains: Is there a hero in boxing’s future who can come to the rescue and save the sport by restoring its viability, popularity, and marketability?

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<sup>1</sup> Russell Sullivan, *ROCKY MARCIANO: THE ROCK OF HIS TIMES* 2–3 (2005).

<sup>2</sup> See Jack Newfield, *Should We Let Boxing Die?*, *PARADE*, May 2, 2004 (statement of Lou DiBella, former head of HBO’s boxing division and current promoter: “The sport is dying. It’s like a cancer patient on chemo.”); see also Thom Loverro, *Down for the Count?*, *WASH. TIMES*, Dec. 5, 2003, at C1 (citing significantly decreased pay-per-view buys, a lackluster heavyweight division with little star power, and the deficiency of major fights that garnered much public attention as evidence that the sport needs help).

<sup>3</sup> Cf. Rick Maese, *Ultimate Fighting’s Popularity May Put Boxing Down for Count*, *BALT. SUN*, Aug. 26, 2006, at 2C (noting the 60,000 pay-per-view buys of the August 2006 heavyweight title bout between Oleg Maskaev and Hasim Rahman pales in comparison to the conservative estimate of 500,000 pay-per-view buys of the August 2006 UFC card headlined by Chuck Liddell vs. Renato Sobral); see also Ivan Trembow, *UFC Surpasses \$30 Million in PPV Sales*, *MMAWEEKLY.com*, Sept. 6, 2006 (noting UFC’s July 2006 pay-per-view generated more than 775,000 buys at \$39.95 each).

<sup>4</sup> Newfield, *supra* note 2; see also Press Release, Rep. Cliff Stearns, Stearns Concludes Hearing on His Boxing Reform Legislation: Panel Reviews H.R. 1065, The United States Boxing Commission Act (Mar. 3, 2005), available at <http://www.house.gov/stearns/PressReleases/PR2005Releases/pr-050303-Boxing.html>.

<sup>5</sup> Newfield, *supra* note 2; Brett Pully, *The King and His Sport, at Twilight*, *FORBES*, Apr. 24, 2006, at 84–85. The cover of the magazine features a picture of Don King and the headline reads: “Boxing’s Last Great Hope? Don King Fights To Save A Dying Sport.”

<sup>6</sup> *Id.*; see also Loverro, *supra* note 2; Maese, *supra* note 3, at 2C (“No headstone has been erected over boxing’s grave, but UFC is holding a shovel and prepared to splash dirt on [its] casket.”).

Boxing fans would like to believe that the answer to this question is a resounding *yes*. Some even believe Congress is the likely hero and, given adequate time, it can “save” the sport.<sup>7</sup> Over the past decade, Congress has attempted to reform several aspects of professional boxing. In 1996, it passed the Professional Boxing Safety Act (“Safety Act”) in an effort to improve safety and medical standards within the sport.<sup>8</sup> In 2000, Congress supplemented and supplanted the Safety Act by passing the Muhammad Ali Boxing Reform Act (“Ali Reform Act”) in an attempt to protect fighters at the bargaining table.<sup>9</sup> However, enforcement of these legislative measures has been deficient and arguably nonexistent.<sup>10</sup> The Senate’s proposed solution to the lack of enforcement is the Professional Boxing Amendments Act of 2005; a bill that would create the United States Boxing Commission (“USBC” or “Commission”).<sup>11</sup> The USBC would not only be in charge of enforcing the current law, but would also be equipped to promulgate regulations.<sup>12</sup> The Amendments Act passed the Senate on May 9, 2005.<sup>13</sup> Yet, one of the two versions of the companion bill introduced in the House<sup>14</sup> failed on November 16, 2005<sup>15</sup> while the other has lingered idly in committee since February 1, 2005.<sup>16</sup> Congress has until the end of the second session of the 109th Congress to pass the remaining bill before the

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<sup>7</sup> See *Save the “Sweet Science,”* SEATTLE TIMES, Jun. 8, 2005, at B6; Patrick B. Fife, Note, *The National Boxing Commission Act of 2001: It’s Time for Congress to Step into the Ring and Save the Sport of Boxing*, 30 HOFSTRA L. REV. 1299, 1301 (2002).

<sup>8</sup> 15 U.S.C. §§ 6301–6313 (2000).

<sup>9</sup> *Id.*

<sup>10</sup> Devin Burstein, Note, *The Muhammad Ali Boxing Reform Act: Its Problems and Remedies, Including the Possibility of a United States Boxing Administration*, 21 CARDOZO ARTS & ENT. L.J. 433, 459 (2003)

<sup>11</sup> S.148, 109th Cong. (2005).

<sup>12</sup> *Id.*

<sup>13</sup> Bill Status and Summary, S.148, 109th Cong. (2005), available at <http://thomas.loc.gov> (perform a “Bill Number” search for “S.148,” click on “Bill Summary & Status File” hyperlink, click on “All Congressional Actions” hyperlink).

<sup>14</sup> Professional Boxing Amendments Act of 2005, H.R. 468, 109th Cong. (2005) (sponsored by Rep. Peter King); United States Boxing Commission Act, H.R. 1065, 109th Cong. (2005) (sponsored by Rep. Clifford Stearns).

<sup>15</sup> 151 CONG. REC. H10355-56 (daily ed. Nov. 16, 2005) (noting that H.R. 1065 failed 190–233).

<sup>16</sup> Bill Status and Summary, H.R. 468, 109th Cong. (2005), available at <http://thomas.loc.gov> (perform a “Bill Number” search for “H.R. 468,” click on “Bill Summary & Status File” hyperlink, click on “All Congressional Actions” hyperlink).

Amendments Act is officially put to rest and reform proponents are sent back to the drawing board.<sup>17</sup>

While Congress has taken these aforementioned steps to clean up certain aspects of the sport, “saving” it is an entirely different story. It has been said that passing the Ali Reform Act was the “equivalent of putting a band-aid over a gaping wound that’s badly in need of sutures.”<sup>18</sup> The lack of enforcement of the law has made both boxing insiders and lawmakers question its effectiveness.<sup>19</sup> More to the point, even if the law was enforced, the roots of boxing’s evils would continue to plague the sport, because the worst of the problems appear to be beyond Congress’ grasp. Realistically, in order to be “saved,” boxing would need drastic reform across the board.<sup>20</sup> Creating a commission to enforce the current law aimed at improving the safety standards in the sport and preventing exploitation of fighters at the bargaining table would certainly *improve* professional boxing. Yet, there are limits to what legislation in this arena can plausibly reform because of the means by which the infrastructure and business of professional boxing operate.

This Note addresses the unfortunate reality that Congress will never be able to “save” boxing because the behind-the-scenes operations are conducted in such a way that the legislative efforts can only clean up parts of the sport—but not save it. This Note examines the aspects of boxing that Congress *can* successfully address—such as boxer safety and limiting coercive bargaining—with proper enforcement of the Ali Reform Act through additional legislation like the Professional Boxing Amendments Act. More importantly, however, it explores the seemingly untouchable areas of boxing that create the most problems for the sport as a whole. Finally, this Note explains why these areas make it impossible for Congress to ever be the sport’s savior.

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<sup>17</sup> The 2nd Session of the 109th Congress ends on January 3, 2007. *See, e.g.*, Al Mariam, *The Prospects of HR 5680 in the 109th Congress*, ETHIOMEDIA.COM, [http://www.ethiomediamedia.com/addfile/hr\\_5680\\_prospects.html](http://www.ethiomediamedia.com/addfile/hr_5680_prospects.html) (noting the end date of the 2nd Session of the 109th Congress) (last visited Oct. 22, 2006).

<sup>18</sup> THOMAS HAUSER, *A YEAR AT THE FIGHTS 209* (2003) (referring to the passage of the Muhammad Ali Boxing Reform Act).

<sup>19</sup> Burstein, *supra* note 10, at 459 (comparing the law to a jaywalking statute, noting “[o]n paper, jaywalking laws prohibit people from crossing the street against the light, but in practice, everyone still crosses against the light because there is little to no enforcement.”).

<sup>20</sup> *See infra* Part III; Patrick Kehoe, *Lou DiBella on Boxing Reform*, SECONDSOUT.COM, <http://www.secondsout.com/World/colkehoe.cfm?ccs=222&cs=8639> (referencing a question posed to Lou DiBella regarding the importance of reform across the board) (last visited Oct. 22, 2006).

To provide a better comprehension of boxing's ills, it is essential to understand the business of professional boxing. Part II of this Note examines the problems created by the necessary business dealings among boxing's essential players. Part III discusses the aspects of professional boxing in which Congress can make a difference. Part IV addresses the inherent limitations of governmental efforts at reform, which stem from the infrastructure and nature of the business.

## II. THE BUSINESS OF BOXING AND THE MAJOR PARTIES

Professional boxing is unlike every other major professional sport in the United States because it “does not have a strong, centralized association or league to establish and enforce uniform rules and practices.”<sup>21</sup> Major League Baseball governs professional baseball, the National Football League governs professional football, and the National Basketball Association governs professional basketball. Boxing has no equivalent.<sup>22</sup> The absence of a centralized organizing and oversight body is the cause of many of boxing's problems.<sup>23</sup> In its place, the business of boxing relies upon the interconnectedness of numerous essential players: the boxer, the manager, the promoter, the sanctioning organization, and the state athletic commission.

### A. *The Boxer*

The boxer is the first individual necessary to effectuate a boxing match.<sup>24</sup> The boxer is the one who physically trains for the fight, the one who enters the ring, the one who throws and dodges punches, and the one who risks physical peril at the hands of his opponent.<sup>25</sup> The overwhelming majority of boxers come from impoverished backgrounds.<sup>26</sup> Most enter the sport to

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<sup>21</sup> Sen. John McCain & Ken Nahigian, Symposium, *Sports and the Law: A Fighting Chance for Professional Boxing*, 15 STAN. L. & POL'Y REV. 7, 9 (2004).

<sup>22</sup> See Scott Baglio, Note, *The Muhammad Ali Boxing Reform Act: The First Jab at Establishing Credibility in Professional Boxing*, 68 FORDHAM L. REV. 2257, 2264–66 (2000).

<sup>23</sup> See Newfield, *supra* note 2, at 7 (noting that “[b]oxing is still the only national sport without a national commissioner to enforce safety standards, rules and integrity.”).

<sup>24</sup> Cristina E. Groschel, Note and Comment, *Down for the Count: The Muhammad Ali Boxing Reform Act and Its Shortcomings*, 26 NOVA. L. REV. 927, 929 (2002).

<sup>25</sup> *Id.*

<sup>26</sup> JOYCE CAROL OATES, ON BOXING 85 (1987) (estimating that nearly ninety-nine percent of boxers come from impoverished backgrounds); see also THOMAS HAUSER, THE BLACK LIGHTS 9 (1986) (“Most fighters come from tough places; small beginnings where life is hard.”).

escape their tough surroundings and to pursue the dream of a million dollar purse.<sup>27</sup> For some, boxing is the only way they know to make a living.<sup>28</sup> Given the physical nature of prize fighting, boxers, by trade, risk their lives every time they enter the ring.<sup>29</sup> While most fans are familiar with the premier side of the sport which features well-known fighters, notorious promoters, and substantial paydays, “[m]ost boxing matches feature unknown journeymen and women who apply their trade for small crowds in exchange for nominal purse amounts.”<sup>30</sup> In fact, “blue-collar boxing,” featuring fighters who travel from town to town earning as little as \$200–\$400 per fight, is much more common in professional boxing than in championship fights with million-dollar payouts.<sup>31</sup>

Nevertheless, the ultimate goal of every boxer is to become world champion.<sup>32</sup> A boxer will receive exponentially higher paydays during his reign as a titleholder than he will once he loses his belt.<sup>33</sup> For fighters who cannot draw on name recognition alone,<sup>34</sup> holding the title is essential to earning the big payday.<sup>35</sup> Getting a title shot is something that the overwhelming majority of boxers will never experience<sup>36</sup>—and those that do rarely get a second chance.<sup>37</sup> Considering the level of athleticism, discipline, skill, endurance, and courage necessary to excel at boxing,<sup>38</sup> it is only logical

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<sup>27</sup> Fife, *supra* note 7, at 1301; *see also* McCain & Nahigian, *supra* note 21, at 8 (noting that the premiere boxing bouts featuring famous boxers and promoters can have purses of tens of millions of dollars).

<sup>28</sup> *See* HAUSER, *supra* note 26, at 13 (quoting former light-heavyweight champion Eddie Mustafa Muhammad: “If I didn’t box, I would have been a bank robber.”).

<sup>29</sup> McCain & Nahigian, *supra* note 21, at 8.

<sup>30</sup> *Id.*

<sup>31</sup> Fife, *supra* note 7, at 1302.

<sup>32</sup> HAUSER, *supra* note 26, at 27.

