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NOTES

THE MUHAMMAD ALI BOXING REFORM ACT:
THE FIRST JAB AT ESTABLISHING CREDIBILITY IN
PROFESSIONAL BOXING

Scott Baglio

INTRODUCTION

In 1995, former heavyweight champion of the world, Mike Tyson, was released from prison and subsequently earned approximately $140 million over the course of his next six fights. According to a complaint filed in federal court, $45 million of that money was misappropriated by his promoter, Don King. The complaint further alleges that King took advantage of Tyson's inability to read and fully understand business contracts, which resulted in agreements that required Tyson to pay consulting fees to King's wife, son, daughter, and son-in-law. Tyson was also billed for "travel expenses incurred by King and those who traveled with him to meet Tyson as well as the cost of security, corporate cars, renovations at King's businesses, unusually large purses to other undercard fighters promoted by King, and fees for King's legal battles." King was allegedly able to defraud Tyson of over $100 million through conduct that began in the late 1980s, because Tyson had entrusted him with complete control of Tyson's business and financial interests. In fact, after separating from King, Tyson's new accountant was unable to obtain Tyson's financial records because they were kept in filing cabinets owned by King.

* I would like to thank my family and my girlfriend, Christine, for their constant love and support. Special thanks to New York State Senator Roy Goodman's office, Lou DiBella of HBO Sports, and Paul Johnson of the Boxing Organizing Committee for supplying materials for this Note. Special thanks also to Lou DiBella and Professor Joseph Perillo, for their critique of this work, and to Fordham University School of Law for giving me the opportunity to publish this piece.

1. See Mike Tyson Files $100 Million Lawsuit Against "Pal" Don King, L.A. Sentinel, Mar. 18, 1998, at A2.
3. See Mike Tyson Files $100 Million Lawsuit Against "Pal" Don King, supra note 1.
4. Id.
5. See Heath, supra note 2.
6. See Mike Tyson Files $100 Million Lawsuit Against "Pal" Don King, supra
Though these charges may sound shocking, allegations and actual abuses of this type are commonplace in the world of professional boxing. Given the high degree of abuse experienced by boxers at the hands of unscrupulous promoters and handlers, boxing, more than any other sport, is in need of major reforms and outside regulation.

Because it is the only industry that operates without a private governing organization, or according to uniform business practices, boxing is unique among professional sports. Due to these deficiencies, boxers have often been exploited by unethical parties who control the boxing industry. In response to these abuses, Congress has frequently held hearings and conducted investigations over the last several decades concerning the extensive scandals in the sport. The federal government has attempted to regulate the sport several times, but has been successful only once. The main argument sounded by opponents of federal legislation is that if other professional sports are not government-regulated, then boxing should not be either. This argument against federal intervention fails to acknowledge that federal regulation is mandatory because boxing is the only professional sport that refuses to regulate itself.

Senator John McCain has co-sponsored a bill entitled the Muhammad Ali Boxing Reform Act ("Ali Act") aimed at establishing uniform business and contractual standards to prevent the

note 1.
7. See infra Part II.
9. See infra Part II.
14. See Hearings on the Health and Safety of Professional Boxing Regulations Before the Senate Comm. on Commerce, Science, and Transp., 103d Cong. 82 (1994) [hereinafter Hearings on the Health and Safety of Professional Boxing] (testimony of Sen. William V. Roth, Jr.) (stating that "the boxing industry has regretfully proved to be incapable of effective self-regulation, and that the current State-based regulatory structure is in need of major overhaul.").
exploitation of boxers. After two votes of passage in the Senate, and one in the House of Representatives, the Ali Act was never brought to a final vote in 1999, due to the use of "arcane Senate rules" employed by two Democratic Senators to block the vote. The bill is once again pending in Congress, and was recently passed by the Senate on April 7, 2000. This Note argues for the passage of the Ali Act as a necessary first step toward eventually establishing private regulation for the sport.

Part I discusses the current structure of the boxing industry, including a description of the major parties and a comparison with other sports. Part II examines how the current system is corrupted, specifically discussing contractual abuses, rankings abuses, and improprieties caused by improper judge selection and compensation. Part III discusses the background of the Ali Act and examines specific provisions aimed at remedying the abuses discussed in Part II. Finally, Part IV discusses why the Ali Act is an appropriate starting point for the regulation of boxing, additional regulations that are required to protect boxers, and why the best final solution is private regulation. This Note concludes that unless Congress is willing to accept the perpetuation of the exploitation of professional boxers, the Ali Act is a necessity.

I. THE STRUCTURE OF PROFESSIONAL BOXING

In order to understand the many opportunities that arise for various parties to exploit professional boxers, it is first important to comprehend the duties of those parties and their responsibilities while operating in the boxing industry. This part discusses the responsibilities of managers, promoters, and sanctioning organizations and describes how the current system operates in theory. It then

16. See id. § 1.
17. See McCain Disappointed Boxing Reform Didn't Pass This Year, Government Press Releases, November 19, 1999, available in 1999 WL 28846526. Because a hold was put on the bill during the final night that the Senate was in session for 1999, the identity of the Senator who held up the bill did not have to be disclosed. Several Senators, however, have identified Senator Harry Reid of Nevada as being responsible for blocking the vote. Recently, Reid released a list of donors to his campaign that included the names of the two most powerful promoters in boxing, Don King and Bob Arum. King's $50,000 contribution was the largest given to the campaign, while Arum contributed $10,000. See Jack Newfield, Don Sent Senate Hit Man to KO McCain Boxing Bill, N.Y. Post, Mar. 24, 2000, at 6. Nevada generates a tremendous amount of money from boxing's current system, and Senator Reid has stated in the past that his two most important constituents are King and Arum. See Fourth Annual Fordham University School of Law Sports Law Symposium, Union Formation in Pro Boxing 66 (Mar. 6, 2000) [hereinafter Fordham Sports Law Symposium Transcript] (unpublished transcript, on file with the Fordham Law Review) (statement of Jay Larkin, Senior Vice President Showtime Sports and Event Programming).
compares this system to the organizational and regulatory structures of other professional sports.

A. Managers, Promoters, State Boxing Commissions, And Sanctioning Organizations

Professional boxing is a multi-billion dollar industry that conducts a significant portion of its business within the United States. Since 1993, professional boxing events in the United States have increased by an average of 3% each year, resulting in over 800 events in 1997. Although boxing is a wealthy industry, of the approximately 8,000 licensed professional boxers in the United States, very few earn a significant amount of money. Most boxers are uneducated men who come from impoverished backgrounds, and boxing is their only means of supporting themselves and their families. This lack of education and business experience makes boxers susceptible to exploitation from the numerous savvy parties with whom they come into contact during their careers.

The boxing industry is comprised of many parties who influence and direct a boxer's career. Generally, before a bout can take place, several business transactions must be completed. A boxer must first hire a manager, who then represents the boxer in all business negotiations in exchange for a percentage of the boxer's purse for each bout. The boxer and manager must then negotiate with a promoter, who agrees to provide a certain number of bouts and compensation for each bout, in exchange for exclusive promotional rights to the boxer. Each bout in which a boxer participates is regulated by the boxing commission of the state in which the bout takes place. State commissions are responsible for establishing and

18. See Hearings on Business Practices in Boxing Before the Senate Comm. on Commerce, Science and Transp., 105th Cong. 43 (1998) [hereinafter Hearings on Business Practices in Boxing] (testimony of Gregory P. Sirb, President, ABC) (stating that approximately 50% of world title bouts are held in the United States); Fordham Sports Law Symposium Transcript, supra note 17, at 38 (statement of Jay Larkin, Senior Vice President, Showtime Sports and Event Programming) (stating that a bout between Mike Tyson and Evander Holyfield grossed $120 million in one night, the equivalent of the movie "Titanic" playing for four weeks on 2000 movie screens).
21. See Hearings on Business Practices in Boxing, supra note 18, at 2 (statement of Sen. John McCain); see also Fordham Sports Law Symposium Transcript, supra note 17, at 59-60 (statement of Louis DiBella, Senior Vice President, HBO Sports) (stating that less than 50% of professional boxers have high school educations).
22. See infra notes 26-29 and accompanying text.
23. See infra notes 30-37 and accompanying text.
enforcing health and safety procedures, and for selecting the judges
for non-championship bouts. As a boxer advances through his
career and becomes successful, his goal is to be ranked as a contender
in his weight class, and eventually to be recognized as world
champion. Rankings are determined by numerous sanctioning
organizations that are responsible for recognizing a world champion
and the ten leading contenders in each weight class. Thus, before a
bout can successfully take place, numerous interactions take place
between the aforementioned parties.

A manager is responsible for handling all of the boxer's business
affairs, including the selection of a promoter, the negotiating of
contractual terms with that promoter, the selection of a trainer, and
approving the opponents for the fighter. Early in a boxer's career,
the manager is also usually responsible for paying the training
expenses and providing a stipend on which the boxer lives. The
manager and trainer are generally compensated by receiving a
combined 33.3% of the boxer's purse for each fight. The boxer's
purse is contractually guaranteed prior to each bout and is not altered
by the outcome of the match. The manager's compensation
arrangement provides a major incentive to negotiate shrewdly with
the promoter, because more money paid to the boxer translates into
more money for the manager.

A promoter contracts with a boxer and agrees to provide a certain
number of fights each year at a minimum compensation in exchange
for exclusive promotional rights to the boxer. The promoter is the
party who assumes the financial risk for the promotion of each match
by guaranteeing each fighter a certain purse, and by paying all of the
expenses of the promotion. The promoter is not supposed to receive
a percentage of the boxer's purse, but rather is compensated by the
difference between the total revenues and total expenses for the
promotion of a bout. The revenue generated from a boxing match
generally comes from three sources. The first is the fight's live gate,

24. See infra notes 38-43 and accompanying text.
25. See infra notes 45-52 and accompanying text.
26. See Crisco, supra note 13, at 1144-45; see also Ronald Grover & Jennifer
Reingold, The P.T. Barnum of Fist City, Business Week, Nov. 18, 1996, at 96, 100
(quoting boxing historian Bert Sugar as saying "[t]he function of a good manager... is getting the most money for the least risk").
27. See Crisco, supra note 13, at 1145.
28. See Hearing on Business Practices in Boxing, supra note 18, at 9 (presentation
by Fredric G. Levin).
29. See id. at 42 (testimony of Cedric Kushner, boxing promoter) (stating that a
long-term contract benefits the boxer because it guarantees him an income).
31. See Hearing on Business Practices in Boxing, supra note 18, at 10 (presentation
by Fredric G. Levin).
32. See id.
33. See Thomas Hauser, The Black Lights: Inside the World of Professional
which results from either the renting of an arena and sale of tickets, or for major fights that take place in a casino setting, from a site fee paid to the promoter, with the casino maintaining responsibility for the distribution of tickets.\textsuperscript{34} The second and most significant source of revenue is the sale of domestic and foreign television rights to the fight.\textsuperscript{35} The third source of income is derived from the sale of advertising rights, videocassettes, and fight programs.\textsuperscript{36}