<sup>33</sup> Symposium: *Boxing at the Crossroads*, 11 SETON HALL J. SPORT L. 193, 256 (2001) (noting statement of Evander Holyfield that his payday per fight dropped from \$17 million to \$2 million after losing the heavyweight championship belt to Riddick Bowe. Holyfield claims “every time I get [the] belts the money increase[s].”) [hereinafter *Boxing at the Crossroads*].

<sup>34</sup> Kehoe, *supra* note 20 (noting that fighters like Roy Jones and Oscar De La Hoya do not need their belts to draw big paydays, but fighters like Eric Lucas benefit from the marketing a belt provides).

<sup>35</sup> *Boxing at the Crossroads*, *supra* note 33, at 256 (statement of Evander Holyfield) (“It’s important. People say that it’s not important but if you don’t have the belt then where do you go?”).

<sup>36</sup> HAUSER, *supra* note 26, at 27.

<sup>37</sup> *Id.*

<sup>38</sup> McCain & Nahigian, *supra* note 21, at 8.

that a small percentage of fighters reach the level of the sport where large sums of money can actually be earned.<sup>39</sup> Yet, reaching the pinnacle of the sport is not as clear-cut as other sports where wins and losses are determinative. In fact, if a boxer's skill, win-loss record, and talent were the actual determinants of who would be the next fighter in line for a shot at the title, boxing would not be the subject of countless cries for reform.<sup>40</sup> The truth of boxing is that getting a shot at the title is complex. It requires working with the "right" manager and, in turn, the "right" promoter.<sup>41</sup> Thus, a boxer's road to the top starts by enlisting the services of a manager.<sup>42</sup>

### B. *The Manager*

The manager is the fighter's business representative and is responsible for handling all of the business dealings for the fighter.<sup>43</sup> The manager's primary purpose is to negotiate fight contracts securing the most amount of money in the shortest amount of time and in the safest environment possible for his fighter.<sup>44</sup> The manager owes a fiduciary duty<sup>45</sup> to the fighter, requiring that the manager act in the best interests of the fighter.<sup>46</sup> The manager is typically compensated for his services by retaining one-third of

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<sup>39</sup> Fife, *supra* note 7, at 1301. As mentioned in Part III.A.2, *infra*, Greg Page was fighting for a \$1500 payday in the fight where he suffered career-ending injuries, even though he was once the heavyweight champion of the world.

<sup>40</sup> See Burstein, *supra* note 10, at 443 ("There would be no problem if the rankings were based on the talent of the fighters, but this is not always the case.").

<sup>41</sup> See Arlin R. Crisco, Note, *Fighting Outside the Ring: A Labor Alternative to the Continued Federal Regulation of Professional Boxing*, 60 OHIO ST. L.J. 1139, 1163 (1999); HAUSER, *supra* note 18, at 229 ("In sum, before DiBella, Hopkins was an extremely talented fighter with limited name recognition who rarely made big money. With DiBella in his camp, he became a star.").

<sup>42</sup> Damon Moore, *Down for the Count: Is McCain's Bill the One to Lift Boxing off the Canvas?*, 4 VA. SPORTS & ENT. L.J. 198, 201 (2005); see also HAUSER, *supra* note 26, at 32 ("In many ways, professional boxing starts with managers. Fighters come and go, but managers stay on, some of them seemingly forever.").

<sup>43</sup> HAUSER, *supra* note 26, at 34.

<sup>44</sup> *Id.*

<sup>45</sup> See Jim Thomas, *How Fighters Can Protect Themselves Outside the Ring: Part One*, SECONDSOUT.COM, <http://www.secondsout.com/Ringside/business.cfm?ccs=356&cs=9841> (comparing the manager-fighter relationship to the attorney-client relationship where both managers and attorneys must pursue their clients' best interests while avoiding conflicts of interest).

<sup>46</sup> Moore, *supra* note 42, at 201.

the boxer's purse for each bout.<sup>47</sup> Although managers typically are not well liked, boxers depend on managers to direct and advance their careers.<sup>48</sup>

Good managers in boxing have been compared to diamonds because they are rare and hard to find.<sup>49</sup> A good manager follows the cardinal rule and never puts his fighter in a bout that he does not believe his fighter can win.<sup>50</sup> Furthermore, a good manager carefully selects opponents because one or two bad losses can readily destroy a fighter's career.<sup>51</sup>

### C. *The Promoter*

In order to get his boxer fights, the manager must sign his fighter to a contract with a promoter.<sup>52</sup> A fight promoter is responsible for arranging bouts.<sup>53</sup> The typical deal between a fighter and a promoter is one in which the promoter agrees to arrange a certain number of bouts for a specific dollar amount. This money is then paid to the fighter and in exchange for his services, the promoter retains the exclusive promotional rights of the fighter for that number of bouts.<sup>54</sup> While the promoter has a responsibility of acting in good faith, the promoter does not owe a fiduciary duty to the boxer.<sup>55</sup> Because the promoter guarantees the payment of each boxer's purse and pays all of the expenses associated with promoting and producing a fight, the

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<sup>47</sup> Groschel, *supra* note 24, at 930.

<sup>48</sup> HAUSER, *supra* note 26, at 34; *see also* Groschel, *supra* note 24, at 930–31.

<sup>49</sup> HAUSER, *supra* note 26, at 34.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* (quoting Emanuel Steward: "Every fight requires that I be in there looking for an edge. And if I can find an opponent who gives the appearance of looking formidable while posing no threat whatsoever to my fighter, that's fine.").

<sup>52</sup> *Hearings on Bus. Practices in Boxing Before the S. Comm. on Commerce, Sci. and Transp.*, 105th Congress 43 (1998) [hereinafter *Hearings on Bus. Practices in Boxing*] (statement of Patrick C. English, counsel for Main Events, Inc., discussing the manager's negotiation role with a promoter).

<sup>53</sup> *See id.* at 9 (statement of Fredric G. Levin) (listing the responsibilities of a fight promoter).

<sup>54</sup> *See id.* at 28–29 (statement of Patrick C. English) (indicating that although the contract with the promoter may provide a certain guaranteed number of fights per year, the promoter has a great deal of discretion and veto power by refusing to arrange a fight with a particular opponent); *see also* Baglio, *supra* note 22, at 2260.

<sup>55</sup> *Boxing at the Crossroads*, *supra* note 33, at 237–38 (statements of Lou DiBella and Patrick English) (revealing that under case law, the promoter technically does not owe a fiduciary duty to the fighter).

financial risk is generally assumed by the promoter.<sup>56</sup> The promoter does not take a percentage of the purse, but instead keeps the difference between the total revenues and total expenses for the promotion of a bout.<sup>57</sup> The significant sources of revenue are ticket sales, domestic and foreign television rights, and advertising rights.<sup>58</sup> The smaller the amount of money a promoter can get a boxer to accept, the smaller the financial risk assumed by the promoter and the greater the potential for profit.<sup>59</sup> Given the financial risks borne by the promoter, the boxer's financial interests are in direct conflict with those of the promoter.<sup>60</sup> Consequently, it is the manager's role to vigorously represent the boxer by ensuring that his fighter does not end up in a contract with unfavorable terms.<sup>61</sup>

Although the promoter at one level is financially motivated to pay a fighter as little as possible, the promoter *does* have an interest in seeing the fighter become a top-ranked boxer because of the potential financial gain of promoting a champion.<sup>62</sup> When the promoter puts on a non-televised bout featuring club or unknown fighters, the margin for profit is very small, even with a capacity crowd.<sup>63</sup> A promoter typically takes a financial loss early in the fighter's promotional contract with the expectation that eventually the fighter will compete in bigger bouts that can recoup the principal investment.<sup>64</sup> In order for a boxer and promoter to get the largest payday and a shot at the title, consistently winning fights and getting ranked by a sanctioning organization are essential.<sup>65</sup>

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<sup>56</sup> Baglio, *supra* note 22, at 2261 (noting that the risk is shifted away from the promoter when television networks are involved); Kehoe, *supra* note 20.

<sup>57</sup> Baglio, *supra* note 22, at 2261.

<sup>58</sup> *Id.* at 2261–62.

<sup>59</sup> HAUSER, *supra* note 26, at 69–70.

<sup>60</sup> Baglio, *supra* note 22, at 2262.

<sup>61</sup> *Id.*

<sup>62</sup> Fife, *supra* note 7, at 1302.

<sup>63</sup> HAUSER, *supra* note 18, at 258–59; *see also* Tim Sullivan, *Going to School on the "Sweet Science,"* SAN DIEGO UNION-TRIB., Feb. 16, 2006, at D1.

<sup>64</sup> Crisco, *supra* note 41, at 1173 n.213.

<sup>65</sup> Baglio, *supra* note 22, at 2264.

#### D. *The Sanctioning Organizations*

Worldwide, there are at least a dozen sanctioning organizations.<sup>66</sup> The “three major” sanctioning bodies are the World Boxing Association (“WBA”), the World Boxing Council (“WBC”), and the International Boxing Federation (“IBF”).<sup>67</sup> The World Boxing Organization (“WBO”) is occasionally included as the fourth of the major sanctioning bodies.<sup>68</sup> Because they are often referred to by their abbreviations, these organizations are often collectively known as the “alphabet soup.”<sup>69</sup>

Sanctioning organizations control two very important aspects of boxing: sanctioning championship bouts and promulgating rankings of fighters.<sup>70</sup> “The power of these organizations is derived from the fact that without their official sanction, a fight cannot be recognized as a ‘championship bout,’ and thus is less attractive to both television and the viewing public.”<sup>71</sup> In order to gain an official sanction in a title fight, the sanctioning organization typically charges a fee of three percent of each fighter’s purse.<sup>72</sup> If a fighter does not agree to pay the sanctioning fee, he is not eligible to “win” the title, even if he beats the title holder.<sup>73</sup> The rankings of a sanctioning organization are extremely important because they determine which fighters are eligible to fight for the championship, and thus, the big-money purses.<sup>74</sup>

In addition, rankings are absolutely critical in determining who is at the top of the sport. Rankings are boxing’s equivalent to NCAA football polls because subjectivity is necessary to determine who is “number one” and who gets a shot at the title. In order to get a title shot in boxing, a fighter generally must be ranked in the top fifteen of a sanctioning organization’s weight

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<sup>66</sup> Fife, *supra* note 7, at 1303; *see also* David Marsh, *How to Win a World Boxing Title*, WEST AUSTL., Feb. 28, 2006 (noting that there are twelve “world governing” bodies).

<sup>67</sup> Fife, *supra* note 7, at 1303.

<sup>68</sup> Jones Jr. *Wants Crack at Calzaghe*, SPORTSILLUSTRATED.COM (Mar. 13, 2006) <http://sportsillustrated.cnn.com/2006/more/03/13/jones.calzaghe.ap/index.html> (noting WBO title is considered to be “less prestigious”).

<sup>69</sup> *Boxing at the Crossroads*, *supra* note 33, at 195.

<sup>70</sup> Fife, *supra* note 7, at 1303.

<sup>71</sup> Baglio, *supra* note 22, at 2263.

<sup>72</sup> *Id.*

<sup>73</sup> *Mayweather to Face Judah on April 8*, POUGHKEEPSIE J., Feb. 8, 2006 (noting that Zab Judah, the previously undisputed welterweight champion, was upset by Carlos Baldomir on January 7, 2006. Because Baldomir only paid the WBC sanctioning fee and not the IBF or WBA sanctioning fees, he only won the WBC version of the welterweight title, but not the IBF or WBA belts—even though he beat their titleholder.)

<sup>74</sup> Fife, *supra* note 7, at 1303.

division.<sup>75</sup> Unless a fighter is ranked as the number one contender, however, he is never guaranteed a shot at the title; only the number one contender is ever guaranteed a title shot.<sup>76</sup> Pursuant to the sanctioning body's rules, a titleholder is generally required to fight the number one contender within a nine to twelve month time frame, or the titleholder will be stripped of the belt and title.<sup>77</sup>

Nevertheless, a continual problem in the sport is ascertaining the true number one contender.<sup>78</sup> This is because the rankings are subject to constant manipulation<sup>79</sup> and have historically been corrupt.<sup>80</sup> Therefore, and for good reason, many credit sanctioning organizations are believed to be the root of boxing's evils.<sup>81</sup> The harmful impact that the sanctioning bodies have on the sport of boxing is discussed in greater detail in Part IV of this Note.

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<sup>75</sup> Groschel, *supra* note 24, at 938.

<sup>76</sup> A title holder's refusal to fight a superior but lesser-ranked opponent was possible before sanctioning organizations required mandatory bouts for number one contenders. *See, e.g., Boxing at the Crossroads*, *supra* note 33, at 201 (noting that uncrowned heavyweight champion Archie Moore for years was never given a title-shot by "champion" Joey Maxim because Maxim knew that he could not beat Moore. After three years of waiting for the title shot and a public outcry for the bout, Moore knocked Maxim out and was officially crowned champ.).

<sup>77</sup> The IBF heavyweight title holder has twelve months to defend a title; for all other divisions, the IBF title holder has nine months to defend his title. IBF/USBA RULES GOVERNING CHAMPIONSHIP CONTESTS, R. 5(A)(1) & 5(B)(1), INTERNATIONAL BOXING FEDERATION, <http://www.ibf-usba-boxing.com/index.php?pg=3> (click on IBF/USBA Rules Governing Championship Contests) (last visited Oct. 22, 2006). A WBA non-heavyweight titleholder must defend his title within nine months; a WBA heavyweight titleholder has twelve months. WBC WORLD CHAMPIONSHIP REGULATIONS, R. 5.1.1–5.1.2, WORLD BOXING COUNCIL, <http://www.wbcboxing.com/WBCboxing/Portal/cfpages/category.cfm?nodeId=1.10&showPage=category-down-2n> (last visited Nov. 6, 2006). A fighter will have to vacate the title if he is unable to arrange a match with the number one contender within the allocated timeframe. *See, e.g., Chris Givens, Wright Has Offer for Fight*, ARK. DEMOCRAT GAZETTE, Jan. 6, 2006, at "Sports" (noting that WBC titleholder Jermain Taylor would have had to vacate his WBC title if he could not work out a deal to fight mandatory challenger Ronald "Winky" Wright).

<sup>78</sup> *Boxing at the Crossroads*, *supra* note 33, at 201 (statement of Mills Lane) ("The sanctioning bodies said . . . [w]e will recognize a champion, and we will require the champ to fight the number one contender in six months or we'll strip you. Sounds pretty good, doesn't it? The trouble is [ascertaining] who is number one.").

<sup>79</sup> *See id.* ("There is manipulation.").

<sup>80</sup> Groschel, *supra* note 24, at 938.

<sup>81</sup> *See Boxing at the Crossroads*, *supra* note 33, at 200 (statement of Mills Lane); *see also id.* at 206 (statement of Jerry Izenberg) (describing the presidents of the three major sanctioning bodies); "The major problem as I see it is the problem raised by both

### E. State Athletic Commissions

At the state level, state boxing commissions regulate boxing.<sup>82</sup> State commissions are charged with establishing and enforcing regulations in order to protect the health and safety of boxers.<sup>83</sup> State athletic commissions also determine the qualifications for referees and judges.<sup>84</sup> They license fighters, managers, and promoters, and can suspend and revoke these licenses to bar individuals from fighting or doing business in that state.<sup>85</sup> Forty-six state commissions are loosely affiliated under the Association of Boxing Commissions (the “ABC”).<sup>86</sup> Yet, because there is no federal boxing commission, each state is free to promulgate its own regulations regardless of the requirements of other states.<sup>87</sup> Thus, when one state revokes or refuses to grant a fighter a license, other states are not required to follow suit.<sup>88</sup> The lack of uniformity allows situations to arise in which one state refuses to grant a license to a “professional loser”<sup>89</sup>—such as a fighter with 25 straight losses—while a different state allows him to fight.<sup>90</sup> Not surprisingly, such scenarios can produce lethal results, including debilitating injuries and deaths in the ring.<sup>91</sup> The lack of adequate regulation by some state athletic

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Mills Lane and Jerry Izenberg and that is the sanctioning organizations. Quite frankly they have to go. They are not honest. They are not fair. They are not moral.” *Id.* at 209 (statement of Amos C. Saunders, Retired Presiding Judge); “[E]verybody here [at this symposium] has just about said that the sanctioning organizations are the problem.” *Id.* at 222 (statement of Kathy Duva, promoter and CEO of Main Events, Inc.).

<sup>82</sup> Moore, *supra* note 42, at 209.

<sup>83</sup> See *Hearings on Bus. Practices in Boxing*, *supra* note 52 (testimony of Gregory P. Sirb, President of the Association of Boxing Commissions).

<sup>84</sup> See Baglio, *supra* note 22, at 2262.

<sup>85</sup> Moore, *supra* note 42, at 209.

<sup>86</sup> Fife, *supra* note 7, at 1305.

<sup>87</sup> Burstein, *supra* note 10, at 438.

<sup>88</sup> Moore, *supra* note 42, at 209.

<sup>89</sup> Thomas Hauser, *Professional Losers*, SECONDSOUT.COM, July 15, 2003, <http://www.secondsout.com/USA/colhauser.cfm?ccs=208&cs=12113> (last visited Oct. 22, 2006).

<sup>90</sup> The Nevada Boxing Commission refused to let Bradley Rone fight on the grounds that he had lost twenty-five straight fights. However, the Utah Athletic Commission allowed Rone to fight, even though the state commission allegedly failed to conduct proper physical and medical exams. See Jennifer Weaver, *Judge Quashes Suit over Boxing Death*, SPECTRUM, Feb. 4, 2006, <http://www.thespectrum.com/apps/pbcs.dll/article?AID=/20060204/NEWS01/602040311/1002> (last visited Sept. 9, 2006); Julian Benbow, *Taking a Punch Can Have Fatal Results—Deaths in the Ring on the Rise*, TAMPA TRIB., Aug. 3, 2005, at SPORTS 8.

<sup>91</sup> Bradley Rone died after lasting less than one round in a July 18, 2003 fight in Utah. See Benbow, *supra* note 90. His career record was 7 wins (2 KO’s), 43 losses, and

commissions, as evidenced by allowance of “professional losers,” gives weight to the argument that a federal commission is necessary because states operating individually cannot improve safety in the sport unless there are uniform safety regulations nationwide.<sup>92</sup>

### III. PROBLEMS IN BOXING THAT CONGRESS CAN RESOLVE

The subject of boxing reform is like a heavyweight boxing champion who has had too many fights: “[i]t’s big, and it’s important, but it’s hard to understand.”<sup>93</sup> There are many issues plaguing professional boxing which make it difficult to believe that there is a panacea that exists that can save the sport. At the forefront of the issues of concern, however, is boxer safety. In the past decade, twenty-four fighters died from injuries sustained in the ring, fourteen of which occurred since 2000.<sup>94</sup> Although safety in the sport is merely the tip of boxing’s mountain of troubles, it is an issue that Congress has addressed twice in the last decade by successfully passing legislation.

#### A. *Protection for Fighters in the Ring: Health and Safety Issues*

Two recent boxing incidents demonstrate the inherent danger associated with stepping into the ring and the importance of proper ringside medical care.<sup>95</sup> The first incident involves the tragic death of Levander Johnson. What is notable in this case is the superior level of medical attention Levander Johnson received from the moment he was injured. The second tragedy, suffered by Greg Page, illustrates the shameful consequences of inadequate medical care and the lack of safety supervision at ringside. The care received by Levander Johnson is the standard Congress likely envisioned when it passed the Safety Act; the inadequate medical attention received by Page is what Congress tried to eradicate with the Safety Act. “While it may be an exaggeration to argue that all boxing-related deaths can be prevented by federal regulation, it is not unreasonable to conclude that the promulgation of federal uniform health and safety standards would mitigate the occurrence of unnecessary loss of life or serious injury.”<sup>96</sup> Thus, the goal

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3 draws. Bradley Rone, BOXREC.COM, [http://www.boxrec.com/boxer\\_display.php?boxer\\_id=6636](http://www.boxrec.com/boxer_display.php?boxer_id=6636) (last visited Oct. 22, 2006).

<sup>92</sup> Hauser, *supra* note 89.

<sup>93</sup> Frank McNally, *Taking the Regulation out of Irish Politics*, IRISH TIMES, Oct. 20, 2005, at 8.

<sup>94</sup> Benbow, *supra* note 90 (citing twenty-three deaths since 2000; Levander Johnson died six weeks after the article was written).

<sup>95</sup> Jim Lampley, *Death in the Ring*, HUFFINGTON POST, Sept. 27, 2005, [http://www.huffingtonpost.com/jim-lampley/death-in-the-ring\\_b\\_7939.html](http://www.huffingtonpost.com/jim-lampley/death-in-the-ring_b_7939.html).

<sup>96</sup> McCain & Nahigian, *supra* note 21, at 30.

of Congress' reform efforts has been to reduce injuries like those suffered by Greg Page.

### 1. *Levander Johnson*

Only days before stepping into the ring at the MGM Grand to face Jesus Chavez on the under-card of an HBO pay-per-view event, Levander Johnson told his hometown newspaper that he was confident he would beat Chavez, "or die trying."<sup>97</sup> On September 17, 2005, Johnson's statement proved to be prophetic.<sup>98</sup> Referee Tony Weeks stopped the fight early in the eleventh round as Chavez seemingly landed blows to Johnson's head at will. Less than an hour later, Johnson underwent surgery to relieve a subdural hematoma<sup>99</sup>—an injury that would shortly thereafter claim his life.<sup>100</sup> Johnson's passing marked the second death in a Las Vegas ring in a matter of weeks,<sup>101</sup> and the third ring-related death on U.S. soil in six months.<sup>102</sup>

While clearly a tragedy, famed boxing analyst Jim Lampley has stated that Johnson died under "the best of boxing circumstances."<sup>103</sup> Lampley noted that during the fight Johnson was under the watchful eye of one of the best ringside physicians in the country,<sup>104</sup> and that the fight was stopped at the first obvious moment of trouble.<sup>105</sup> Furthermore, when asked in the late rounds by his father-trainer if he wanted to continue fighting, Johnson

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<sup>97</sup> Lampley, *supra* note 95 ("It's the kind of thing boxers say all the time.").

<sup>98</sup> *Id.*; see also Tim Dahlberg, *Fatal Blow to Boxing Credibility*, DAILY TELEGRAPH, Sept. 24, 2005, at 62. Less than three months earlier and several miles up the road from the MGM Grand, injuries sustained in the ring claimed the life of lightweight fighter Martin Sanchez after a July 1, 2005 bout at The Orleans. See *Boxer Dies After Bout in Las Vegas*, CHARLOTTE OBSERVER, July 4, 2005, at 7C.

<sup>99</sup> Typically described as bleeding on the brain. Tom Scaletta, M.D., *Subdural Hematoma*, EMEDICINE.COM, <http://www.emedicine.com/emerg/topic560.htm> (last visited Oct. 22, 2006).

<sup>100</sup> Ryan Parry, *Champ Loses Fight for Life*, DAILY REC., Sept. 24, 2005, at 23.

<sup>101</sup> On July 2, Martin Sanchez died of a severe brain injury sustained in a bout against Rustam Nugaev in the ring only several miles from the venue of Johnson's bout. See *Fighter Dies of Bout Injuries*, INT'L HERALD TRIB., Sept. 24, 2005, at 24.

<sup>102</sup> In April 2005, Becky Zerlentes was the first American female boxer to die in the ring. See Benbow, *supra* note 90.

<sup>103</sup> Lampley, *supra* note 95.

<sup>104</sup> *Id.* (noting that Dr. Margaret Goodman was the ringside physician). Doctor Goodman was the Nevada State Athletic Commission's de facto chief ringside physician and is chairman of the Commission's medical advisory board. See HAUSER, *supra* note 18, at 75.

<sup>105</sup> Lampley, *supra* note 95.

repeatedly answered in the affirmative.<sup>106</sup> Moreover, when the fight was finally stopped and his symptoms were recognized, medics rushed Johnson to the hospital and he was in surgery within the hour.<sup>107</sup>

## 2. *Greg Page*

Compared to the ringside medical attention Levander Johnson received, the injury suffered by former heavyweight champion Greg Page occurred seemingly under the worst of boxing circumstances.<sup>108</sup> Fighting for a mere \$1500,<sup>109</sup> the forty-two year-old Page collapsed in the tenth round of a fight which he initially hoped would put him on track for “one last chance at a title.”<sup>110</sup> Regrettably, the Kentucky Athletic Commission, the body in charge of ensuring that adequate safety precautions were taken for the March 9, 2001 bout, failed to arrange for an ambulance to be onsite and available in the event of a medical emergency.<sup>111</sup> During the time it took for an ambulance to arrive, Page lay helplessly on the canvas suffering from brain damage and a stroke.<sup>112</sup> To this day, Page is unable to walk without assistance because of the paralysis of his left side as a result of the incident,<sup>113</sup> and he continues to suffer from complications more than five years later.<sup>114</sup>

## 3. *The Status Quo: The Muhammad Ali Boxing Reform Act*

Congress passed the Safety Act and the Ali Reform Act for the purposes of “improv[ing] and expand[ing] the system of safety precautions that protects the welfare of professional boxers . . . [and assisting] State boxing commissions to provide proper oversight for the professional boxing industry

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<sup>106</sup> *Id.*; see also *Boxing at the Crossroads*, *supra* note 33, at 241–42 (statement of Evander Holyfield) (noting that it is important for the boxer’s corner and the referee to know if the boxer is feeling well because “that’s their job to see and make observations where they should stop the fight or not”).

<sup>107</sup> Lampley, *supra* note 95.

<sup>108</sup> McCain & Nahigian, *supra* note 21, at 29 (“The Kentucky commission’s failure to afford Page and the other participants in the boxing event adequate health and safety protections is simply deplorable.”).