A promoter's interests are in direct conflict with those of the boxer, because the less money a boxer accepts for a particular bout, the more profits are available for the promoter. Because this conflict of interest exists, it is essential that the manager negotiate vigorously on behalf of the boxer, and that both parties have relatively equal bargaining power so that one side is not forced to accede to unconscionable contractual terms.\textsuperscript{37}

State boxing commissions are the only entities that have statutory authority to regulate boxing matches.\textsuperscript{38} As such, state commissions are specifically responsible for establishing and enforcing policies designed to protect the health and safety of boxers.\textsuperscript{39} These policies include keeping track of boxers' records, conducting medical examinations, and suspending boxers for medical or administrative reasons.\textsuperscript{40} State commissions are also responsible for selecting and/or approving officials for non-championship bouts.\textsuperscript{41} Forty-four states have established a boxing commission, each having its own rules and procedures.\textsuperscript{42} Recently, the various state commissions have begun to work together in an effort to establish unified rules through the formation of the Association of Boxing Commissions ("ABC").\textsuperscript{43}

Sanctioning organizations are involved only with championship and
title-elimination matches. The three major sanctioning bodies are the International Boxing Federation ("IBF"), the World Boxing Association ("WBA"), and the World Boxing Council ("WBC"). Each of these organizations designates a world champion in each weight division and also ranks the top ten to twenty contenders per division. 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. For each bout sanctioned by one of these organizations, there is a sanction fee charged that is usually 3% of each fighter's purse. Boxers are also charged specific fees for the selection of officials, including judges and referees. Each organization has its own variation of rules, but generally a champion is required to face the top contender at least once every nine months and can only defend his title against the top 15 contenders. The designation as number one contender is a very important distinction because only that boxer is guaranteed an opportunity to fight for the title.

For non-championship bouts, judges are selected by the state athletic commission responsible for supervising the bout. Although state commission rules make no exception for championship bouts, judges for title bouts are usually named by the sanctioning organization, sometimes subject to the approval of the state commission. Judges are paid by promoters and are provided a

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44. See Hauser, supra note 33, at 93.
47. See Hauser, supra note 33, at 93-94.
50. See id.
51. See id. at 9.
53. See A Blueprint for Boxing Reform, supra note 41, at 14-15.
54. See A Public Hearing on Professional Boxing Before the New York State Senate Comm. on Investigations, Taxation, and Gov't Operations 78 (1999)
specific fee for the bout, along with reimbursement for travel, food, and entertainment. The compensation for each judge is sometimes distributed by the sanctioning organization, and other times by the promoter himself.

A boxer can achieve a successful career only if all of these parties perform their obligations. Because this does not always occur, a boxer can be very successful inside the ring, but have little to show financially if the manager has not vigorously negotiated for his interests. In addition, victories inside the ring can be meaningless if the promoter does not supply the boxer with frequent bouts against respected competition. Boxers are also at the mercy of sanctioning organizations, because without their recognition of a boxer as a top contender, the boxer may never get an opportunity to fight for a championship. Thus, no matter how talented a particular boxer may be, he can only be guaranteed a fair opportunity at success if all parties fulfill their roles in an honest and faithful manner.

B. A Comparison to Other Sports

Several features distinguish the structure of the boxing industry from those of other sports, including the lack of an independent governing organization, the nature of the rankings system, the lack of a players’ association or union, and the unavailability of arbitration to settle disputes within the industry.

The first factor that differentiates boxing from other sports is the lack of an independent governing body. The four major professional team sports—baseball, basketball, football, and hockey—are each operated through a league that handles the day-to-day operations of the sport and “provides for the planning, supervision, and control of corporate enterprise decisions.” For example, the National Basketball Association is an independent entity that oversees twenty-nine professional teams through the establishment of uniform

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[hereinafter New York State Senate Hearings] (testimony of Louis DiBella, Senior Vice President HBO/Time Warner Sports) (“Right now judges are selected by the rankings organizations sometimes subject to the approval or a pool selection by state athletic commissions but selected by the rankings organizations nonetheless.”).

55. See id. at 78 (testimony of Louis DiBella, Senior Vice President HBO/Time Warner Sports) (stating that promoters pay for travel, hotel accommodations, per diem, and entertainment for the judges of a bout); id. at 44 (testimony of Don King, boxing promoter) (stating that a promoter pays the costs of the judges at the direction of the sanctioning organizations).

56. See id. at 44-45 (testimony of Don King, boxing promoter).

57. See Hearings on the Ali Act, supra note 48, at 6 (statement of Sen. John McCain) (“More than any other major sports industry in the United States, professional boxing needs a strong, central league or association of its business leaders and a representative body to serve the interests of the boxers, yet professional boxing has neither.”).

regulations and the approval of franchises and licensing agreements.\textsuperscript{59} These leagues handle a variety of responsibilities, including the creation of schedules and rules under which the games are to be played, the development of global marketing plans for the sport, and the control of corporate sponsorships and licensing of league-related products.\textsuperscript{60} The leagues are also responsible for "negotiating collective bargaining agreements, setting rules for drafting of players, determining policies for the enforcement of management rights, and negotiating national television agreements."\textsuperscript{61} Independent governing bodies also exist in individual sports, such as golf and tennis, and are responsible for scheduling events and providing uniform regulations for their athletes.\textsuperscript{62}

The use of an independent organization to govern a sport provides unified rules that apply to all competitors and teams, and in the process, monitors the general welfare of the players and franchises and public confidence in the sport. The independent organizations enforce their rules and regulations through the imposition of fines, bans, and suspensions.\textsuperscript{63} Thus, the parties in the industry must follow the established rules or else be subjected to monetary penalties or be prevented from participating in the sport.

The second major distinction between boxing and other sports is the rankings system and recognition of world champions. Professional team sports all measure standings based on a team's win-loss record during the regular season.\textsuperscript{64} Based on these records, a certain number of teams become eligible for the league playoffs.\textsuperscript{65} The eligible teams


\textsuperscript{60} See id.

\textsuperscript{61} Staudohar, supra note 58, at 8.

\textsuperscript{62} See, e.g., Patty Maitland, Riding a Cart on Golf's "Unfairways": Martin v. PGA Tour, 29 Golden Gate U. L. Rev. 627, 637-38 (1999) (stating that the Professional Golf Association currently organizes three professional golf tours, and oversees approximately 23,000 professional golfers).


\textsuperscript{64} See The 2000 ESPN Information Please Sports Almanac 71, 219, 349, 391 (1999) [hereinafter ESPN Sports Almanac] (illustrating the 1999 final regular season standings in Major League Baseball ("MLB"), the National Football League ("NFL"), the National Basketball Association ("NBA"), and the National Hockey League ("NHL").

\textsuperscript{65} MLB is divided into the American and National Leagues, each consisting of East, Central, and West Divisions. The team with the best regular season record in each division qualifies for the playoffs, along with one team from each league that has the best record of the remaining teams. See id. at 71. The NFL is divided into an American Football Conference and a National Football Conference, each consisting of Eastern, Central, and Western Divisions. The team with the best regular season record in each division qualifies for the playoffs, along with the three teams from each conference with the best records among the remaining teams. See id. at 219. The NBA is divided into an Eastern Conference, consisting of an Atlantic and Central Division, and a Western Conference, consisting of a Midwest and Pacific Division.
are then seeded based on their records, and proceed through several best-of-five or best-of-seven game series until there is only one team remaining. The team that is able to move through the playoffs without losing a series is recognized as world champion. Therefore, there are no subjective elements in the rankings of these sports, the entire process is determined by the outcome of each team’s games. In the sport of boxing, however, because there are so many professional boxers, it would be impossible for a boxer to face all of the other boxers in his weight division in order to determine who should be the champion. For this reason, boxing rankings are more subjective because they consider factors such as quality of opposition and quality of wins, which can differ based on individual opinions.

Boxing also differs in this respect from other individual professional sports, such as golf and tennis, which determine rankings through a point system based on the position in which a competitor finishes in particular events. Different events are given different point values, and players are able to choose the events in which they will compete. At the end of the year, the player with the most cumulative points is recognized as the singles champion of either the men’s or women’s division. Again, no subjective criteria are considered in determining a player’s ranking, whereas in boxing the rankings are entirely subjective.

Several college team sports employ a subjective rankings system that considers many factors. Both college football and basketball determine rankings through polls that consider such factors as win-loss records, strength of schedule, and quality of opposition. The difference between the poll system and the rankings system used in

The team with the best record in each division qualifies for the playoffs, along with the six teams in each conference with the best records among the remaining teams. See id. at 349. The NHL is divided into an Eastern Conference, consisting of Northeast, Atlantic, and Southeast Divisions, and a Western Conference, consisting of Central, Northwest, and Pacific Divisions. The team with the best regular season record in each division qualifies for the playoffs, along with the five teams from each conference with the best records among the remaining teams. See id. at 391.

66. See id. at 87-93, 232-34, 359-60, 403-05 (illustrating the progression of the 1999 playoffs of MLB, the NFL, the NBA, and the NHL resulting in the designation of one team as champion).

67. See id.

68. See infra Part II.B.

69. Rankings in professional tennis are determined by computer points from each player’s fourteen best tournament finishes over the preceding twelve months. See ESPN Sports Almanac, supra note 64, at 821. Rankings in professional golf are determined by points awarded for a player’s finish in worldwide tournaments. Final point averages are calculated by dividing a player’s total points by the number of tournaments participated in over the previous two-year period. The player with the highest average is recognized as the number one golfer in the world. See id. at 849.

70. See id. at 821, 849.

71. See id. at 147, 285; Tim Layden, Special Team: Unbeaten and Unabashed Virginia Tech Has Proved Itself Worthy of Playing for the National Title, Sports Illustrated, Dec. 6, 1999, at 52, 55.
boxing, however, is that the ratings of college team sports are determined by newspaper writers who cover the particular sport and National Collegiate Athletic Association ("NCAA") officials, parties with no financial interest in the outcome of the rankings process. Because unbiased parties determine the ratings, they are more credible and lead to more competitive contests in determining which team is the best, as compared with boxing, which tends to produce questionable or controversial rankings because they are often manipulated by parties with a financial interest in the outcome of the rankings.

The structure of the boxing industry is also different from that of other sports in that other athletes are represented through a players' association or union, while there is no such group for boxers. These associations are responsible for handling all general negotiations between the players and the league, and for representing the interests of the players in all disputes with either league or team officials. Unions have also been responsible for establishing pension funds for the players they represent. As with independent governing organizations, players' associations are not limited to team sports, but are also prevalent in the other major individual sports. Players' associations or unions are an important factor in the protection of player interests, and in equalizing bargaining power in negotiations between players and team management. These organizations strengthen the infrastructure of other sports, and along with the credibility of their rankings, provide heightened protection against athlete abuse.