<sup>109</sup> *Id.* at 28.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 28–29.

<sup>113</sup> *Id.* at 29.

<sup>114</sup> *Boxer Greg Page Is Breathing on His Own*, USATODAY.COM, Mar. 1, 2006, [http://www.usatoday.com/sports/boxing/2006-03-01-page-health\\_x.htm?POE=SPOISVA](http://www.usatoday.com/sports/boxing/2006-03-01-page-health_x.htm?POE=SPOISVA)

in the United States.”<sup>115</sup> Through the establishment of minimum safety standards, this legislation is aimed at protecting the majority of the sport’s fighters—like Greg Page—who fight for hundreds of dollars instead of thousands, and in matches that often take place without the benefit of proper health and safety supervision.<sup>116</sup>

The Safety Act, now incorporated as a part of the Ali Reform Act, contains several notable provisions. First, the Act requires that state athletic commissions oversee all professional boxing matches.<sup>117</sup> Second, the Ali Reform Act requires an ambulance or medical personnel with appropriate resuscitation equipment to be continuously present during all fights, and requires a physician to continuously be present at ringside.<sup>118</sup> Third, health insurance must be provided for each boxer in order to cover any injuries sustained in the ring.<sup>119</sup> Fourth, prior to a fight, a physician must conduct a physical examination and certify that the boxer is physically fit to compete safely.<sup>120</sup> Fifth, the Act “prohibits medically-suspended fighters from participating in boxing matches in other states and assures that states are aware that a fighter may be suspended in another state.”<sup>121</sup> Sixth, the law requires that all boxers must register for an identification card issued by the boxing commission in the state in which the boxer resides; if the boxer is a foreign resident or there is no state boxing commission where the boxer resides domestically, he must secure an identification card from any state’s boxing commission.<sup>122</sup> Lastly, the Ali Reform Act also includes a conflict of interest provision that prohibits state commissioners from receiving any sort of compensation from business interests in the boxing industry.<sup>123</sup>

One of the major weaknesses of the Ali Reform Act is that states are left to enforce the terms of the law, which, in turn, has caused medical standards to deviate across the country.<sup>124</sup> For instance, “New York and Nevada are the only states that require periodic MRI testing for fighters.”<sup>125</sup> Furthermore,

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<sup>115</sup> 15 U.S.C. § 6302 (2000).

<sup>116</sup> 141 CONG. REC. S16514 (daily ed. Nov. 1, 1995) (statement of Sen. McCain).

<sup>117</sup> 15 U.S.C. § 6303(b) (2000).

<sup>118</sup> 15 U.S.C. § 6304 (2000).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> McCain & Nahigian, *supra* note 21, at 19.

<sup>122</sup> 15 U.S.C. § 6305 (2000).

<sup>123</sup> 15 U.S.C. § 6308 (2000).

<sup>124</sup> *See* Moore, *supra* note 42, at 214; *see also* Fife, *supra* note 7, at 1308–09.

<sup>125</sup> Thomas Hauser, *Boxing’s Medical Mess*, SECONDSOUT.COM, May 27, 2004, <http://www.secondsout.com/home/home.cfm?CFID=9978705&CFTOKEN=-57472464> (noting “[o]ther states don’t, and they should”).

the lack of an adequate national medical data bank, coupled with a burgeoning practice of phony medical information being submitted to state athletic commissions<sup>126</sup> is a combination that causes states to license boxers who should not be in the ring.<sup>127</sup> Likewise, when state boxing commissions do not adhere to the terms of the Ali Reform Act, it is no surprise that the effectiveness of the law will be questioned.<sup>128</sup>

Nevertheless, several recent cases involving Evander Holyfield and Joe Mesi indicate that the Ali Reform Act has been somewhat successful at improving safety regulation in the sport. After losing a unanimous decision to Larry Donald in November 2004, Evander Holyfield was placed on medical suspension by the New York State Athletic Commission, which thereby barred him from fighting anywhere else in the United States.<sup>129</sup> Since 1999, Holyfield is 2–5–2 and “has appeared notably slower of foot and fist in his last three fights, losses to Donald, James Tony and Chris Byrd.”<sup>130</sup> In mid-August 2005, the New York State Athletic Commission lifted its medical suspension but maintained an indefinite administrative suspension because of “poor performance and diminished skills.”<sup>131</sup> While the administrative suspension does not bar him from fighting in other states, the New York Commission has asked other states to follow suit.<sup>132</sup> Even though Holyfield is no longer on the medical suspension list and has since begun a “comeback,” the Ali Reform Act served its purpose by barring the former champion from fighting in any state until he underwent a series of medical

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<sup>126</sup> *Id.*

<sup>127</sup> See Hauser, *supra* note 89 (noting the deviation amongst state medical standards where fighters like Kenneth Bentley, holding a career record of eight wins, ninety-two losses, one draw (and two knockouts) and only one victory in his last sixty-one fights, are still able to obtain licenses in states like Tennessee).

<sup>128</sup> Greg Page’s injury occurred in a state that was not adhering to the terms of the Ali Reform Act. The Safety Act, enacted nearly five years before Page’s bout, requires any person organizing a professional boxing match to have “an ambulance or medical personnel with appropriate resuscitation equipment continually present on site.” Unfortunately, in addition to no ambulance being on site, the Kentucky Commission failed to provide adequate medical personnel and resuscitation equipment at ringside at the time of Page’s collapse. McCain, *supra* note 21, at 29.

<sup>129</sup> Steve Hummer, *Holyfield Eyes Fight in Europe*, ST. PAUL PIONEER PRESS, Aug. 28, 2005, at 4C.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

tests on his brain function, eyesight, and balance to determine if he was medically sound.<sup>133</sup>

With an record of 29 wins (25 knockouts) and no losses, Joe Mesi's career was flourishing until the heavyweight suffered a subdural hematoma—the same injury that claimed the life of Levander Johnson—after a 2004 fight with Vassiliy Jirov.<sup>134</sup> Mesi's camp denied that he sustained the injury, and the Nevada State Athletic Commission put Mesi on the medical suspension list until appropriate documentation regarding the injury was turned over to the Commission and evaluated.<sup>135</sup> Nevada's medical suspension of Mesi kept him out of the ring for twenty-one months, until a Nevada judge ruled that Mesi's medical suspension could not last longer than his license.<sup>136</sup> This ruling has sparked concerns throughout boxing's regulatory commissions.<sup>137</sup> The impact of the ruling is that a fighter who is put on medical suspension shortly before his license expires may only be suspended for a short period of time.<sup>138</sup> After a fighter's license expires—and he is subsequently removed from the medical suspension list—the fighter is free to shop for a state with lax medical regulations which will grant him a license, regardless of his questionable medical history.<sup>139</sup> As a result of the Nevada court's ruling, Mesi has followed this exact course of action and has been granted a license to fight in Puerto Rico.<sup>140</sup> Nonetheless, it is noteworthy that the Ali Reform Act was the force keeping him out of the ring since the time it was discovered that he had suffered multiple brain bleeds.<sup>141</sup>

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<sup>133</sup> See *id.* Holyfield began his “comeback” with a solid showing against insurance salesman and part-time boxer Jeremy Bates on August 18, 2006, in Parkersburg, West Virginia. Holyfield hopes to become the heavyweight champion for the fifth time. *Holyfield Scores Second-Round TKO in Comeback*, SEATTLE POST-INTELLIGENCER, Aug. 19, 2006, <http://seattlepi.nwsource.com/scorecard/othernews.asp?articleID=172667>.

<sup>134</sup> See Tim Graham, *Mesi Decision Sparks Concerns*, BUFFALO NEWS, Dec. 21, 2005, at D1.

<sup>135</sup> Hauser, *supra* note 125.

<sup>136</sup> Graham, *supra* note 134.

<sup>137</sup> *Id.* Counsel for Main Events, Patrick English, commented, “If there’s ever an argument made for a national boxing commission . . . it was just made by this ruling.” *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> Indiana, Kentucky, Tennessee, South Carolina, and Washington D.C. all have notoriously lax boxing commissions. See *id.*

<sup>140</sup> Tim Graham, *Mesi, Free to Fight, Gets Puerto Rico License*, BUFFALO NEWS, Feb. 18, 2006, at B5.

<sup>141</sup> See Graham, *supra* note 134.

#### 4. *The Impact Additional Legislation and a Federal Boxing Commission Would Have on Boxer Safety*

As illustrated by the Holyfield and Mesi medical suspensions, Congress has been able to address safety concerns in professional boxing with some degree of success. The Professional Boxing Amendments Act of 2005 (“Amendments Act”), which the Senate passed on May 9, 2005, is a piece of legislation that could additionally improve safety standards in the sport.<sup>142</sup> If passed by the House, the Amendments Act would go a long way towards accomplishing the aims of the original Safety Act. Title II of the Amendments Act would create the United States Boxing Commission<sup>143</sup> (“USBC” or the “Commission”). The purpose of the USBC is “to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.”<sup>144</sup> The USBC’s primary functions would be to enforce the provisions of the Ali Reform Act and the Amendments Act, and to “promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions.”<sup>145</sup>

The Amendments Act contains several notable provisions that have the potential to enhance safety regulation in professional boxing significantly. First, all matches would have to be approved by the Commission and held in a state or on tribal land that regulates boxing matches “in accordance with the standards and criteria established by the Commission.”<sup>146</sup> As not to bog down the sport with red tape, Commission approval of matches would be presumed<sup>147</sup> except for matches where there has been an alleged violation of the Ali Reform Act, matches that are advertised as “championship” bouts, matches scheduled for ten rounds or more, or matches in which one of the fighters has either “suffered ten consecutive defeats in professional boxing matches . . . or has been knocked out five consecutive times in professional boxing matches.”<sup>148</sup> These provisions would seemingly force those states with virtually no standards<sup>149</sup> into compliance with the minimum standards promulgated by federal law. States that do not abide by these regulations

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<sup>142</sup> S. 148, 109th Cong. (2005).

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at § 201.

<sup>145</sup> *Id.* at § 203(b)(2).

<sup>146</sup> *Id.* at § 4(a)(2).

<sup>147</sup> *Id.* at § 4(b)(1).

<sup>148</sup> The Professional Boxing Amendments Act of 2005, S. 148, 109th Cong. § 4(b)(1)(A)-(D) (2005).

<sup>149</sup> Indiana, Kentucky, Tennessee, South Carolina, and Washington D.C. all have notoriously lax boxing commissions. Graham, *supra* note 134.

would likely be restricted by the Commission in their ability to host professional boxing matches. Consequently, the practice of forum-shopping for a lenient state athletic commission would vanish.

Second, all boxing matches would be required to have *both* “an ambulance continuously present on site” and “emergency medical personnel with appropriate resuscitation equipment continuously present on site.”<sup>150</sup> Third, the Amendments Act would mandate the creation of “a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.”<sup>151</sup> Having a medical registry would ensure that accurate medical information is properly shared,<sup>152</sup> thereby addressing the practice of parties submitting phony medical information, as well as the “don’t ask, don’t tell” policies<sup>153</sup> currently employed in some states.

Lastly, the Amendments Act would require that all boxers, managers, and promoters be licensed by the USBC.<sup>154</sup> This provision would take the licensing power out of the hands of the states and would allow uniform and nationally consistent standards with regard to licensing of fighters like Joe Mesi and Evander Holyfield. Furthermore, the Nevada court decision limiting medical suspension to the duration of the boxer’s license would effectively be nullified, and upon expiration, the USBC would likely refuse renewal of licenses for fighters with checkered medical histories—like Mesi. In addition, licensure by the USBC would address the problem of “professional losers” being licensed by lax state boxing commissions. Under this provision, a fighter with an egregious loss record and a significant history of being knocked out would be protected for his own benefit.<sup>155</sup>

### B. *Protection for Fighters at the Bargaining Table*

While the Amendments Act focused on protecting boxers inside the ring, the problem of managers and promoters taking advantage of fighters at the bargaining table was prevalent enough to generate Congressional action.

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<sup>150</sup> The Professional Boxing Amendments Act of 2005, S. 148, 109th Cong. § 6(3)-(4) (2005).

<sup>151</sup> *Id.* at § 16.

<sup>152</sup> Hauser, *supra* note 125 (“Boxing needs a national medical data bank so that accurate information is properly shared. Often, this information is unavailable. And worse, some stat commissions seem to have a ‘don’t ask, don’t tell’ policy.”).

<sup>153</sup> *Id.* (“[Some states] don’t want to know about facts that might preclude a particular fight from taking place in their state.”).

<sup>154</sup> The Professional Boxing Amendments Act of 2005, S. 148, 109th Cong. § 204 (2005).

<sup>155</sup> *See* Hauser, *supra* note 89.