The formation of players' associations and unions in professional sports has also given rise to another distinction between boxing and

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72. See ESPN Sports Almanac, supra note 64, at 147, 285.
73. See infra Part II.A.
75. See Staudohar, supra note 58, at 8. In order for a sports union to achieve its goals, it
   (1) engages in organizing its membership for solidarity, (2) negotiates contracts applicable to all players, (3) uses pressure tactics such as strikes and picketing, if necessary, (4) enforces the terms of the negotiated agreement through the grievance procedure, and (5) serves an internal governmental function in conducting meetings, voting on contracts negotiated, and providing other means of communication to members.
Id. Players' associations exist to represent the interests of the athletes in every other major sport. See id. at 27, 65, 104, 148 (discussing the formation and actions of players' associations in baseball, football, basketball, and hockey).
76. See Crisco, supra note 13, at 1143.
77. See Fordham Sports Law Symposium Transcript, supra note 17, at 8 (statement of Rich Rose) (discussing the possibility of union formation in boxing, which has already been accomplished in golf, tennis, and the four major team sports).
78. See Crisco, supra note 13, at 1164-65 (stating that the "unionization of professional athletes in team sports dramatically improved working conditions and financial stability").
Arbitration is an alternate forum of dispute resolution that results in quicker, more efficient solutions of disputes than if matters are pursued through the court system. The four major team sports—baseball, football, basketball, and hockey—all employ both grievance and salary arbitration, which dictate that a neutral party make a binding decision following an evidentiary hearing. Arbitration "works quickly and fairly and encourages [all] parties to adopt a realistic, good faith bargaining position." The quick resolution of disputes is a necessity in industries 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.

Contrary to the current structure of the boxing industry, other professional sports have developed systems that protect the rights and interests of all parties involved. Independent governing organizations are used to create uniform standards that all members of the industry are required to follow. Fair ranking procedures are important because they ensure that the most deserving teams and individuals will be properly recognized and rewarded, thus increasing athlete and public confidence. Players' associations or unions are crucial in representing the interests of the athletes and safeguarding them from exploitation. In the event that a dispute does arise, the existence of an arbitration mechanism provides a quick resolution so that athletes' careers do not stall. Because boxing does not feature many of these elements, professional boxers are more likely to be exploited by the power brokers of their sport. The next part describes in detail the abuses that boxers face, focusing on contractual and rankings manipulations.

II. ABUSES IN THE BOXING INDUSTRY

Unlike other professional and college sports, which are generally free of athlete abuse, the abuses in boxing are numerous. Many of the opportunities for manipulation result from an unequal balance of power, in which promoters and sanctioning bodies can force boxers to accept their contractual terms and fees. This part discusses the
abuses and exploitation that result from contractual terms between promoters and boxers, from the rankings process, and from the system employed for the selection and compensation of boxing judges.

A. Contractual Abuses

When an amateur boxer decides to turn professional, he must sign a contract with a promoter in order to compete at all. The negotiations of these contracts are often one-sided because "[t]he average fighter has virtually no bargaining power or leverage." This disparity in bargaining power often leads to contracts "which are 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." Current boxing contracts thus act to eliminate the risks for promoters associated with signing a boxer, because if the boxer succeeds, the promoter will reap great financial rewards, while if the boxer fails to achieve success, the promoter loses nothing.

In contracts between a boxer and promoter, especially those signed early in a boxer's career, the provision stating the term of the contract is very important because of the impact it can have in later negotiations. Though a boxer may have little bargaining power during the initial stages of his career, rising to contender or champion status obviously provides greater negotiating leverage. The boxer would therefore benefit most if the initial contract was for a term of only a few years, which would permit renegotiation of contractual terms should the boxer experience early success. Although most promotional contracts extend for terms of two to four years, the most successful boxers are not permitted to renegotiate due to the use of a term that has become standard in the boxing industry. This term provides that while the contract covers a specified number of years, in the event that the boxer is ever recognized as "world champion," the term is extended to include the entire title reign plus two years beyond the date that the boxer loses the title. This automatic extension has the effect of contractually binding a champion boxer to

86. See id.
87. Id.
88. Id.
89. See A Blueprint for Boxing Reform, supra note 41, at 16.
90. See Don King Prods., Inc. v. Douglas, 742 F. Supp. 741, 761 (S.D.N.Y. 1990) ("The subsequent change in Douglas' relative fortunes does not provide a legal basis now to disregard his prior agreement as to the reasonable floor at which to begin discussion of the value of his services as defending heavyweight champion.").
one promoter for his entire career without ever having a chance to renegotiate. 92

Another term that is essential to the fighter is one that provides that he is to participate in a minimum number of bouts each year. 93 A minimum bout obligation ensures that the fighter will have steady and regular employment, and will not be contractually bound to a promoter who does nothing to further the boxer's career. 94 Forcing the promoter to guarantee a certain number of bouts each year is also important because it reduces some of the promoter's power during negotiations of the boxer's purse, which is negotiated separately prior to each fight. 95 Without such a term, a boxer is forced to accept whatever purse the promoter offers, or else be prevented from competing at all. 96 Because initially a boxer has little or no bargaining power, however, a minimum bout obligation will be unlikely to appear in the initial contract. 97

Although boxers are the weaker parties in contract negotiations with promoters, they lose all bargaining power when they are not represented by a manager who bargains for their best interests. 98 The traditional system of negotiating, 99 in which a manager bargains on a boxer's behalf, has been replaced in many respects over the last several decades by other methods that all operate to boxers' detriment. 100 The ideal scenario for a promoter is to serve in a dual role as both promoter and manager, which allows him complete control over the boxer. Because most state boxing commissions have rules that prohibit a promoter from also serving as a boxer's manager,

92. See Hearings on Business Practices in Boxing, supra note 18, at 28 (testimony of Patrick C. English, Esq.) (stating that a successful boxer becomes "locked into a continuing contract with the promoter for all the economically significant part of the boxer's career").

93. See Hearings on the Ali Act, supra note 48, at 9 (personal statement of Shelly Finkel, boxing manager) (stating that a minimum bout obligation is essential to prevent a boxer from being "frozen out of earning a living").


95. See New York State Senate Hearings, supra note 54, at 63 (testimony of Don King, boxing promoter).

96. See Hearings on Business Practices in Boxing, supra note 18, at 42 (testimony of Cedric Kushner, boxing promoter) (stating that as long as the minimum bout obligation is included in the contract, the promoter must continue to provide bouts for the boxer, even if it results in financial loss to the promoter's company).

97. See supra notes 86-89 and accompanying text.

98. See Jack Newfield, Only in America: The Life and Crimes of Don King 227 (1995) (detailing how Tim Witherspoon, who was not represented by independent management, was paid only $52,750 for a bout with Larry Holmes, while club fighter Scott Frank, who was represented by independent management, was paid $350,000 for a bout with Holmes).

99. See supra Part I.A.

100. See Hearings on the Health and Safety of Professional Boxing, supra note 14, at 58 (statement of Eddy Futch, boxing trainer) (stating that "the line between the manager and the promoter has become so dim that it is hardly visible").
promoters often circumvent this rule by appointing a particular party to serve as a boxer's manager.\textsuperscript{101} The promoter can either dictate that the fighter manage himself and then force him to agree to all of the promoter's terms,\textsuperscript{102} or can insist that a certain third party, usually an employee or relative, be named manager.\textsuperscript{103} The boxer has no choice but to accept these terms, because the promoter can refuse to promote him and thus prevent him from fighting.\textsuperscript{104}

Where a promoter appoints a specific manager who will agree to accept less money for the boxer and thus himself, the boxer is often forced to sign a contract that grants the manager 50\% of each purse.\textsuperscript{105} This allows the promoter to increase his own profitability while compensating the pawn manager with the fighter's money. To avoid detection by state boxing commissions, which typically limit the manager's compensation to 33\%,\textsuperscript{106} promoters sometimes order boxers to sign two agreements.\textsuperscript{107} The first contract, which is submitted to state commissions, grants the manager 33\% from each purse, while the second contract, which is the one acted upon by the parties, grants the manager 50\% of each purse.\textsuperscript{108} Even more outrageous are situations in which the promoter promotes both participants in a bout, and is compensated not only with the promotional fee for the fight, but also receives increased compensation by setting up a pawn manager for each boxer.\textsuperscript{109}

\begin{itemize}
\item \textsuperscript{101} See Peter Heller, Bad Intentions: The Mike Tyson Story 217 (1989) (discussing how Don King put his son in the boxing management business so that the two could work hand-in-hand).
\item \textsuperscript{102} See Newfield, supra note 98, at 134 (discussing how Don King dictated terms for Larry Holmes because Holmes lacked an independent manager to represent his interests).
\item \textsuperscript{103} See Hearings on Business Practices in Boxing, supra note 18, at 29 (testimony of Patrick C. English, Esq.) (stating that “coercion to sign with a given manager would only be because the promoter feels he can control the manager or, worse, because there is some financial arrangement between them”).
\item \textsuperscript{104} See Heller, supra note 101, at 218 (quoting boxer Alfonso Ratliff as saying, “Carl [King] became my manager because Don King said the only way he would promote me was to have his son be my manager. I didn’t want anything to do with Carl King, but I had no choice.”).
\item \textsuperscript{105} See Newfield, supra note 98, at 209, 233, 241 (citing numerous examples of Carl King taking 50\% or more from purses of boxers that he managed and that his father promoted).
\item \textsuperscript{106} See Heller, supra note 101, at 226 (stating that “in all the states where boxing is responsibly governed ... it is illegal for a manager to receive more than thirty-three percent”).
\item \textsuperscript{107} See Newfield, supra note 98, at 224.
\item \textsuperscript{108} See id. (discussing how Don King forced former heavyweight champion Tim Witherspoon to simultaneously sign four contracts: the first made King the exclusive promoter, the second made King's son Carl the manager, who was entitled to 33\% of all of Witherspoon's earnings, the third contract was a copy of the second except that it entitled Carl to 50\% of Tim's earnings, and the fourth was completely blank, allowing King to write in any terms he wished).
\item \textsuperscript{109} See Bershad & Ensor, supra note 10, at 878 (discussing a 1986 heavyweight title bout where Don King promoted both boxers, and his son Carl was listed as
Promoters prefer to have the boxers they control fight each other, because no matter which boxer wins, the promoter is always on the winning side.\textsuperscript{110} Therefore, many times there may be a particular bout that the public has a great interest in seeing, but because the two fighters are promoted by different parties, the match is never made.\textsuperscript{111} Other times, however, particularly in the situation in which a champion defends his title against a challenger who is promoted by a different party, the champion’s promoter faces a big risk in the event his fighter loses the bout.\textsuperscript{112} Because promoters have exclusive control over the sport with no independent organization overseeing their actions, they have been able to institute what has now become a common practice in order to eliminate the risk in this type of situation.\textsuperscript{113} Here, the promoter who represents the champion agrees to promote the fight conditioned on the challenger signing an “option contract” that states that in the event the challenger wins the bout, he agrees to be contractually bound to the champion’s promoter for a certain period of time.\textsuperscript{114} In order to obtain the opportunity to fight for a championship, the challenger has no choice but to agree to the promoter’s terms.