Following the passage of the Amendments Act, fighters “continued to be exploited in their contractual agreements” with managers and promoters.<sup>156</sup> As previously noted in Part II, when a boxer turns professional, he must enter into contracts with managers and promoters in order to get fights.<sup>157</sup> Early in a boxer’s career, negotiations with promoters and managers are often one-sided because “the average fighter has virtually no bargaining power or leverage.”<sup>158</sup> Consequently, contracts produced under this arrangement are often “for extended or unlimited terms, place little or no obligations on the promoter and provide for little guaranteed compensation to the boxer, beyond bare minimums.”<sup>159</sup> Such contracts are highly favorable for promoters because the risk of financial loss is minimal if the fighter is unsuccessful; if the fighter is successful, the payoff to the promoter is substantial.<sup>160</sup> Prior to the Ali Reform Act, “it was a common practice for a promoter who had successful boxers under contract to require that any challenger who sought to fight one of these boxers sign a long-term agreement with the promoter.”<sup>161</sup> The typical arrangement was often one where the promoter who represented the champion but not the challenger would compel the challenger to sign an “option contract” that would bind the challenger to the champion’s promoter for a certain period of time *if* the challenger won the bout.<sup>162</sup> The “option contract” would allow the promoter to maintain exclusive control over the titleholder of a particular division, regardless of the bout’s victor, because any challenger would have no choice but to agree to the promoter’s terms in order to get the *opportunity* to fight for the championship.<sup>163</sup> One example of the “option contract” in practice occurred in 1996 when challenger Evander Holyfield was required to sign a long-term promotional agreement with Don King just to have the *opportunity* to fight heavyweight champion Mike Tyson, a fighter who had an existing promotional agreement with King.<sup>164</sup> Unfortunately for Holyfield, in 1996 this type of coercive contract was standard in the industry. “Boxers often agree to these types of coercive contracts for fear of being blackballed by the promoter.”<sup>165</sup> Like countless fighters before and after him, Holyfield had no option but to agree to King’s

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<sup>156</sup> McCain & Nahigian, *supra* note 21, at 20.

<sup>157</sup> See *supra* Part II.

<sup>158</sup> Baglio, *supra* note 22, at 2269 (citation omitted).

<sup>159</sup> *Id.* (citation omitted).

<sup>160</sup> *Id.*

<sup>161</sup> McCain & Nahigian, *supra* note 21, at 20.

<sup>162</sup> See Baglio, *supra* note 22, at 2272.

<sup>163</sup> *Id.*

<sup>164</sup> McCain & Nahigian, *supra* note 21, at 20.

<sup>165</sup> *Id.*

terms—otherwise the fight between him and Tyson for the championship would have probably never occurred.<sup>166</sup>

Congress addressed the exploitation of boxers at the bargaining table with several notable provisions in the Ali Reform Act. The law now contains “key financial disclosure requirements for promoters and sanctioning organizations, including a requirement that promoters and sanctioning organizations inform state boxing commissions of charges, costs, and fees subtracted from a boxer’s purse.”<sup>167</sup> In addition, the Ali Reform Act bans contracts it considers to be unfairly coercive,<sup>168</sup> such as “option contracts,” which are forbidden if they are longer than twelve months.<sup>169</sup> Furthermore, promoters are prohibited from requiring a mandatory contender to sign an “option contract” in order to compete in a title bout when the fight is mandatory under the rules of a sanctioning organization.<sup>170</sup> Under the terms of the Ali Reform Act, if the Holyfield-Tyson-King incident from 1996 occurred today, Holyfield would not be obligated to sign a long-term promotional agreement with King in order to fight Tyson so long as the WBA ranked Holyfield as the number one contender; the title defense would be mandatory under the WBA’s mandatory contender rule.<sup>171</sup>

The strengths and weaknesses of the bargaining table protections in the Ali Reform Act have been well documented.<sup>172</sup> One consistent criticism of the law that has not gone unnoticed by Congress is the lack of enforcement.<sup>173</sup> The varying degree of oversight can be attributed to the lack of resources given to boxing regulation by each state, or to a lack of interest amongst state attorneys general charged with enforcing the Ali Reform Act’s provisions.<sup>174</sup>

If created, the USBC would ensure that, at the very least, someone is responsible for guaranteeing that the terms of the Ali Reform Act are

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<sup>166</sup> See Baglio, *supra* note 22, at 2272.

<sup>167</sup> McCain & Nahigian, *supra* note 21, at 21.

<sup>168</sup> 15 U.S.C. § 6307b(a) (2000).

<sup>169</sup> 15 U.S.C. § 6307b(a)(1)(A)(i).

<sup>170</sup> 15 U.S.C. § 6307b(b).

<sup>171</sup> The 1996 Holyfield-Tyson bout was for the WBA Heavyweight Title. See *Evander Holyfield*, BOXREC.COM, [http://www.boxrec.com/boxer\\_display.php?boxer\\_id=499](http://www.boxrec.com/boxer_display.php?boxer_id=499) (last visited Oct. 22, 2006).

<sup>172</sup> See Moore, *supra* note 42, at 215–20; Burstein, *supra* note 10, at 446–65; Fife, *supra* note 7, at 1310–13.

<sup>173</sup> Ted Stevens, The Professional Boxing Amendments Act of 2005, S. REP. NO. 109–58, at 3 (2005).

<sup>174</sup> *Id.*

enforced—which would certainly be an improvement of the status quo.<sup>175</sup> The Amendments Act contains several provisions that would seemingly improve the current situation for boxers at the bargaining table. First, the Commission would develop, in consultation with the Association of Boxing Commissions, “guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each [state] boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.”<sup>176</sup> Second, managers and promoters are required to submit to the Commission a copy of all boxer-manager contracts and promotional agreements.<sup>177</sup> Third, state boxing commissions are prohibited from approving a professional boxing match unless a copy of the bout agreement related to that match has been filed with and approved by that state’s athletic commission.<sup>178</sup> In addition, state boxing commissions are prohibited from approving a professional boxing match unless the promoter of that match has posted a surety bond, cashier’s check, letter of credit, cash, or other security in order to ensure that the boxers are properly compensated according to the terms of the bout agreement.<sup>179</sup> Lastly, and most importantly, the USBC would be bestowed with the power of granting and revoking licenses not only for boxers, but also for promoters and managers.<sup>180</sup> Promoters and managers found to have engaged in coercive bargaining with boxers in violation of the terms of the Ali Reform Act would have their licenses suspended or revoked by the Commission.<sup>181</sup> Don King is currently feeling the wrath of license revocation and, at present, is barred from promoting matches in Atlantic City casinos because of his refusal to answer questions about bribes he paid to former IBF president Bob Lee.<sup>182</sup> The USBC would hold the same power at the national level. The USBC’s suspension or revocation of a license would effectively bar a promoter or manager found to

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<sup>175</sup> *Id.* at 4–5.

<sup>176</sup> The Professional Boxing Amendments Act of 2005, S. 148, 109th Cong. § 9(a) (2005).

<sup>177</sup> *Id.* at § 9(b)(1).

<sup>178</sup> *Id.* at § 9(b)(2).

<sup>179</sup> *Id.* at § 9(c).

<sup>180</sup> *Id.* at §§ 204, 207.

<sup>181</sup> *Id.* at § 207.

<sup>182</sup> *King Wants Back in Garden State*, AUGUSTA CHRON., May 1, 2005, at C08. The New Jersey Division of Gaming Enforcement has refused to grant him the license necessary in order to promote boxing matches in New Jersey casinos until King answers questions about payments made to the former IBF president. *Id.* King is not barred, however, from promoting fights at nearby Boardwalk Hall, a non-casino venue home to many of the premier fights in Atlantic City.

have violated the Ali Reform Act from engaging in any promotional or managerial capacity in professional boxing anywhere within the borders and territories of the United States.

#### IV. BOXING'S PROBLEMS BEYOND CONGRESSIONAL REACH

Perhaps the biggest problem plaguing the image of professional boxing is the behavior of the sport's sanctioning bodies.<sup>183</sup> As mentioned in Part II, sanctioning organizations play a major role in the sport because they sanction championship fights and rank boxers.<sup>184</sup> Unlike other sports that measure standings objectively based upon win-loss records, playoffs, or tournaments, rankings in boxing are derived from the combination of subjective factors such as the quality of a win and the quality of the opposition, in addition to a fighter's objective win-loss record.<sup>185</sup> Given the business of boxing, rankings play a tremendous role in the sport.

##### A. *Rankings/Ratings*<sup>186</sup>

Due to a historical record of corruption and manipulation, the rankings of the sanctioning organizations lack credibility.<sup>187</sup> Former judge and boxing referee Mills Lane has addressed the legitimacy of the rankings by commenting: "Anybody who doesn't believe there is manipulation of the ratings about who is number one, I've got some ocean-front property in Nevada which I'll be happy to sell you."<sup>188</sup>

Ratings are important not only because they, in theory, are supposed to rank the best fighters in each particular weight class, but also because they determine the value of the fighter and his payday potential.<sup>189</sup> When a boxer is ranked within the top ten or fifteen fighters in a weight class (depending on the sanctioning organization), he is eligible to fight the reigning champion

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<sup>183</sup> For a summary of opinions expressed about the sport's sanctioning bodies, see *supra* note 81.

<sup>184</sup> See *supra* Part II.D.

<sup>185</sup> Baglio, *supra* note 22, at 2265–66.

<sup>186</sup> The terms "ratings" and "rankings" are interchangeable.

<sup>187</sup> See *Boxing at the Crossroads*, *supra* note 33, at 210 (statement of Paul Feeney) ("The ratings organizations, several of which are based out of [this] country, they have virtually no oversight. And some of their actions are just preposterous and you'd have to say that the rating system in professional boxing has less credibility and confidence among the boxers and the fans than any other sports rating system in the world.").

<sup>188</sup> *Boxing at the Crossroads*, *supra* note 33, at 201 (statement of Mills Lane).

<sup>189</sup> Groschel, *supra* note 24, at 938.

for the title.<sup>190</sup> More importantly, the boxer ranked as the number one contender is guaranteed a title shot, generally within a nine to twelve month period,<sup>191</sup> depending on weight division and the rules of the sanctioning body.<sup>192</sup> Typically, a championship bout will draw greater television revenue—and thus a bigger purse—than a bout where there is no belt on the line.<sup>193</sup> Yet, a continual problem for the sport is ascertaining the true number one contender<sup>194</sup> due to omnipresent manipulation<sup>195</sup> and corruption.<sup>196</sup>

### 1. *Corruption and Manipulation in Rankings*

The business of boxing is structured in such a way that the rankings matter a great deal to the sport because they determine title shots and paydays.<sup>197</sup> When ratings are based on factors other than talent and skill, the sport suffers.<sup>198</sup> The public is deceived, and boxers are exploited.<sup>199</sup> “The

<sup>190</sup> *Id.*

<sup>191</sup> *See, e.g.*, WBC WORLD CHAMPIONSHIP REGULATIONS, R. 1.21(b), WORLD BOXING COUNCIL, <http://www.wbcboxing.com/WBCboxing/Portal/cfpages/category.cfm?nodeId=1.10&showPage=category-down-2n> (last visited Nov. 6, 2006). (requiring a title holder to defend his belt against the mandatory challenger—the number one contender—within a twelve month window).

<sup>192</sup> The IBF heavyweight title holder has twelve months to defend a title; for divisions other than the heavyweight division, the IBF title holder has nine months to defend his title. IBF/USBA RULES GOVERNING CHAMPIONSHIP CONTESTS, R. 5(A)(1), R. 5(B)(1), *supra* note 77. A WBA non-heavyweight title holder must defend his title within nine months; a WBA heavyweight title holder has twelve months. WBC WORLD CHAMPIONSHIP REGULATIONS, R. 5.1.1–5.1.2, WORLD BOXING COUNCIL. A fighter will have to vacate the title if he is unable to arrange a match with the number one contender within the allocated timeframe. *See* Chris Givens, *Wright Has Offer for Fight*, ARK. DEMOCRAT GAZETTE, Jan. 6, 2006 (noting that WBC title holder Jermain Taylor will have to vacate his WBC title if he cannot work out a deal to fight mandatory challenger Winky Wright).

<sup>193</sup> Kehoe, *supra* note 20 (statement of Lou DiBella) (noting that promoters have a better chance of selling a fight to a network if any of the alphabet soup titles are on the line rather than if it is just a good ten-round fight).

<sup>194</sup> *Boxing at the Crossroads*, *supra* note 33, at 201 (quoting Mills Lane: “The sanctioning bodies said . . . [w]e will recognize a champion, and we will require the champ to fight the number one contender in six months or we’ll strip you. Sounds pretty good, doesn’t it? The trouble is [ascertaining] who is number one.”).

<sup>195</sup> *See, e.g., id.* at 201 (statement of Mills Lane) (“There is manipulation.”).

<sup>196</sup> Groschel, *supra* note 24, at 938.

<sup>197</sup> *See supra* notes 33–42 and accompanying text.

<sup>198</sup> Fife, *supra* note 7, at 1304.

<sup>199</sup> *Id.*

fighters that truly suffer from these disreputable practices are the good but unconnected fighters who cannot get rated because they do not have the money or [the] connections . . . .”<sup>200</sup> Furthermore, manipulated rankings can make it difficult for some fighters near the top to actually reach the top. A boxer holding the title is never compelled to fight a potentially better, but lesser-ranked opponent unless that opponent is recognized as the number one contender.<sup>201</sup> As will be discussed in Part IV.A.3 of this Note, even this system is problematic because each of the major sanctioning bodies refuses to even rank the title holder of another major sanctioning body. This means that the WBA titleholder will never be compelled to fight the IBF titleholder, who will never be compelled to fight the WBC titleholder because the holder of another organization’s title will preclude a fighter from being ranked, let alone being ranked as the number one contender.

Under this system, if a promoter represents a titleholder, the promoter has an incentive to ensure another one of his fighters is ranked as the number one contender. Therefore, regardless of the winner or quality of the mandatory bout, the promoter will maintain control in that division and will retain the promotional rights for the next title contest.<sup>202</sup> The number one contender, in theory, should be the boxer in the division with the best possible chance of ousting the champion.<sup>203</sup> However, it is common for the sanctioning organizations and promoters to “manipulate the entire situation”<sup>204</sup> to make it otherwise.

At one level, manipulated rankings are problematic because they can create deadly mismatches which place inferior fighters against champions with unquestionably superior skills.<sup>205</sup> Such a scenario occurred on November 13, 1982, when WBA champion Ray “Boom-Boom” Mancini delivered a fatal knockout to the WBA’s number one contender, Duk Koo

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<sup>200</sup> Burstein, *supra* note 10, at 443.

<sup>201</sup> A titleholder’s refusal to fight a superior but lesser-ranked opponent was also possible before sanctioning organizations required mandatory bouts for number one contenders. *See, e.g., Boxing at the Crossroads, supra* note 33, at 201 (statement of Mills Lane) (noting that uncrowned heavyweight champion Archie Moore for years was never given a title shot by “champion” Joey Maxim because Maxim knew that he could not beat Moore. After three years of waiting for the title shot and a public outcry for the bout, Moore knocked Maxim out and was officially crowned champ.).

<sup>202</sup> *Id.* at 218 (statement of Max Kellerman) (noting Don King’s interest in having his boxer, Evander Holyfield, fight the number one contender, John Ruiz, another one of King’s boxers. Regardless of the victor, King will represent the number one contender and will have a say in the next heavyweight title bout).

<sup>203</sup> *See id.*

<sup>204</sup> *Id.* (statement of Max Kellerman).

<sup>205</sup> Burstein, *supra* note 10, at 443–44.

Kim of Korea—a fighter who, bizarrely enough, was not even ranked amongst Korea’s top 40 boxers.<sup>206</sup> At a more important level, however, manipulated rankings detract from the legitimacy of a championship title.

Historically, promoters have been able to manipulate the ratings by bribing the sanctioning organizations in exchange for more favorable ratings or for the organization’s sanctioning of a fight. Promoter Bob Arum, in an egregious example of corruption, admittedly bribed the WBA in order to get one of his boxers a championship fight in 1983.<sup>207</sup> When questioned about his payments to the WBA, Arum replied, “[t]hat was the only way you could do business in those days.”<sup>208</sup> Unfortunately, “those days” of which Arum was speaking are not behind him or the sport; in August of 2000, Arum was fined \$125,000 by the Nevada State Athletic Commission for bringing “dishonor” to the sport through his admitted bribing of former IBF president Bob Lee.<sup>209</sup> Promoter Cedric Kushner was fined \$175,000 by the Nevada State Athletic Commission for also admittedly bribing the former IBF president with payments of \$2,500 to \$10,000 “several times”<sup>210</sup> and “\$100,000 in one instance in exchange for the federation[’s] sanctioning of a George Foreman heavyweight title fight against Axel Schulz.”<sup>211</sup> Lee is currently serving prison time for money laundering, tax evasion and racketeering related to this incident.<sup>212</sup>

Boxing writer and historian Bert Sugar has encapsulated the deceitful and self-serving conduct<sup>213</sup> of the sport’s sanctioning bodies by noting: “They don’t just take money under the table, [t]hey take it around the table, over the table and sometimes they take the table too.”<sup>214</sup>

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<sup>206</sup> *Id.* at 444.

<sup>207</sup> Steve Springer, *Arum Paints a Dark Picture; Boxing: In Transcripts Obtained by the Times, Promoter’s Testimony in Racketeering Trial Details Money Laundering and Bribery in the Sport*, L.A. TIMES, Aug. 16, 2000, at D1.

<sup>208</sup> *Id.*

<sup>209</sup> Dean Juipe, *Kushner Hit with Fine of \$175,000*, LAS VEGAS SUN, Nov. 27, 2000, <http://www.lasvegassun.com/sunbin/stories/text/2000/nov/27/511092398.html>.

<sup>210</sup> *Promoter Fined for I.B.F. Bribes*, N.Y. TIMES, Nov. 28, 2000, at A1.

<sup>211</sup> *Id.*

<sup>212</sup> *Only In America—Atlantic City Honors Barred Boxing Promoter King*, SPORTSILLUSTRATED.COM, Mar. 13, 2006, <http://sportsillustrated.cnn.com/2006/more/03/13/bc.box.donkingplaza.ap/index.html>.

<sup>213</sup> McCain & Nahigian, *supra* note 21, at 15.

<sup>214</sup> Steve Springer & David Wharton, *A Rank System: Boxing’s Credibility Takes Another Hit as Sanctioning Bodies’ Methods for Determining Big-Money Fights Come Under Scrutiny*, L.A. TIMES, May 18, 1999, at D1.

## 2. *The Credibility of Rankings*

Within the last several years, the credibility of ranking organizations has been further called into question when it was discovered that a boxer who had died from a non-boxing related illness was still ranked four months after his death. Incidentally, not only was the fighter still ranked, but he had actually moved up in the rankings *after* he died.<sup>215</sup> A year after winning a July 1999 fight against boxer Dave McClusky on a third-round TKO, Darren Morris appeared in the number-ten slot of the World Boxing Organization (WBO) super-middleweight rankings even though he had not fought since beating McClusky.<sup>216</sup> Then, in October 2000, without fighting again, Morris' WBO ranking improved to number seven.<sup>217</sup> By that time, however, Morris had passed away.<sup>218</sup> Nevertheless, Morris' career "continued to flourish"<sup>219</sup> until *Independent* reporter Steve Bunce broke the story that four months after Morris' death, the WBO had a corpse ranked fifth in their super-middleweight ratings.<sup>220</sup> Although this bizarre incident had nothing to do with corruption, it shed light on the triviality of the WBO's rankings and its championships.<sup>221</sup>

While not as preposterous as ranking a dead man, the WBC and WBA have ventured down the same path as the WBO by continuing to rank Felix "Tito" Trinidad even though he retired a day after being beaten by Ronald "Winky" Wright in May 2005.<sup>222</sup> On February 3, 2006, nearly ten months after he announced his retirement, the WBC still had Trinidad ranked sixth in their middleweight division, which was up one spot from their previous rankings published in January 2006.<sup>223</sup> In the WBA's December 2005/January 2006 rankings, Trinidad was not only ranked, but he improved

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<sup>215</sup> HAUSER, *supra* note 18, at 209.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Id.*

<sup>219</sup> *Id.* at 209–10.

<sup>220</sup> *Id.*

<sup>221</sup> Tim Graham, *New WBO Division: Dead Weight*, ESPN.COM, Feb. 20, 2001, <http://espn.go.com/boxing/columns/graham/1097210.html>.

<sup>222</sup> John C. Cotey, *A Bruised and Broken Fighter, Trinidad Retires*, ST. PETERSBURG TIMES, May 17, 2005, at 1C ("Wright landed 262 punches to Trinidad's 58 in their 160-pound showdown, broke his nose in the second round, and won every round on one judge's card and 11 of 12 on the others.").

<sup>223</sup> WORLD BOXING COUNCIL, RATINGS & CHANGES IN THE RATINGS OF USA BOXERS JULY 2006, *available at* <http://www.wbcboxing.com/WBCboxing/portal/docs/xls/ratingsarchive.xls> (last visited Oct. 22, 2006).

to number three in the middleweight division—up one spot from their November 2005 rankings.<sup>224</sup> Either the WBA and WBC have erroneously made the oversight that Trinidad, one of the bigger names in the sport, had retired or they were both comfortable in continuing to promulgate inaccurate rankings. Regardless of their reasoning, such carelessness detracts from their credibility and is a detriment to the sport.<sup>225</sup>

### 3. *Failure to Follow Rules—and Logic*

Each of the major sanctioning bodies has a constitution and set of rules, obtainable from their respective websites.<sup>226</sup> Whether each follows its own rules, however, is another matter.<sup>227</sup> As one boxing writer noted, “[t]he WBC, the WBA, the IBF and the WBO answer to no one; they make, break, and bend the rules whenever it’s convenient, blatantly, and not-so-blatantly stretching the bounds of absurdity.”<sup>228</sup>

One of the most absurd policies followed by all the major sanctioning bodies is their refusal to rank the recognized champion of another sanctioning organization.<sup>229</sup> Each sanctioning organization, in essence, promotes its own “champion” and top contenders by ignoring other “champions.”<sup>230</sup> The IBF, for example, has a rule that states “[the] WBA and WBC World Champions will not appear in the [IBF] numerical ratings.”<sup>231</sup> In practice, however, the IBF deviates from its written rule by not ranking the WBO titleholders, even though the rule—nonsensically—only prohibits the ranking of WBC and WBA champions.<sup>232</sup> The principle of refusing to rank

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<sup>224</sup> *Id.*

<sup>225</sup> Scott Mallon, *Stop the Insanity—Enough Is Enough*, THE SWEET SCIENCE.COM, Feb. 1, 2006, <http://www.thesweetscience.com/boxing-article/3294/stop-insanity-enough-enough/>.

<sup>226</sup> INTERNATIONAL BOXING FEDERATION, <http://www.ibf-usba-boxing.com>; WORLD BOXING COUNCIL, <http://www.wbcboxing.com>; WORLD BOXING ASSOCIATION, <http://www.wbaonline.com>; WORLD BOXING ORGANIZATION, <http://www.wbo-int.com>.

<sup>227</sup> *Boxing at the Crossroads*, *supra* note 33, at 243 (statement of Patrick English, General Counsel of Main Events) (noting in reference to the mandatory challenger rule that the role of the sanctioning organization is only effective if it follows its own rules).

<sup>228</sup> Mallon, *supra* note 225.

<sup>229</sup> S. REP. NO. 106–83, at 11 (1999).

<sup>230</sup> McCain & Nahigian, *supra* note 21, at 24.

<sup>231</sup> INTERNATIONAL BOXING FEDERATION, IBF RATINGS CRITERIA, R. 2, *available at* <http://www.ibf-usba-boxing.com/userfiles/File/IBF%20Ratings%20Criteria.pdf> (last visited Oct. 22, 2006).

<sup>232</sup> A comparison of the February 23, 2006 IBF Rankings with the February, 2006 WBO Rankings reveals no WBO champion in any IBF numerical ranking. *Cf.*

another organization's champion contradicts the IBF tenet that "[r]atings must be solely based on win/loss records, level of competition, [and] activity."<sup>233</sup> This refusal to rank titleholders of other sanctioning organizations reveals that the numerical rankings are based on money and not skill.<sup>234</sup> "This can lead to the dubious situation where . . . a boxer . . . universally considered to be the best in the world by his fellow boxers, industry members, fans, and the media . . . is not rated in the top fifteen of many of the organizations who profess skill in rating fighters[,]"<sup>235</sup> simply because he holds another organization's title.<sup>236</sup>

The problem of not recognizing another's champion leads to rankings such as those illustrated in Table 1. Table 1 shows the 147-pound welterweight division rankings of the WBC, WBA, IBF, WBO current through February 26, 2006. Table 1 also includes rankings promulgated by *The Ring*,<sup>237</sup> an independent commercial magazine. *The Ring* is viewed with mixed opinions of credibility among boxing fans and insiders due to a 1976 corruption scandal.<sup>238</sup> *The Ring*, however, does what the "major" sanctioning organizations do not, which is to include boxers in its numerical rankings regardless of the title that they may hold.

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INTERNATIONAL BOXING FEDERATION, IBF RANKINGS FOR FEBRUARY 2006, available at <http://www.ibf-usba-boxing.com> (last visited Oct. 22, 2006); WORLD BOXING ORG., RANKINGS FOR FEBRUARY 2006, available at <http://www.wbo-int.com> (last visited Oct. 22, 2006).

<sup>233</sup> See INTERNATIONAL BOXING FEDERATION, *supra* note 226.

<sup>234</sup> See S. REP. NO. 106-83, at § 5 (1999).

<sup>235</sup> *Id.*

<sup>236</sup> See Burstein, *supra* note 10, at 443.

<sup>237</sup> *The Ring* magazine is the self-proclaimed "Bible of Boxing," available at <http://www.thering-online.com> (last visited Oct. 22, 2006).