Through the use of these coercive practices, promoters are able to force fighters to sign contracts that provide for only minimal obligations on the part of the promoter, and allow the promoter to dictate the career paths of the boxers.\textsuperscript{115} Current promotional contracts allow promoters legally to take great percentages of the fighters’ purses, often leaving the boxer with less than one-quarter of what he was promised.\textsuperscript{116} At all levels of the sport, promoters

\vspace{1em}

\begin{itemize}
  \item[110.] See Hauser, supra note 33, at 110 (quoting boxing writer Michael Katz as saying “[f]irst, the fighter signs a promotional contract with Don King. Then the manager signs over a piece of the boxer to Carl King. Finally, the fighter gets a title bout. In this corner, a Don King fighter. In that corner, a Don King fighter. Guess who wins.”).
  \item[111.] See Crisco, supra note 13, at 1147-48 (discussing that promoters have a disincentive to agree to co-promote a bout because it results in the division of the promotional profits).
  \item[112.] See New York State Senate Hearings, supra note 54, at 54-55 (testimony of Don King, boxing promoter) (stating that option contracts are necessary to protect the investment a promoter makes in a boxer).
  \item[113.] See Hearing on Business Practices in Boxing, supra note 18, at 10 (presentation by Fredric G. Levin) (stating that in order for an up-and-coming boxer to get an opportunity to fight for the championship, he is usually required to sign a promotional agreement with the champion’s promoter).
  \item[114.] See id. at 12 (testimony of Roy Jones, Jr., world light-heavyweight champion) (stating that in order to get a title opportunity, it is basically mandatory to give options to the champion’s promoter).
  \item[115.] See supra note 88 and accompanying text.
  \item[116.] See Newfield, supra note 98, at 238-41 (detailing a transaction where Tim Witherspoon was promised $500,000 for a certain fight, but was paid only $90,095 after certain deductions were made).
\end{itemize}
commonly make more money from each bout than do the boxers. The promoter is not even required to tell the boxer how much revenue has been collected for a particular bout. The boxer, therefore, has no idea how much a particular bout is worth to the promoter, or how much the boxer is rightfully due.

Most of the state boxing commissions have rules forbidding contractual abuses such as a promoter taking a percentage of the boxer’s purse, or insisting on a manager who is either an employee or relative of the promoter. The commissions, however, have been ineffective in regulating the sport and in enforcing their rules. Many state boxing commissions are run by politicians with little knowledge of boxing, and operate on very small budgets. Effective regulation of boxing will not occur until additional measures are put into place to ensure that the rules and regulations of the sport are strictly enforced.

Where a promoter breaches a contractual term with one of his fighters, there is little recourse available to the boxer. Courts of law have not provided an appropriate remedy because even in cases where the boxer’s claim has great merit, he will rarely pursue an actual trial because litigation would entail putting his career on hold for several years. Although thousands of boxers have filed lawsuits against their promoters, most are either settled, quickly dismissed, or disappear for lack of funding.

A recent illustration of the inability of courts to effectively address boxers’ claims is the dispute between promoter Don King and welterweight champion Felix Trinidad. On June 11, 1994, Trinidad

117. See Hearings on the Ali Act, supra note 48, at 8 (testimony of Shelly Finkel, boxing manager) (“Even at the very lofty peaks of the sport I have seen instances where a promoter makes significantly more money, sometimes multiples more, than the star attraction whom the promoter has under contract.”).
118. See Fordham Sports Law Symposium Transcript, supra note 17, at 74-75 (statement of Louis DiBella, Senior Vice President, HBO Sports) (stating that boxers have no idea about what their services generate in terms of economics).
119. See supra note 106 and accompanying text.
120. See A Blueprint for Boxing Reform, supra note 41, at 14 (stating that the New York State Athletic Commission “has failed to apply restrictions on judicial licensing and appointment which are already mandated by existing law”).
121. See Fordham Sports Law Symposium Transcript, supra note 17, at 12 (statement of Louis DiBella, Senior Vice President, HBO Sports) (“Most state athletic commissions are dominated by political hacks and generally have no budget. When you have no budget, you cannot effectively do anything.”).
122. See infra notes 123-35 and accompanying text.
123. See Michael Katz, No One Fighting Over This Award, N.Y. Daily News, Nov. 25, 1998, at 95 (stating that Felix Trinidad’s legal problem with promoter Don King “makes him front-runner for non-fighter of 1999”).
124. See Newfield, supra note 98, at 247, (noting that there had been over 100 lawsuits filed against promoter Don King between 1978 and 1995. Of those lawsuits, two were settled and the rest simply disappeared because there was no money to sustain them).
signed an exclusive promotional agreement with King for a term of four years, which also included the standard term that the contract would automatically extend if Trinidad was ever recognized as world champion. At the time the promotional agreement was executed, Trinidad was already recognized as the IBF world welterweight champion. At the end of the four-year period, the parties disagreed as to whether the contract had been fully performed. Trinidad claimed that the four-year period had elapsed, while King claimed that he had exclusive rights for Trinidad's entire title reign plus two additional years. Trinidad argued that a standard contractual principal requires that ambiguous contractual terms be interpreted against the interest of the party that drafted them. The court denied Trinidad's motion for a preliminary injunction to allow him to contract with another promoter, stating he had not shown a likelihood of success on the merits, although he had presented questions of fact sufficient to continue the litigation. Not wanting to waste the prime of his career fighting in court, Trinidad agreed to continue under his agreement with King so that he could get back into the ring.

The courts have also offered little help to boxers because often their preference is not to void contracts no matter how one-sided the terms may be. For example, in a 1990 lawsuit between heavyweight champion James Douglas and Don King, Douglas argued that his promotional contract should be declared void because King was in such control of the promotion of heavyweight title fights that Douglas had no choice but to sign an agreement that included any terms King desired. The court dismissed the unconscionability argument, stating that Douglas had not made the required showing of unfair bargaining process because he had not alleged that deceptive or high-pressure tactics were used. The court further stated that “[w]ithout some definite allegation of a defect in the contract negotiation process apart from King’s stature in the boxing field, which alone does not suggest ‘inequality so strong and manifest as to shock the conscience and confound the judgment,’” Douglas’s allegations could not support a claim of unconscionability. What the court failed to realize, or to admit, is that powerful promoters do not have to use pressure tactics

126. See id.
127. See id.
128. See id.
129. See id. at *9.
130. See id. at *10.
131. See Trinidad Signs Contract for $42.9M With King, Times Union (Albany), Dec. 1, 1998, at C2 (discussing a four-year contract between Don King and Felix Trinidad negotiated less than a week after Trinidad's motion for a preliminary injunction was denied).
132. See infra note 135 and accompanying text.
134. See id.
135. Id. at 781 (quoting Christian v. Christian, 396 N.Y.S.2d 817, 823 (1977)).
to force boxers into one-sided contractual arrangements, because their control is so complete that they are able to offer promotional agreements on a "take it or leave it" basis.

B. Rankings and Judge Selection and Compensation Abuses

The United States Supreme Court once noted that the most lucrative asset in professional boxing is the designation "world champion" in the division in which the boxer competes. The Court acknowledged that such a title affords the boxer financial returns from personal appearances, endorsements, and other activities, and entitles him to a greater percentage of money from future bouts. The Court further stated that the promotion of championship boxing matches is a more lucrative business than the promotion of non-championship matches. A boxer's high ranking can thus be considered a "property right," because with it comes great financial rewards.

One of the main reasons that promoters wield so much control over the sport is their ability to manipulate the rankings. Rankings are determined by the various sanctioning organizations, the three most important of which are the IBF, WBA, and WBC. Although rankings in boxing involve subjective criteria, such as quality of opposition, both the general public and boxing insiders believe that the rankings calculated by the various sanctioning organizations can only be explained as gifts to their favorite promoters. The sanctioning organizations today run the sport in a similar fashion to the way that organized crime controlled boxing in the 1950s; each group is able to exclude boxers who refuse to be obligated to "connected" parties. Promoters openly admit that they share deep

\[\text{References}\]

136. See United States v. International Boxing Club, 348 U.S. 236, 244-46 (1955) (holding that championship boxing matches constitute a separate relevant market for antitrust purposes because of the unique financial opportunities that they provide).

137. See id. at 246.

138. See id.

139. See Duva v. World Boxing Ass'n, 548 F. Supp. 710, 718-20 (D.N.J. 1982) (holding that the third-ranked junior middleweight contender had a protectible property interest in his ranking because it guaranteed him a title opportunity due to his status as the leading available contender); see also Hearings on the Ali Act, supra note 48, at 7 (statement of Sen. John McCain) (stating that a high ranking is a property right because of the influence it exerts over the boxer's career).

140. See supra notes 44-52 and accompanying text.

141. See supra note 68 and accompanying text.

142. See New York State Senate Hearings, supra note 54, at 101-02 (testimony of Steve Farhood, boxing writer) (discussing how fighters are elevated in the rankings when they are associated with certain promoters); see also Hearings on the Ali Act, supra note 48, at 8 (statement of Shelly Finkel, boxing manager) ("The only conceivable explanation for many of these unreasonable actions [of sanctioning organizations] is that they consistently strengthen a particular promoter's stranglehold over a division or divisions within the sport.").

143. See Jake LaMotta, Raging Bull: My Story 121, 139 (1970) (describing how Jake LaMotta remained the number one middleweight contender for four years
friendships with some of the executive officials in the sanctioning organizations, and also that on occasion they have bribed officials to secure a certain ranking or bout for one of their boxers. The ability to manipulate ratings is very important because it grants a promoter greater opportunity to promote big money bouts. The influence over rankings has also corrupted the very core of the sport, because frequently title opportunities are given not to those who have earned them, but rather to a boxer who fits a particular purpose for a promoter.

The influence that promoters can exert with the backing of a sanctioning body can be illustrated through several examples. A recent instance is the subject of a current lawsuit between Cedric Kushner and rival promoter Don King for tortious interference with contract and fraud. In that case, a boxer promoted by Kushner testified that King gave him a check for $125,000 in exchange for the boxer's agreement not to participate in a particular bout, and to instead sign a promotional agreement with King. The boxer further testified that King told him that he would never be the number one contender unless King was his promoter. Another example of promoter influence over rankings led to the filing of a lawsuit that became the starting point for an FBI investigation resulting in the indictment of IBF officials. In that case, number one heavyweight contender, Michael Moorer, brought a lawsuit against IBF officials alleging that the officials had accepted bribes to drop Moorer in the rankings and replace him with Francois Botha, a King-promoted without receiving a title opportunity because he refused to cooperate with the organized crime figures who ran the sport; infra note 156 and accompanying text; see also Carbo v. United States, 314 F.2d 718, 725, 750 (9th Cir. 1963) (upholding the convictions of underworld figures John Carbo and Frank Palermo for extortion and interstate transmissions of threats to secure managerial control of a professional boxer).