<sup>238</sup> See *Ring Magazine Scandal*, in BOXREC BOXING ENCYCLOPEDIA, [http://www.boxrec.com/media/index.php/Ring\\_Magazine\\_Scandal](http://www.boxrec.com/media/index.php/Ring_Magazine_Scandal) (last visited Oct. 22, 2006); see also Eddie Goldman, *Should Titles Be Won in the Ring or in The Ring?*, THE SWEETSCIENCE.COM, Feb. 7, 2006, <http://www.thesweetscience.com/boxing-article/3321/should-titles-won-ring-ring>, (discussing objections to *The Ring*'s ratings and noting that the magazine is just one voice in boxing—not the voice). Cf. Mallon, *supra* note 225 (ESPN's Dan Rafael once claimed that "the only, truly important belt is *The Ring* magazine title.").

**Table 1**

Rated Welterweight Boxers (147lbs) as of February 26, 2006

	WBC (Feb. 2006)	WBA (Feb. 2006)	IBF (Feb. 2006)	WBO (Feb. 2006)	The Ring (Feb. 2006)
Carlos Baldomin	<i>Champion</i>	Not Ranked	Not Ranked	Not Ranked	<i>Champion</i>
Antonio Margarito	Not Ranked	Not Ranked	Not Ranked	<i>Champion</i>	1
Zab Judah	Not Ranked	Not Ranked	<i>Champion</i>	Not Ranked	2
Louis Collazo	Not Ranked	<i>Champion</i>	Not Ranked	Not Ranked	5
Shane Mosley	1	Unranked <sup>a</sup>	Unranked	6	4
Arturo Gatti	2	7	8	Unranked	6
Oktay Urkal	3	1	6	Unranked	9
Miguel Rodriguez	4	Unranked	Unranked	Unranked	Unranked
Joel Julio	5	5	Unranked	5	Unranked
Joshua Clottey	6	Unranked	Unranked	2	Unranked
Joseph Makaringe	7	Unranked	Unranked	Unranked	Unranked
Walter Matthisse	8	8	4	1	Unranked
Mark Suarez	9	6	1	4	Unranked
Sharmba Mitchell	10	Unranked	9	Unranked	Unranked
Paul Williams	13	12	14	13	Unranked
Rev Santillan	14	Unranked	Unranked	Unranked	Unranked
Carlos Quintana	15	2	13	14	Unranked
Frederik Klose	29	3	7	Unranked	Unranked
David Estrada	24	Unranked	10	Unranked	Unranked
Thomas Damgaard	20	Unranked	11	Unranked	10
Farkhad Bakirov	36	10	Unranked	Unranked	Unranked

**Table 1 cont.**

Rated Welterweight Boxers (147lbs) as of February 26, 2006

	WBC (Feb. 2006)	WBA (Feb. 2006)	IBF (Feb. 2006)	WBO (Feb. 2006)	The Ring (Feb. 2006)
Demetrius Hopkins	Unranked	9	Unranked	15	Unranked
Felix Flores	Unranked	14	Unranked	8	Unranked
James Webb	Unranked	Unranked	12	Unranked	Unranked
Michele Orlando	Unranked	Unranked	15	Unranked	Unranked
Kermit Cintron	Unranked	Unranked	5	11	7
Manuel Gomez	Unranked	Unranked	Unranked	7	Unranked
Jan Zaveck	Unranked	Unranked	Unranked	9	Unranked
Young Muttley	Unranked	Unranked	Unranked	10	Unranked
Cory Spinks	Unranked	Unranked <sup>b</sup>	Unranked <sup>b</sup>	Unranked <sup>b</sup>	3
Jose Antonio Rivera	Unranked <sup>c</sup>	Unranked <sup>c</sup>	Unranked	Unranked	8
<sup>a</sup> Shane Mosley is Ranked 5th in the WBA's Super Welterweight Division.					
<sup>b</sup> Cory Spinks is Ranked 8th in the WBA's Super Welterweight, 6th in IBF's Jr. Middleweight, and 14th in WBO's Jr. Middleweight Division.					
<sup>c</sup> Jose Antonio Rivera is Ranked 3rd in the WBA's Super Welterweight and 13th in WBC's Super Welterweight Division.					

*Notes:*

The WBC provides rankings for the top 40 contenders in each division.

The WBA, IBF, & WBO provide rankings for the top 15 contenders in each division.

The Ring Magazine provides rankings for the top 10 contenders in each division .

All four Sanctioning Organizations refuse to rank a boxer if he is champion of another sanctioning body.

One egregious example of the sanctioning organization's failure to follow logic is illustrated in Table 1, which shows that as of February 26, 2006, the welterweight division had four "champions." Until January 7, 2006, Zab Judah was the "undisputed" welterweight champion, having captured the WBC, WBA, and IBF welterweight titles.<sup>239</sup> Judah lost a 12-round unanimous decision to Carlos Baldomir, yet Baldomir did not get the three titles or the "undisputed" tagline.<sup>240</sup> After the fight, it was revealed that Baldomir only paid one \$3000 sanctioning fee<sup>241</sup> to the WBC—but not to the IBF or WBA—and was therefore ineligible to "win" either of those titles.<sup>242</sup> Baldomir told reporters in his post-fight press conference: "My purse was only \$100,000 . . . . If I paid each of them the required 3%, I would have come away with nothing."<sup>243</sup>

In response to Judah's loss, the WBA vacated Judah's claim to their welterweight title, leaving Louis Collazo as the sole WBA Welterweight champion.<sup>244</sup> Nevertheless, in another departure from its own rules,<sup>245</sup> the IBF shamefully announced that they would still recognize Judah as their champion.<sup>246</sup> The end result was that the boxer who beat the "undisputed" champion was, according to two of three sanctioning organizations, *not* the champion of the welterweight division.

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<sup>239</sup> Mitch Abramson, *Baldomir Upsets Judah*, N. Y. TIMES, Jan. 8, 2006, § 8, at 11.

<sup>240</sup> *Id.*

<sup>241</sup> Baldomir's total purse was \$100,000. A three percent fee would be \$3000. *Baldomir Snatches WBC Title from Zab*, LIVERPOOL ECHO, Jan. 9, 2006, at 38.

<sup>242</sup> *Id.*

<sup>243</sup> *Id.* Paying all three sanctioning fees would have cost Baldomir nine percent, or \$9000, of his \$100,000 purse. In addition, Baldomir's manager likely took more than \$33,000 or one-third of the total purse, given the standard fee arrangement between boxers and managers.

<sup>244</sup> Bernard Fernandez, *Money Brings King, Arum Closer*, PHILA. DAILY NEWS, Feb. 14, 2006.

<sup>245</sup> IBF/USBA Rules Governing Championship Contests, R. 5(H) Unsanctioned Contests states:

If a Champion participates in an unsanctioned contest within his prescribed weight limit and loses the bout, the title will be declared vacant. The Championships Committee, with the approval of the [IBF] President, will then establish a new Champion in that division in accordance with the procedures established and prescribed in these rules.

INTERNATIONAL BOXING FEDERATION, <http://www.ibf-usba-boxing.com> (click on "Ali Amendment" link, click on "IBF/USBA Rules Governing Championship Contests") (last visited Oct. 22, 2006).

<sup>246</sup> Fernandez, *supra* note 244.

In addition, Table 1 illustrates the disparity in the February 2006 welterweight rankings across the board. Only two fighters, Walter Matthysse and Mark Suarez, are ranked in the top ten of all four sanctioning organizations; no *boxer* is ranked by all four sanctioning organizations and *The Ring*.<sup>247</sup> The National Football League has only one Super Bowl champion; only one hockey team hoists the Stanley Cup at the end of the season; each year, only one golfer gets the legendary green jacket for winning the Masters.<sup>248</sup> Yet, in each weight division, boxing tolerates four world champions at any given time thanks to the existence of four “major” sanctioning bodies. Figuring out who is second or third-best is nearly impossible when the sport cannot figure out who is *the* best.

#### 4. *Dealing with the Mess*

One proposed solution to dealing with the sanctioning organizations is simply not to reference them by name.<sup>249</sup> Fighters have started to question paying exorbitant sanctioning fees on the grounds that they, the fighters, bring the credibility to the title thereby making them important, not vice versa.<sup>250</sup> Yet, sanctioning organizations exist because they have the titles that fighters want.<sup>251</sup> Fighters want the respect that comes with being the undisputed champion of the world.<sup>252</sup> Fans want to watch championship fights. Thus, the sport needs a way to figure out who is number one and the sanctioning bodies have stolen this role.<sup>253</sup> Because the value of a fighter’s

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<sup>247</sup> One view attributes the disparity in the welterweight division to the incentive for fighters, like Floyd Mayweather, to bypass the 147-pound division and opt for the better competition and big money for fights at 140 pounds and under, or at 154 pounds and over. David Mayo, *Mayweather Stuck in a Corner: Lucrative Options Limited After Judah Ruins a Big Payday*, GRAND RAPIDS PRESS, Jan. 10, 2006, at D1.

<sup>248</sup> Eddie Goldman, *Four’s Company*, THE SWEETSCIENCE.COM, Feb. 21, 2006, <http://www.thesweetscience.com/boxing-article/3382/four-company> (noting that “no [other] major sport crowns four world champions at the same time”).

<sup>249</sup> See *Boxing at the Crossroads*, *supra* note 33, at 244 (statement of Max Kellerman) (suggesting that if the media boycotted using the letters WBC, WBA, IBF, and if fights were considered title fights, the sanctioning organizations would “cease to exist, at least in this country. They just wouldn’t exist.”). HBO announcers do not recognize any sanctioning organization by name or by initials on the air. *Id.* (statement of Lou DiBella).

<sup>250</sup> *Id.* at 247 (statement of Max Kellerman) (noting Oscar De La Hoya’s dissatisfaction of paying the WBC when it is his personal credibility being lent to the sanctioning body).

<sup>251</sup> *Id.* at 249 (statement of Lou DiBella).

<sup>252</sup> *Id.* at 248 (statement of Patrick English).

<sup>253</sup> *Id.* at 247 (statement of Jerry Izenberg).

payday depends on his ranking, or his ownership of a belt, the sanctioning organizations will not disappear simply because the media refuses to talk about these organizations by name. In the end, promoters depend on belts and titles to sell their fights.

Congress's response to the ratings problem can be found in the Ali Reform Act and the Amendments Act. The Ali Reform Act requires the Association of Boxing Commissions to develop and approve "guidelines for objective and consistent written criteria for the ratings of professional boxers."<sup>254</sup> The Amendments Act reiterates Congress's desire for rankings to be based on "objective and consistent written criteria . . . based on the athletic merits and professional record of the boxers."<sup>255</sup> Yet, relying on objective criteria alone would be unworkable<sup>256</sup> because subjectivity in rankings is unavoidable. Referring to Table 1, welterweight fighter Mark Suarez recently jumped in the IBF rankings from eighth to the number one contender<sup>257</sup> after a technical knockout of James Webb forty-four seconds into the first round of their January 7, 2006 bout.<sup>258</sup> Going into the bout, the IBF ranked Webb tenth in the welterweight division;<sup>259</sup> the WBA ranked him ninth.<sup>260</sup> Even under the most detailed objective formula, Suarez's victory could never be gauged on a purely objective standard. Suarez beat a fighter that was ranked in the top ten of the welterweight division by two sanctioning bodies in less than a minute. Whether or not such a victory deserves to be rewarded by the IBF with its number one contender rating or with an eight-spot jump to sixth in the WBA rankings will *always* be a

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<sup>254</sup> 15 U.S.C. § 6307c(a) (2000).

<sup>255</sup> The Professional Boxing Amendments Act of 2005, S. 148, 109th Cong. § 12(a) (2005).

<sup>256</sup> Baglio, *supra* note 22, at 2266 (noting that because it would be impossible and impractical for a fighter to face every other fighter in his weight division in order to determine a champion, basing rankings only on objective factors is impracticable).

<sup>257</sup> INTERNATIONAL BOXING FEDERATION, IBF RANKINGS FOR DECEMBER 2005, <http://www.ibf-usba-boxing.com> (click "Rankings" link, select Welterweight and December 2005) (last visited Oct. 22, 2006); INTERNATIONAL BOXING FEDERATION, IBF RANKINGS FOR JANUARY 2006, <http://www.ibf-usba-boxing.com> (click "Rankings" link, select Welterweight and January 2006) (last visited Oct. 22, 2006).

<sup>258</sup> *Mark Suarez*, BOXREC.COM, [http://www.boxrec.com/boxer\\_display.php?boxer\\_id=8969](http://www.boxrec.com/boxer_display.php?boxer_id=8969) (last visited Oct. 22, 2006).

<sup>259</sup> INTERNATIONAL BOXING FEDERATION, IBF RANKINGS FOR DECEMBER 2005, <http://www.ibf-usba-boxing.com> (click "Rankings" link, select Welterweight and December 2005) (last visited Oct. 22, 2006).