144. See Hauser, supra note 33, at 99-100 (reporting that promoter Don King and WBC President Jose Suliaman openly acknowledge their close friendship).
145. See Heller, supra note 101, at 140 (discussing how promoter Bob Arum paid WBA officials $85,000 in order to get a title opportunity for one of his fighters).
146. See New York State Senate Hearings, supra note 54, at 81 (testimony of Louis DiBella, Senior Vice President, HBO Sports) (stating that there is no equity in the fact that Richard Frazier was ranked number one contender and given a title opportunity, and that this was a result of corruption of the system); see also Kondrath v. Arum, 881 F. Supp. 925, 928 (D. Del. 1995) (stating that a boxer who was selected as an opponent whom the promoter's champion could defeat, became eligible to participate in the bout by writing a letter to the IBF requesting to be ranked in the organization's top ten for that weight division).
148. See id.
149. See id.
Before the change in the ratings was made official, King had called officers of HBO and "predicted" that Botha would be the number-one-rated contender when the new rankings were released, despite having never beaten a top-10 contender.\(^{152}\)

On November 4, 1999, the U.S. Attorney's office in Newark, New Jersey, indicted three top officials of the IBF for taking bribes and fixing rankings.\(^ {153}\) Culminating from a two-year investigation by the FBI, the indictment alleges that the officials received illegal payments from managers and promoters to manipulate the ratings system for the benefit of particular boxers.\(^ {154}\) In a sworn affidavit to the court, the IBF Rankings Chairman declared that IBF rankings were enhanced by payoffs from certain promoters and managers who regularly paid IBF officials to rank their fighters in certain positions.\(^ {155}\) The payments not only guaranteed preferential treatment for the promoter's fighter, but also worked to punish boxers who left these various promoters by immediately lowering their rankings.\(^ {156}\) In fact, the payments allowed certain promoters to dictate the order of the rankings in ways that even the IBF officials felt were unfair and ridiculous.\(^ {157}\) Although these allegations have yet to be adjudicated, they seem to finally insert into public record what most boxing insiders label "common knowledge."\(^ {158}\)

In addition to the receipt of direct payments, sanctioning organizations also manipulate the ratings in order to increase the organization's profits. Because sanctioning organizations are compensated by receiving a certain percentage of the two fighters' purses,\(^ {159}\) an incentive exists to rank more highly the most popular boxers, who earn larger purses, so that the organization is also paid more money.\(^ {160}\) The motive to inflate the rankings of popular boxers

\(^{151}\) See John Reid, Ring Rage: Courts are Taking on Rankings Corruption, Times-Picayune (New Orleans), June 3, 1999, at D1.

\(^{152}\) See id.

\(^{153}\) See Wharton, supra note 150.

\(^{154}\) See id.


\(^{157}\) See Robert Rudolph, Tape Shows Boxing Officials Counting "Christmas Cheer"—Judge Releases FBI Video in Corruption Case, The Star-Ledger, Feb. 3, 2000, at 1 (stating that IBF President Robert Lee became "frustrated when he [was] forced to include fighters he derides as 'no-fight' bums in his listings simply because they are backed by King").

\(^{158}\) See Norm Frauenheim, More Than Title at Stake for Boxing: Uncle Sum to Take a Swing, Too, The Arizona Republic, Nov. 12, 1999, at C1.

\(^{159}\) See Hearings on Business Practices in Boxing, supra note 18, at 10 (presentation by Frederic G. Levin) (detailing the sanctioning fee process, which includes the taking of 3% of each fighter's purse).

\(^{160}\) See New York State Senate Hearings, supra note 54, at 77 (testimony of Louis DiBella, Senior Vice President, HBO Sports) (stating that because sanctioning fees are based upon a percentage of the fighters' purses, the sanctioning organizations
explains events such as how Mike Tyson, the boxer who has received some of the largest purses in history, was declared the number one contender immediately upon his release from a three-year prison term.\textsuperscript{161}

The public is also victimized by the manipulation of the rankings process because often the high ranking of undeserving boxers leads to lower-quality bouts.\textsuperscript{162} In addition to purposeful manipulation, sanctioning organizations also refuse to rank champions recognized by other organizations, or boxers who have attempted to win the championship of another organization.\textsuperscript{163} The refusal to rank other top fighters in each division, and the desire to protect a paying promoter’s boxer, often lead to mismatches in championship bouts, especially those involving mandatory challengers.\textsuperscript{164}

As is the case with contractual abuses, the abuse of the rankings system is permitted to occur because there is no independent governing organization in boxing, and thus no monitor of the rankings process.\textsuperscript{165} Boxing rankings consider many subjective elements, and can therefore vary greatly depending on differences of opinion. Certain promoters, managers, and sanctioning organization officials have taken advantage of this fact and have conspired to manipulate the rankings in their favor. The ability to manipulate the rankings in boxing allows unethical parties to force boxers to accept their terms and fees, because the boxers know that if they do not cooperate, they will be prevented from achieving their professional goals. The manipulation of the rankings also adversely effects the public, because often, an undeserving boxer is given a title opportunity that results in a mismatch. Thus, the manipulation of rankings leads to lower-quality bouts and destroys the credibility of the sport.

The judge selection and compensation process is manipulated for the same reasons as the rankings process—the parties with a financial interest in the outcome of a bout decide who will officiate the bout, and exercise influence over those officials.\textsuperscript{166} Under the current

\textsuperscript{161}. See, e.g., Mike Tyson Files $100 Million Lawsuit Against “Pal” Don King, supra note 1 (stating that Tyson had earned approximately $140 million in his first six fights after being released from prison in 1995).


\textsuperscript{163}. See A Blueprint For Boxing Reform, supra note 41, at 11 (discussing several instances when a fighter unjustifiably receives a high ranking by facing weak competition, and later is easily defeated by the champion).

\textsuperscript{164}. See New York State Senate Hearings, supra note 54, at 78-79 (testimony of Louis DiBella, Senior Vice President, HBO Sports).

\textsuperscript{165}. See id. at 79 (“The worst prize fights that [HBO has] televised over the last decade, and certainly over the last five years, have been mandated fights involving number one ranked contenders.”).

\textsuperscript{166}. See supra Part I.B.

\textsuperscript{167}. See supra Part I.A.
system, promoters and sanctioning organization officials thus have too
great an opportunity to influence the decisions of the judges.168 Judges for championship bouts are typically designated by the
sanctioning organization, and these choices are rarely challenged by
the state boxing commission.169 Sanctioning organizations, therefore,
often choose an official who does not have sufficient experience, or
can be easily influenced, to judge a major bout, and whose decision
can lead to great controversy.170 Because judges are currently
compensated directly by the promoter, who pays for the officials to
travel around the world, stay in luxury hotels, and receive between
$1,000-$8,000 to officiate the bout,171 judges are more likely to favor
the promoter’s fighter out of a sense of gratitude. Also, because no
one other than the promoter and the judge are involved with the
reimbursement of travel and lodging expenses, “a judge could quite
conceivably submit an expense voucher for $100 to a promoter—and
receive a check for $10,000 in return.”172 The ability to manipulate the
outcome of bouts is another factor that places boxers at the mercy of
their promoters.173

Critics have amply demonstrated that boxers are subjected to a
variety of abuses due to their lack of leverage or bargaining power
when dealing with promoters, managers, and sanctioning organization
officials. Because the current system in boxing is rampant with
corruption, these parties control all of the elements that are
necessities to a boxer’s success, including the availability of bouts, a
boxer’s numerical ranking, and judge selection for each of the boxer’s
matches. Therefore, in order for a boxer to continue to advance in his
profession and move closer to his goal of obtaining a world
championship, he has no choice but to accept the contractual terms

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168. See New York State Senate Hearings, supra note 54, at 78 (testimony of Louis
DiBella, Senior Vice President, HBO Sports) (stating that the current rules permit a
promoter to pay for the entertainment of judges).
169. See A Blueprint For Boxing Reform, supra note 41, at 14 (discussing situations
when state commissions have approved judges who are either unqualified or
unlicensed).
170. On March 13, 1999, Evander Holyfield and Lennox Lewis fought for the world
heavyweight championship. Though most observers felt that Lewis had clearly won
the bout, the IBF judge, Eugenia Williams, scored the bout in favor of Holyfield. See
id. The selection of Williams by the IBF was heavily criticized, even by officials of the
other sanctioning organizations. See New York State Senate Hearings, supra note 54,
at 35-36 (testimony of Jose Suliaman, President, WBC) (stating that he was opposed
to the selection of Williams because a more experienced and neutral judge was
needed for the bout).
171. See Bill Brubaker, Boxing Referees: Have Connections, Will Travel, Wash.
172. Hearings on Revision of Boxing Regulation, supra note 20 (statement of Wallace
Matthews, boxing writer).
173. See Newfield, supra note 98, at 232 (discussing how Don King threatened that
he would make sure that Tim Witherspoon lost a decision as long as his opponent was
not knocked out, because Witherspoon had sought the aid of an attorney to negotiate
a contract with King).
and fees dictated by promoters, managers, and sanctioning organization officials. The next part addresses specific provisions of the Ali Act that are designed to eliminate these abuses.

III. THE MUHAMMAD ALI BOXING REFORM ACT

In an effort to prevent the exploitation of boxers, Senator McCain has sponsored the Ali Act to establish uniform standards for business practices in the boxing industry.174 Although a final vote on the Ali Act was blocked by two Democratic Senators in 1999,175 Senator McCain is currently making passage of the Act a top priority for the year 2000.176 This part discusses the background of the Ali Act by examining past legislative efforts by Congress to regulate the boxing industry. It then discusses specific provisions of the Ali Act aimed at remedying contractual abuses and manipulation of the rankings and judge selection processes. Finally, this part discusses the remedies provided for in the Ali Act that seek to deter these exploitative practices.

A. Background of the Ali Act

Professional boxing has been the subject of congressional hearings and investigations for several decades. In the early 1960s, Senator Estes Kefauver conducted a four-year investigation into boxing that resulted in several legislative proposals.177 The goal of these proposals was the formation of a national commission that would be responsible for the regulation of contracts, medical procedures, and data collection on boxers.178 Before this legislation could be voted on, however, Senator Kefauver died, and the bill was never enacted.179 Congress again conducted hearings throughout the 1970s, which resulted in the proposal of a bill that would have established a federal boxing committee responsible for investigating impropriety in boxing and establishing minimum standards of compensation for boxers.180 The bill did not receive wide support, however, and was never enacted.181

Legislative efforts aimed at professional boxing continued during the 1980s, resulting in several proposals.182 In 1983, three separate

175. See supra note 17 and accompanying text.
176. See McCain Disappointed Boxing Reform Didn’t Pass This Year, supra note 17.
177. See Millsap, supra note 10, at 33-34.
179. See id.
180. See Millsap, supra note 10, at 50.
181. See id.
182. See McElroy, supra note 178, at 471-72.
bills were introduced; two focused on providing guidelines for rankings and health procedures in boxing, while the third sought to create a national commission to oversee compensation, working conditions, and the safety of equipment and facilities in the sport.\textsuperscript{183} Again, these three proposals were not enacted due to insufficient support.\textsuperscript{184} Several other legislative proposals were initiated during the early 1990s, but as with their predecessors, the proposals never became law.\textsuperscript{185} Most of the 1990s initiatives focused on the establishment of a national commission or organization to set forth industry standards, the regulation of medical procedures, and the establishment of rules for contractual agreements between boxers and promoters.\textsuperscript{186} The committees assigned to review these proposals acted upon none of the bills.\textsuperscript{187}

The first piece of legislation that Congress did succeed in enacting was the Professional Boxers Safety Act of 1996,\textsuperscript{188} which regulates the health and safety standards of professional boxing to avoid unnecessary injury inside the ring.\textsuperscript{189} The Ali Act, first proposed by Senator McCain in June 1998,\textsuperscript{190} is a proposed addition to that legislation, and takes the regulation of boxing a step further by protecting boxers outside of the ring from exploitation through unethical business practices.\textsuperscript{191} Two versions of the Ali Act were passed by the Senate, and one was passed by the House of Representatives, but a vote on the final draft of the bill was blocked by two Democratic Senators.\textsuperscript{192} One of these Senators was Harry Reid of Nevada, who has previously stated that boxing's two most powerful promoters, Don King and Bob Arum, are his most important constituents.\textsuperscript{193} Although neither Don King nor Bob Arum accepted the invitation to testify on the passage of the Ali Act, promoters would be adversely effected by any regulation of the sport, and thus are generally against the bill's passage.\textsuperscript{194}

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  \item \textsuperscript{183} See id.
  \item \textsuperscript{184} See id.
  \item \textsuperscript{185} See Anderson, supra note 11, at 194-98.
  \item \textsuperscript{186} See id.
  \item \textsuperscript{187} See id.
  \item \textsuperscript{188} See Pub. L. 104-272, 110 Stat. 3309-13 (codified at 15 U.S.C. §§ 6301-6313 (Supp. IV 1998)).
  \item \textsuperscript{189} These provisions include the requirement of a pre-fight physical examination, the registration with the state boxing commission, and the establishment of suspension procedures for medical and disciplinary reasons. See 15 U.S.C. §§ 6304-06.
  \item \textsuperscript{190} See S. 2238, 105th Cong. (1998).
  \item \textsuperscript{191} See H.R. 1832, 106th Cong. § 3(1) (1999).
  \item \textsuperscript{192} See supra note 17 and accompanying text.
  \item \textsuperscript{193} See supra note 17 and accompanying text.
  \item \textsuperscript{194} See Hearings on the Ali Act, supra note 48, at 8 (statement of Sen. John McCain).
\end{itemize}
B. Provisions of the Ali Act Designed to Eliminate Contractual Abuses

Initial drafts of the Ali Act provided for specific mandatory provisions that must appear in every contract between a boxer and a promoter or manager. These requirements established mutual obligations between the parties, including the specification of a minimum number of bouts in which the boxer must participate each year, and a certain period of time for which the contract would be in effect. The latest draft of the Ali Act, however, has eliminated these provisions in favor of another, which allows the ABC, a non-profit organization comprised of all state boxing commissions, two years in which to develop minimum contractual standards for all boxing contracts. Although the state boxing commissions currently regulate boxing contracts in certain respects, these rules are very rarely followed or enforced. The standards to be established pursuant to the Ali Act will address the duration term of contracts, the obligations of the parties, and any other terms that the ABC feels should be specifically included or prohibited in boxing contracts. These provisions will attempt to remedy abuses resulting from inequitable contracts, which often include: the exclusion of a minimum bout term, which can prevent a boxer from earning a living; the use of a term to automatically extend the duration of a contract if the fighter ever becomes world champion, which ties the fighter to the promoter for the most successful part of the boxer's career; and the use of unfair terms that result from negotiations where the manager is not serving the boxer's best interests.

Currently, the promoter of a champion often forces challengers to sign an option contract that grants the promoter exclusive promotional rights to the challenger in the event that he defeats the champion. The Ali Act specifically addresses option contracts by limiting them to a 12-month duration. In addition, promoters would be prohibited from using boxers whom they had obtained rights to through an option contract as leverage to obtain additional options on other boxers. Further, promoters would be prohibited from

196. See id. § 15(a)(1).
197. See Hearings on Revision of Boxing Regulation, supra note 20 (testimony of Gregory P. Sirb, President, ABC).
199. See supra notes 106-07 and accompanying text.
200. See supra note 93.
201. See supra note 92 and accompanying text.
202. See supra notes 104-08 and accompanying text.
203. See supra note 114 and accompanying text.
204. See H.R. 1832, 106th Cong. § 10 (1999).
205. See id. § 10(a)(1)(A)(ii).
obtaining option contracts as a condition precedent to a bout that is mandatory under the rules of the sanctioning organizations.206

Throughout the hearings on the Ali Act, promoters argued that option contracts should be allowed as compensation for the opportunity being provided to the challenger by the champion's promoter.207 Promoters advocated for option contracts on three to four title defenses should the challenger win, and for distribution of the revenues from those fights among both promoters so that all parties are compensated.208 Congress compromised with the promoters by allowing the use of option contracts, but limiting the term of these contracts to one year. The limitation of option contracts to one year will allow promoters to recoup some of the loss in the event their champion loses, but will prevent a promoter from controlling a particular division by locking up successive champions.209 The provisions limiting the use of option contracts should also act to reduce some of the negotiating power of promoters.

In a further attempt to equalize negotiations between boxers and promoters, the Ali Act contains a provision forbidding both a promoter from having any interest in the management of the boxer, and a manager from having an interest in the promotion of the boxer.210 Under the current system in boxing, many of the most powerful promoters force boxers to hire a particular manager, usually an employee or family member of the promoter, whose loyalty is to the promoter and not to the boxer, thus compromising the boxer's interests during negotiations with the promoter.211 Under the Ali Act, a manager could not be an employee of the promoter, and could not receive any compensation from the promoter outside of the agreement with the boxer to take a certain percentage of each of the boxer's purses.212 Separating the roles of manager and promoter will prevent conflicts of interests, ensure that negotiations actually take place with a responsible party bargaining for the boxer's best interests, and prevent situations where promoters set up a company for a relative who then handles the management functions for the fighters by simply following the orders of the promoter.213

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206. See id. § 10(b).
208. See id.
209. See id. (arguing that an equitable solution would be to give the champion's promoter options on three or four bouts, and if after that time the boxer was still champion, he would return to his original promoter).
210. See H.R. 1832 § 5.
211. See supra notes 101-04 and accompanying text.
212. See H.R. 1832 § 5.
213. See Owen Slot, Boxing: Mystery of Don King and the Shrinking $1 Million Purse, Daily Telegraph (London), April 12, 1998, at 7 (describing how some boxers have been forced to sign Monarch Sports as managers, a company owned by Don King's son and daughter); see also Newfield, supra note 98, at 224 (discussing a
Under the Ali Act, promoters would also be required to make several disclosures to state boxing commissions that would act to protect boxers from exploitation after the bout has taken place.\textsuperscript{214} Currently, promoters are only required to submit a Commission Bout Contract that states the base purse for the boxers, but often bears no relation to the actual terms of the deal between the promoter and the boxers.\textsuperscript{215} Under the Ali Act, the promoter would have to disclose to the state commission a copy of the promotional contract with either or both fighters competing in the bout.\textsuperscript{216} Another provision would require the promoter to submit a statement, made under the penalty of perjury, that the agreement submitted to the commission is the only one that exists between the boxer and the promoter.\textsuperscript{217} Ensuring that only one agreement exists will prevent situations in which a promoter forces a boxer to simultaneously sign two agreements with slightly different terms.\textsuperscript{218} Under the Ali Act, the promoter would also have to disclose any fees, charges, and expenses that he will assess a boxer for the particular bout.\textsuperscript{219} Finally, the legislation would require the promoter to disclose any payment or benefit being made to a sanctioning organization, and any reduction in a boxer's purse that is contrary to their original agreement.\textsuperscript{220} Payment disclosures will prevent situations in which the boxer is promised a certain purse, but is given less than was promised after the bout takes place.\textsuperscript{221}

The promoter would also be required under the Ali Act to make disclosures directly to the boxer that he promotes. The strongest requirement mandates that the promoter disclose the exact amount of compensation that the promoter will receive as a result of a particular bout.\textsuperscript{222} Currently, promoters often make a great deal more money than do the star attractions of the events they promote.\textsuperscript{223} This undoubtedly results from the fact that boxers are ignorant of the value of a particular bout to the promoter. The disclosure of the total revenue a promoter has amassed for a particular bout is an important provision because it removes a significant portion of the promoter's power during future negotiations by allowing the boxer to know exactly how much a bout is worth to the promoter, thus enabling a boxer to negotiate larger purses for himself. Dissenters of the bill

\begin{footnotesize}
\begin{itemize}
\item[214.] See H.R. 1832 § 13.
\item[215.] See Hearings on Business Practices in Boxing, supra note 18, at 28 (testimony of Patrick C. English, Esq.).
\item[216.] See H.R. 1832 § 13(a)(1).
\item[217.] See id. § 13(a)(2).
\item[218.] See supra notes 106-08 and accompanying text.
\item[219.] See H.R. 1832 § 13(a)(3)(A).
\item[220.] See id. § 13(a)(3)(B)-(C).
\item[221.] See supra note 117 and accompanying text.
\item[222.] See supra note 98, at 227.
\item[223.] See supra note 117 and accompanying text.
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argue that this information should not have to be shared because a boxer and promoter have directly adverse interests during negotiations. They reason that because the boxer is not the party taking the financial risk for the promotion of a bout, he should not be entitled to this information. Further, they argue, the disclosure is misleading because a boxer may assume that the promoter is keeping all of the revenue, while in actuality the boxers' purses, fees, and expenses from the bout, along with company overhead, must be subtracted before determination of the promoter's profit or loss. But surely, these concepts can all be explained to a boxer, who can then use this information to determine the compensation that each party is receiving from the bout.

Finally, the Ali Act provides that promoters would also have to disclose to the boxer all fees and charges that will be assessed, and any increase that is contrary to their previous agreement. The disclosure of increased charges will prevent a promoter from arbitrarily reducing the boxer's compensation, through the creation of a clear written record as to the obligations of the parties and reasons for alterations of these obligations. In addition, promoters may be required to submit all of the information that they disclose to boxers and state commissions to the state attorney general upon that officer's request. In sum, the disclosure provisions should act to replace the back room dealings that currently dominate boxing negotiations with more open and equitable transactions. By establishing requirements that the promoter disclose truthful documents to the state commissions and boxers, and by enforcing these provisions through law enforcement personnel, promoters will be deterred from altering their obligations to a boxer, and disputes will be resolved more quickly because the documents and disclosure provisions will establish a paper trail.