<sup>260</sup> WORLD BOXING ASSOCIATION, WBA NOVEMBER 2005 RANKINGS, <http://www.wbaonline.com/ratings/rankings/2005/wba1105.pdf> (last visited Oct. 22, 2006).

subjective call. The quality of a victory and the quality of opposition<sup>261</sup> can only be measured subjectively, which, in turn, makes this aspect of the sport beyond the reach of Congressional reform.

In addition, Congress is unable to address the sheer number of sanctioning organizations given boxing's free market. ESPN boxing analyst Max Kellerman has astutely noted that there is a tradeoff<sup>262</sup> by having four "major" sanctioning organizations, and potentially up to 68 "world champions."<sup>263</sup> "The issue is short term versus long term goals and the thing is, in the short term, more belts do mean more money for more fighters. It creates a larger [boxing] middle class in the short term."<sup>264</sup> The long-term tradeoff is that the credibility of the sport's "champion" label suffers by having four boxers who claim to be the best and no system to sort it out. The business has built such a reliance on the rankings and the titles of the various sanctioning organizations that eliminating one or several of the sanctioning bodies could have serious financial ramifications for boxers who are currently in the "middle class."<sup>265</sup>

a. *No Union, No Pension*

The unfortunate truth of the sport is that many fighters retire with brain and bodily damage<sup>266</sup> and are in debt either to creditors or to the government

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<sup>261</sup> Baglio, *supra* note 22, at 2266.

<sup>262</sup> See *Boxing at the Crossroads*, *supra* note 33, at 249.

<sup>263</sup> See David Marsh, *How to Win a World Boxing Title*, WEST AUSTL., Feb. 28, 2006, at 59 (noting that in addition to the four "majors," there are eight additional "world governing" bodies and seventeen weight divisions, yielding the potential for 204 "world champions" in a sport that used to only have eight).

<sup>264</sup> *Boxing at the Crossroads*, *supra* note 33, at 249.

<sup>265</sup> See *id.*

<sup>266</sup> See Fife, *supra* note 7, at 1301; see also Kevin M. Walsh, *Boxing: Regulating a Health Hazard*, 11 J. CONTEMP. HEALTH L. & POL'Y 63, 67 (1995) (noting that boxing has the highest morbidity rates and the highest potential for neurological damage of any of the major sports). "The theory of chronic brain trauma in veteran professional fighters is well-known as 'punch drunkenness' but is more accurately Parkinson's Syndrome—a neurological disorder that causes tremor, muscle rigidity, and slowed movement. While Parkinson's Syndrome is a symptom of Parkinson's Disease, it can also develop through repeated blows to the head." Crisco, *supra* note 41, at 1140 n.11. Muhammad Ali suffers from Parkinson's Syndrome. See THOMAS HAUSER, MUHAMMAD ALI: HIS LIFE AND TIMES 488–94 (1991). Greg Page cannot walk without assistance due to injuries from a stroke suffered in the ring. See Part III.A.2, *supra*.

for back taxes.<sup>267</sup> Furthermore, the lack of education and business experience of many fighters makes them susceptible to exploitation from the parties with whom they come into contact during their careers.<sup>268</sup> Even those fighters that become champions and earn large purses can find themselves in a state of insolvency<sup>269</sup> due to the fact that up to half of their earnings often go to managers, trainers, and licensing fees to the sanctioning organizations.<sup>270</sup>

Unlike other major team and individual sports, boxing has no union or representative association.<sup>271</sup> Unions and players' associations in other major sports have been responsible for establishing pension plans for their retired athletes.<sup>272</sup> Thus, operating without a union, it is no surprise that boxers are left without a pension upon retirement.<sup>273</sup> In addition, the existence of players' unions in other sports has established a dispute resolution system curiously absent in boxing—arbitration.<sup>274</sup> “The quick resolution of disputes is a necessity in industries [like boxing] where participants have a relatively short period of participation. The lack of a system of arbitration in boxing leaves boxers with the inadequate remedy of long, drawn-out courtroom proceedings.”<sup>275</sup>

Although some boxers and union representatives are free to lead a campaign to unionize professional fighters,<sup>276</sup> Congress cannot force a union on those in the sport or lead the charge for union organization.<sup>277</sup> Even with a private movement, unionization may be resisted among fighters because of the tremendous power that sanctioning organizations and promoters hold. The fear of retaliation is enough to quiet even the biggest names in the

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<sup>267</sup> HAUSER, *supra* note 18, at 247. *See, e.g.*, Justin Doom, *Doom's Day: On the (Financial) Ropes*, Oct. 21, 2005, CNN.COM, [http://sportsillustrated.cnn.com/2005/writers/justin\\_doom/10/21/dooms.day/1.html](http://sportsillustrated.cnn.com/2005/writers/justin_doom/10/21/dooms.day/1.html).

<sup>268</sup> Baglio, *supra* note 22, at 2260.

<sup>269</sup> *Overtime*, AUGUSTA CHRON., Oct. 18, 2005, at C02 (noting former heavyweight champion Riddick Bowe filed for bankruptcy, listing more than \$4.1 million in claims against him); *see also* Stan Grossfeld, *Spinks: Riches to Rags: Former Heavyweight Champ Now Custodian in Nebraska*, CINCINNATI ENQUIRER, Dec. 26, 2005, at C9.

<sup>270</sup> Fife, *supra* note 7, at 1302.

<sup>271</sup> Baglio, *supra* note 22, at 2267.

<sup>272</sup> *Id.*

<sup>273</sup> *See Boxing at the Crossroads*, *supra* note 33, at 255 (statement of Bert Sugar: “This is the only sport where they give us something, their blood and their lives and we ain't giving them anything.”).

<sup>274</sup> Baglio, *supra* note 22, at 2267–68.

<sup>275</sup> *Id.* at 2268.

<sup>276</sup> *See* Boxers Organizing Committee, <http://www.boxers.org> (last visited Oct. 22, 2006).

<sup>277</sup> *See generally* Crisco, *supra* note 41.

sport.<sup>278</sup> In addition, judging from the current state of Social Security, it is unlikely that Congress will devise and implement a boxer pension plan anytime soon.<sup>279</sup> This problematic aspect of boxing is one with no readily available solution, even for Congress.

### b. *Congress Cannot Reform the Business of Boxing*

In other sports, there would be a playoff or some sort of tournament in order to determine a weight division's true champion. However, boxing is different. There is no centralized body to run the show. At the championship level, promoters and matchmakers determine the fights they are willing to showcase based upon the potential to generate revenue. For instance, referring back to the welterweight division recorded in Table 1, the WBO's welterweight champion, Antonio Margarito, fought Manuel Gomez on February 18, 2006.<sup>280</sup> Margarito's bout was shown on pay-per-view not because the fight had the potential to generate significant buys, but because no American network would purchase the bout.<sup>281</sup> By the same token, boasting a record of 40 wins (30 KO's) and zero losses, the IBF and WBA light-welterweight champion, Ricky Hatton, initially balked at a \$700,000 deal to fight WBA welterweight champion Louis Collazo because "he didn't think it was worthwhile . . . to go [up] to 147 pounds to fight somebody who was not 'the man' in the [welterweight] division."<sup>282</sup>

Other than mandatory challenges, no bout between two highly rated fighters *must ever* occur. Even when a titleholder is compelled to defend his title, vacating the belt may be the more desirable option rather than agreeing

<sup>278</sup> See *Boxing at the Crossroads*, *supra* note 33, at 255 (statement of Greg Sirb) (noting an instance where Roy Jones, Jr. was called to testify before a Senate committee on the issue of boxing reform, but opted to have a statement read in his place out of fear of retaliation).

<sup>279</sup> Some states have taken the initiative to establish boxer pension plans. See, e.g., THE CURRENT BOXERS' PENSION PLAN BENEFITS ONLY A FEW AND IS POORLY ADMINISTERED, CALIFORNIA STATE ATHLETIC COMMISSION, <http://www.bsa.ca.gov/reports/highlights.php?id=479>.

<sup>280</sup> Antonio Margarito, BOXREC.COM, [http://www.boxrec.com/boxer\\_display.php?boxer\\_id=11677](http://www.boxrec.com/boxer_display.php?boxer_id=11677) (last visited Oct. 22, 2006).

<sup>281</sup> Both HBO and Showtime passed on distributing the fight. Goldman, *supra* note 248.

<sup>282</sup> Dan Rafael, *Several Months Later, 'Rock' Ready for Title Defense*, Mar. 10, 2006, ESPN.COM, [http://proxy.espn.go.com/sports/boxing/columns/story?columnist=rafael\\_dan&id=23627](http://proxy.espn.go.com/sports/boxing/columns/story?columnist=rafael_dan&id=23627).

to a bout that would not yield a substantial payday.<sup>283</sup> A ranked fighter without drawing power or name recognition will repeatedly get passed over by promoters and champions, so long as a bigger payday could be had by a promoter using a more-popular, lesser-ranked fighter. If a promoter represents a highly-rated fighter, such as a number one contender, Congress will never be able to deny the promoter the right to pair that fighter with another one of the promoter's own fighters. In essence, Congress will never be able to solve the problem of fighters needing the "right" promoters in order to get the big fight.<sup>284</sup> As the bearer of the financial risk in promoting a fight,<sup>285</sup> a promoter is free to handpick opponents and to position his own fighters in a manner that allows him to maintain control over the division and title.

Unless the United States Boxing Commission or a similar body federalizes the sport by promoting fights, dispensing out titles, and promulgating rankings—all things the USBC is specifically *prohibited* from doing under the Amendments Act<sup>286</sup>—the business of boxing will continue in the cycle that perpetuates its problems. Reform initiated by the sport's most influential fighters, promoters, and managers is highly unlikely because most of the people involved on every level, including the well-to-do, more established, richer stars themselves—the fighters—all of them, benefit from the system as it presently exists. The networks, the ratings organizations[,] they are all very comfortable . . . everyone is comfortable with the status quo."<sup>287</sup>

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<sup>283</sup> Jermain Taylor considered vacating his WBC title while his promoter, Lou DiBella, was engaged in negotiations with Winky Wright's management in January 2006. Wright, the number one contender in the middleweight division, wanted a 50/50 split with Taylor, who was the WBA, WBC and WBO middleweight champion. Givens, *supra* note 77.

<sup>284</sup> See Crisco, *supra* note 41, at 1163 (1999); HAUSER, *supra* note 18, at 229 ("In sum, before DiBella, Hopkins was an extremely talented fighter with limited name recognition who rarely made big money. With DiBella in his camp, he became a star.").

<sup>285</sup> Baglio, *supra* note 22, at 2261 (noting that the risk is shifted away from the promoter when television networks are involved); Kehoe, *supra* note 20.

<sup>286</sup> The Professional Boxing Amendments Act of 2005, S. 148, 109th Cong. at § 203(c)(1) (2005) ("The Commission may not—(1) promote boxing events or rank professional boxers.").

<sup>287</sup> Kehoe, *supra* note 20 (statement of Lou DiBella).

## V. CONCLUSION: BOXING WILL NEVER DIE

Despite its problems, Lou DiBella is accurate in saying that “boxing will never completely die.”<sup>288</sup> “[I]t has survived on the fact that people will always be interested in watching people f[ornicate] and watching people fight. You can marginali[z]e boxing and [it] can become more of a niche sport[,] but you are not going to eliminate something that is so [e]ngrained in the sensibilities of people.”<sup>289</sup>

Congressional attempts at reform can improve professional boxing. However, Congress’ role in boxing reform will always be limited to cleaning up certain problematic aspects of the sport. The business of boxing, however, is structured in a way that prevents Congress from reaching all of the sport’s ailments. There are too many aspects of boxing well beyond congressional reach that need to be addressed in order for it to be the sport’s savior. Fans should recognize that the sport’s savior is not perched on Capitol Hill in Washington, D.C. Rather, their sport’s savior, if there is one, is likely to come in a form that has brought other major sports to prominence—one in which a centralized oversight body has the power to promulgate “official” rankings, designate “official” champions, bargain with a collective bargaining representative of all fighters, manage the day-to-day operations, and bring credibility and fans back to the sport. Add to the mix a competitive heavyweight division with a charismatic and dominant champion,<sup>290</sup> and boxing could be back in the limelight. Until then, boxing fans better get used to the status quo.

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<sup>288</sup> Newfield, *supra* note 2.

<sup>289</sup> Kehoe, *supra* note 20 (statement of Lou DiBella).

<sup>290</sup> The old saying in boxing is “as goes the heavyweight division, so goes boxing.” Frank Lotierzo, *Two Glamor Divisions: Now a Boxing Waste Land!*, EASTSIDEBOXING.COM, <http://www.eastsideboxing.com/news.php?p=396&more=1> (July 1, 2004) (noting that although this saying has been beaten to death, it is unfortunately true.); “Only the real boxing fans know who the top fighters are in the divisions below heavyweight, besides the obvious superstars like Roy Jones and Oscar De La Hoya.” *Id.*