C. Provisions of the Ali Act Designed to Eliminate Ranking and Judge Selection and Compensation Abuses

In addition to contractual abuses, the Ali Act also addresses ranking abuses. Currently, rankings are arbitrarily designated and altered, often promoting the financial interests of boxing's most powerful promoters, who have been accused of bribing sanctioning organization officials in order to secure a particular ranking for their boxer. Recognizing that the sanctioning bodies represent major

225. See id. at 28.
226. See id.
227. See H.R. 1832 § 13(b)(2).
228. See infra note 297 and accompanying text.
229. See H.R. 1832 § 13(c).
230. See supra Part II.B.
power bases in the sport, many of the provisions in the final draft of the Ali Act are aimed at regulating such organizations.\textsuperscript{231} First, Congress would give the ABC two years from the enactment of the Ali Act to establish guidelines for objective and written criteria for the rating of professional boxers, which each sanctioning body would be required to follow.\textsuperscript{232} Earlier drafts of the Ali Act had allowed the sanctioning organizations themselves to determine the objective criteria for ratings.\textsuperscript{233} No doubt out of a recognition that the organizations already have written criteria that are ineffective, the Ali Act has mandated that the ABC create additional criteria in an effort to make boxing rankings more objective.\textsuperscript{234} The sanctioning organizations would also be required to implement an appeals process under which they would provide a written explanation of a particular fighter’s ranking following a request by that fighter.\textsuperscript{235} In addition, the Ali Act requires that in the event of a change in the ratings of the top ten fighters in any division, the organization must post the ratings change and a written explanation of the change either on its Internet website or through submission directly to the state boxing commissions.\textsuperscript{236}

Though the rankings of boxers are subjective by nature, depending upon how judges view a particular match and the merits of a fighter’s performance, written criteria will prevent sanctioning organizations from retaining complete discretion. For example, if the ABC determines that a boxer cannot be rated in the top ten until he defeats a rated contender, the organizations will no longer be able to provide gift rankings to their favorite promoters.\textsuperscript{237} The necessity of providing a written explanation for a change in the ratings will also discourage changes without merit because the organizations will not be able to justify them. In effect, these provisions will be the first step toward making the ratings more of a mathematical calculation, similar to that used to rank teams in college football.\textsuperscript{238}

In an effort to terminate the practice of promoters and managers paying to have their boxer ranked in a certain spot, the bill forbids outright any officer or employee of a sanctioning body from receiving

\textsuperscript{231} See H.R. 1832 § 11.
\textsuperscript{232} See id. § 11(a).
\textsuperscript{233} See S. 305, 106th Cong. § 16(a) (1999).
\textsuperscript{234} An example of a provision that could make boxing rankings more objective is one which states that a boxer cannot be ranked in the top ten until he defeats a boxer who is already ranked in the top ten. Such a provision would guarantee that a top contender has defeated at least one credible opponent.
\textsuperscript{235} See H.R. 1832 § 11(b).
\textsuperscript{236} See id. § 11(c).
\textsuperscript{237} See Jack Newfield, Feds Have King Boxed into a Corner: Indictment Looms for Ratings Fix, N.Y. Post, June 18, 1999, at 2 (describing how federal prosecutors have documented evidence that certain boxers have automatically been moved up in the ratings after signing with a major promoter).
\textsuperscript{238} See supra notes 71-72 and accompanying text.
any compensation, gift, or benefit from any promoter, manager, or boxer. Although some critics argue that this section is unnecessary because bribery is already illegal, the provision will enable authorities to more easily prove acts of bribery because they will not have to prove that the gift was given with the intent to manipulate. The provisions directed at remedying the rankings process are all designed to make the process more objective, and therefore less susceptible to individual manipulation. The creation of written records and explanations will deter sanctioning organizations from manipulating the rankings in ways that are inconsistent with their previously expressed statements.

In addition to contractual and ranking abuses, the Ali Act also addresses the corruption of boxing judges. In an attempt to prevent judges from being influenced or manipulated by an interested party, the Ali Act includes certain provisions for bout officials. Under the current system, sanctioning organizations usually select the judges for championship bouts, and there are no standardized rates for the entertainment, travel, and hotel accommodations for judges. Promoters are responsible for the compensation and expenses of judges, and thus often provide lavish treatment for judges in an attempt to influence the outcome of a bout. The Ali Act addresses these issues through several of its provisions. First, it states that no match can proceed until the judges have been approved by the state commission that is in charge of regulating the particular bout. Requiring approval by the state commission will prevent situations where a sanctioning organization approves a judge for a bout whom the commission does not feel is sufficiently experienced to judge the bout, or is obviously partial to a particular promoter. In addition, judges are required to disclose to the state commission a statement of the entire consideration that they are to receive for their participation in the match. That way, if allegations of corruption ensue, the commission can investigate whether the official was given anything

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239. See H.R. 1832 § 5(2)(c)(2).
240. The language of the provision provides that "no officer or employee of a sanctioning organization may receive any compensation, gift, or benefit, directly or indirectly, from a promoter, boxer, or manager." Id. Compare this provision with the language of a typical sports bribery statute: "A person is guilty of sports bribing when he . . . [c]onfers, or offers or agrees to confer, any benefit upon a sports official with intent to influence him to perform his duties improperly[.]" N.Y. Penal Law § 180.40 (McKinney 1999) (emphasis added).
241. See H.R. 1832 §§ 14, 16.
242. See Fordham Sports Law Symposium Transcript, supra note 17, at 90 (statement of Louis DiBella, Senior Vice President, HBO Sports).
243. See id. (stating that a promoter can put a judge in either the Four Seasons or Motel 6, and that under the current system, providing lavish accommodations is completely legal).
244. See H.R. 1832 § 16.
245. See id. § 14.
beyond what is common practice. The Ali Act falls short of completely remedying the manipulation of judges, however, because it fails to alter the practice of direct payment from the promoter to the judges.246 Though the disclosure provisions therefore may not solve all problems in judging, and there is no guarantee that all information submitted will be accurate, they will establish an evidentiary trail that can lead to harsh penalties if the process is abused.

D. Remedies

The Ali Act is not a soft piece of legislation that can be easily ignored; instead, it provides substantial remedies for those who are exploited and punishments for those who do not follow its provisions.247 Any contractual provision that is in violation of the Ali Act is deemed a "restraint of trade, contrary to public policy, and unenforceable."248 Thus, if a promoter attempts to exploit a boxer through means prohibited by the Ali Act, the contract would be deemed unenforceable and the boxer would no longer be bound to that promoter. The promoters would therefore be prevented from using the courts to enforce their one-sided agreements.249 The Ali Act also grants a private right of action to any boxer who is economically injured by a violation of any provision, and specifically states that damages, court costs, and reasonable attorneys' fees can be recovered.250 The boxer is not the only party who is authorized to bring a civil suit in the event that violations occur. The Ali Act also permits a state attorney general to bring suit on behalf of its residents whenever there is reason to believe that a person is engaging in practices that violate any provision of the Act.251 Even more powerful than the authorization of civil lawsuits is the imposition of fines and criminal penalties for any person who knowingly violates specific provisions of the Ali Act.252 Upon conviction, a defendant can be fined up to $100,000, and in some cases even greater penalties attach if the violation occurs in connection with a bout that produces gross revenues of over $2 million.253 Further, the defendant can be sentenced to a prison term of up to 1 year.254 The imposition of these criminal penalties for contract violations should serve as a major deterrent to violations of the Act.

The provisions of the Ali Act provide a substantial first step toward

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246. See infra Part IV.B.
247. See H.R. 1832 §§ 6, 10.
248. See id. § 10(a)(1)(A).
249. See supra note 108 and accompanying text (providing an example of a one-sided contract favoring the promoter).
250. See H.R. 1832 § 6(d).
251. See id. § 6(c).
252. See id. § 6(b).
253. See id. § 6(a)-(b).
254. See id. § 6.
eventually eliminating the exploitation of professional boxers. The Ali Act will not remedy all of the problems that currently plague boxing, but will effectively deter some of the most blatant abuses that occur in the areas of contractual terms, rankings, and judge selection and compensation. The next part argues that although federal legislation through the Ali Act is a necessary interim measure in beginning the reformation process in boxing, the industry should ultimately be regulated by independent private organizations.

IV. THE FUTURE OF BOXING

The boxing industry has been riddled with abuses over the past century, resulting in inequitable contracts and corrupt processes for rankings determination and judge selection and compensation. What remains clear is that the current system must be changed in order to establish clear, unified standards that all parties must obey. While the Ali Act provides a strong blueprint for change, the ultimate solution is private regulation. This part discusses why the Ali Act is a necessary first step toward achieving uniform regulation in boxing, and dissects the arguments against federal legislation. It then proposes other protections that should be incorporated into the Ali Act or future legislation to further protect against the exploitation of boxers. Finally, this part describes why the best long-term solution is private regulation of the sport by an independent organization.

A. The Ali Act Is A Necessary Starting Point

The exploitation of boxers and rigged rankings and matches have existed in the sport of boxing for many decades, and have frequently resulted in hearings and investigations by government committees. These investigations led to several attempts at federal legislation, all unsuccessful save for the Professional Boxers Safety Act of 1996. The passage of this federal law, the numerous hearings on boxing held by other governmental authorities, the indictment of IBF officials, and the proposal of the Ali Act have all demonstrated the corruption pervasive in the sport and a present interest in establishing some form of regulation.

This popular support for change is not without its detractors, however. Several of the arguments against enacting the Ali Act revolve around the central notion that by adopting federal regulation,
the government is taking a paternalistic attitude toward boxing, which is capable of handling its own affairs. It is important to note, however, that the parties making these arguments are boxing’s most powerful promoters and officials of the various sanctioning organizations, the very parties who will lose their stranglehold on the sport if federal legislation is enacted. One version of this argument holds that Congress should not become involved in the regulation of a private industry. But to make this argument is to ignore numerous bills enacted by Congress that have regulated contractual terms and working conditions for all employees, without regard to the fact that the majority of those employees work in private industries. Thus, precedent exists for Congress to step in and regulate private industry when a group of workers is experiencing exploitation through unfair and discriminatory practices in relation to wages, working conditions, and advancement opportunities.

Another argument asserts that the federal government should not regulate boxing if it plays no part in regulating other sports. This criticism ignores the differences between the structure of the boxing industry in comparison to other sports, especially the fact that boxing is the only major sport without a uniform governing body or a representative entity charged with furthering only the interests of the boxers. There is simply no other professional sport in which the athletes are exploited as they are in professional boxing, due to the lack of independent regulations and uniform standards of treatment.

259. See, e.g., Hearings on the Ali Act, supra note 48, at 33 (statement of Walter R. Stone, General Counsel, IBF) (arguing that Congress’s attempt to regulate the business practices of the boxing industry are “benign racism at worst . . . and at best paternalistic and overreaching”).

260. See id.; Crisco, supra note 13, at 1159.

261. See Tim Graham, The Muhammad Ali Boxing Reform Act: This Could Change the Sport Forever, KO, Dec. 1998, at 40, 41 (quoting IBF President Bob Lee as saying “[t]he senator has gone from talking about health and safety in boxing to telling the promoter and sanctioning bodies how to do their business. We’re private businesses, and if people don’t want to do business with us, they don’t have to.”).

262. Much of the New Deal Legislation was enacted to protect workers from exploitation by management during the Great Depression when job opportunities were scarce, and thus workers had no choice but to assent to management’s terms. See, e.g., Fair Labor Standards Act, Ch. 676, 52 Stat. 1060 (1938) (codified as amended at 29 U.S.C. § 201-19) (establishing standards for minimum compensation, maximum hours per week, overtime compensation, and child labor); see also Title VII of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241, 253-56 (codified at 42 U.S.C. §§ 2000e-1-2000e17 (1994)) (forbidding that compensation, work conditions, privileges, or terms of employment be effected by an employee’s race, color, religion, sex, or national origin).

263. See Bill Brubaker, Controversy Stirs Call for Legislation: New Mexico’s Richardson Seeks to Regulate Boxing, Wash. Post, Feb. 14, 1990, at C3 (quoting promoter Don King as saying “[i]f they’re going to regulate boxing they should regulate football, baseball, hockey and basketball.”).

264. See supra Part I.B.

265. See Crisco, supra note 13, at 1164.

266. See supra Part I.B.
The final argument of this nature submits that there are many other, more important, matters with which Congress should concern itself, rather than wasting its time regulating boxing. This argument, made before a Senate Committee by an IBF official, illustrates the attitude that the current power players in boxing have toward the abuse of their athletes. Though promoters and sanctioning organization officials may not deem the exploitation of athletes who literally risk their lives each time they perform to be an important issue, others, such as Senator John McCain, vehemently disagree. The arguments advanced on this theme are weak efforts to deflect attention away from corrupt promoters and officials, by those who fear an end to their ability to extract as much money as possible from the sport, no matter the cost to individual boxers or the public.

While no specific arguments have been advanced against establishing consistent contractual standards that place obligations on both parties, throughout the hearings on the Ali Act there was debate over several particular contractual standards at issue. One contentious standard was a limitation on the duration of all contracts between boxers and promoters. Promoters argued in favor of long-term contracts, stating that after signing a young boxer, promoters must make a considerable investment in that boxer’s development before he can supply a substantial return. Promoters also argued that longer-term deals, which also include a provision providing a minimum number of bouts per year, ensures a boxer and his manager of regular income. Congress compromised with promoters on this issue by allowing long-term contracts in order to maintain the incentive of investing in young boxers, but limiting option contracts to

267. See Hearings on the Ali Act, supra note 48, at 33 (statement of Walter R. Stone, General Counsel, IBF) (arguing that Congress should regulate something “really important like tug boat operations” (emphasis added)).

268. See id.

269. See id. at 5-6 (statement of Sen. John McCain) (arguing that he is “deeply committed to seeing what modest and appropriate steps the Congress can take” in an effort to “protect the rights and welfare of professional boxers by preventing certain exploitative and coercive business practices”).

270. See New York State Senate Hearings, supra note 54, at 25 (testimony of Don King, boxing promoter) (“Uniformity in commission rules is something no boxing well-wisher can oppose.”).


272. See New York State Senate Hearings, supra note 54, at 54-55 (testimony of Don King, boxing promoter) (arguing against a one-year limit on promotional contracts because of the investment a promoter must make in a young boxer); Hearings on Business Practices in Boxing, supra note 18, at 41-42 (testimony of Cedric Kushner, boxing promoter) (same).

one year so that promoters do not maintain a stranglehold over a particular division.274

Opponents also argue that Congress is missing the mark by requiring sanctioning organizations to follow objective criteria for ratings, because each organization “has a different view and philosophy about what is important in terms of its interests in boxing.”275 The IBF official who gave this testimony explained that the IBF was created because U.S. boxing commissioners felt that U.S. boxers were not being given fair ratings by the other sanctioning organizations, which are all headquartered outside of the United States.276 Therefore, the official testified, to say that the IBF gives preference to American boxers “is not necessarily the case,” but because the organization is located in the United States, it is “a natural and honest phenomenon” that American boxers be rated higher than foreign boxers.277 Such an admission illustrates precisely why federal legislation is required in order to regulate ratings in professional boxing. The ratings should be based solely on the fighter’s individual merit, not on the fighter’s national origin, choice of promoter, or any other irrelevant criteria.

Many officials of the sanctioning organizations testified that they are already in compliance with most of the provisions of the Ali Act, and specifically stated that they maintain written criteria upon which to base their ratings.278 The ratings criteria cited by each organization are substantially similar,279 which is logical when one considers that there are a limited number of factors that should be considered in deciding a fighter’s rating. The IBF official testified that recommendations by promoters and managers are considered,280 but failed to mention that these recommendations are given more weight when accompanied by a cash payment.281 By making such arguments, the sanctioning organizations are again favoring retention of the status

274. See supra notes 204-09 and accompanying text.
276. See id.
277. See id.
278. See, e.g., Hearings on Revision of Boxing Regulation, supra note 20 (statement of the WBC by Arlen D. Spider Bynum, Legal Counsel, WBC) (stating that the ratings criteria and changes in ratings are posted on the WBC website each month).
279. See Hearings on the Ali Act, supra note 48, at 34 (statement of Walter R. Stone, General Counsel, IBF) (listing as considerations for ratings: the boxer's record, quality of opposition, level of experience and age, the number and frequency of bouts against other ranked boxers, periods of inactivity, and the input of people involved in the boxing industry); cf. WBC Rules and Regulations: Ratings Standards, Rule 6.1 (visited Feb. 9, 2000) <http://www.wbcboxing.com/articles/rules6.htm> (listing similar criteria and adding several others).
281. See Wharton, supra note 156, at D1; see also supra Part II.B (detailing the indictment against IBF officials).
quo, because the current system has proved to be lucrative for them. The many instances of rankings manipulation, however, clearly illustrate that the current system must be changed. Congress has made clear through the provisions of the Ali Act aimed at sanctioning organizations that the rankings process must be governed by a new set of enforceable rules.

Sanctioning officials also argued that there are currently sufficient regulations in place to ensure that judges selected to officiate a fight will render a credible decision. Specifically, IBF judges are required to write comments describing why they scored each round for a particular boxer. However, in March of 1999, Evander Holyfield and Lennox Lewis fought for the undisputed heavyweight championship, and although most observers felt Lewis won nine or ten of the twelve rounds, the IBF judge, Eugenia Williams, scored the bout in favor of Holyfield. Apparently, the IBF’s measures alone are insufficient to guarantee credible decisions. As a result, the Ali Act provides the extra safeguards of mandating state commission approval for the appointment of judges in each bout, and requiring disclosure of the judges’ total compensation.

Criticism of the Ali Act and other past attempts at the legislation of boxing come only from the parties who will be adversely effected by such regulation, because they thrive under the current status quo. Specifically, promoters and officials of the sanctioning organizations have no incentive to change the current system because they maintain complete control over the sport and are able to manipulate the athletes for their own financial gain. The perpetuation of the abuses discussed in this Note illustrates that until the government steps in and begins to regulate the sport, boxers will continue to be exploited by the parties currently in control.

B. Additional Protections That Are Needed

Several additional protections should be enacted in order to eliminate many of the common practices currently used to take advantage of boxers. First, representation by adequate counsel, agent, or management should be mandatory for every negotiation between a boxer and a promoter. The representative should be required to sign each document that the boxer signs to ensure that it has been

282. See supra Part II.B.
284. See id. at 35.
285. See A Blueprint for Boxing Reform, supra note 41, at 14.
286. See H.R. 1832 § 16.
287. See Anderson, supra note 11, at 212-13.
288. See supra Part II.
Adequate representation will prevent situations in which a boxer signs a document that he believes is materially different from that which he is actually signing, or situations where the boxer signs an agreement adverse to his legal interests.

Another addition to the Ali Act should provide that a promotional agreement contain a definite duration term, not one that is conditioned on other events. The common term used by major promoters today is for a specific number of years, which can be automatically extended if the fighter is recognized as world champion. The extension covers the boxer's entire title reign plus an additional two years. In effect, this type of provision can force the boxer to spend his entire career tied to a promoter with whom he may no longer wish to deal. Also, the fighter's ability to cash in on his success is severely hampered because unlike other athletes, he may never be entitled to renegotiate while in the peak of his career. When a quarterback in the NFL leads his team to a world championship, the term of his contract is not automatically extended. Instead, if his contract is nearing its deadline, the player can renegotiate for more money based on his performance; if the team does not wish to meet his requests, the player is free to play for another team.

An example of a boxer not being able to capitalize on his career success is provided in the case of Don King Productions, Inc. v. Douglas. In that case, James Douglas signed an agreement with Don King, while still a contender, which stated that if Douglas was ever recognized as world champion, he was to be paid a minimum of $1 million for each title defense. Although $1 million is a substantial amount of money, it is minimal in comparison to the revenue that a heavyweight championship fight generates. After Douglas succeeded in becoming world champion, King offered him $15 million for his first title defense, even though the Mirage Hotel attempted to negotiate a deal while Douglas that would have provided him with a $25 million purse. Unlike athletes in other sports,

289. Boxers are frequently asked to sign complicated documents, and they usually rely upon the advice of their manager or promoter. See Hearings on the Ali Act, supra note 48, at 10 (statement of Mike Tyson, former heavyweight champion of the world) (stating that over $65 million was taken from him by unscrupulous promoters and managers).

290. See, e.g., Newfield, supra note 98, at 166 (discussing how Don King had Muhammad Ali, who was in failing health, sign a release to end a lawsuit for $1.1 million that Ali was allegedly owed under a bout agreement, in exchange for $50,000 cash).

291. See supra notes 91-92 and accompanying text.


293. See id. at 761.

294. See id.

295. See id.

296. See id. at 749.
Douglas's success actually prevented him from negotiating a better deal because it automatically extended the term of his contract. Mandating a definite duration term would force promoters to negotiate purses in good faith out of fear that the boxer would sign with a different promoter when the contract expired. A definite duration term would also allow boxers to pursue all of their promotional options so that they are guaranteed to receive their true commercial worth.

Congress should also require that each contract include an itemized breakdown of which party is responsible for the payment of certain expenses. Although it is customary that promoters pay all expenses, they sometimes deduct money from the boxer's purse, claiming belatedly that the fighter is responsible for some of those expenses.\textsuperscript{297} In these circumstances, boxers are often without recourse because they are wary of filing a suit against a promoter where the result would be the probable obstruction of their career. An itemized breakdown of which party is responsible for the payment of certain expenses would deter promoters from making unexpected deductions because their obligations would be in writing. In situations where promoters did make such deductions, the courts would be able to reach a quicker resolution because the written agreement could simply be compared to these expenses that were actually deducted from the boxer's purse. As a supplement to this provision, Congress should require that the promoter present certified bank checks to the state commission that will be distributed to the boxers subsequent to the bout. These provisions, along with the requirement established by the Act that promoters submit a statement of all agreements and deductions, will ensure that boxers are always paid exactly what they are entitled to under their contracts.

A final procedure that Congress should adopt is that all judges be paid by the state commission from money received by the promoter. The state commission would make all of the accommodations for the judges, would compensate them for their services, and would then submit a total bill to the promoter which would be paid along with all other expenses of the promotion. By having the state commission pay the judges, rather than the promoter, the phenomenon of giving one fighter the advantage because his promoter is responsible for paying the bout judges would be eliminated, as would the implication of impropriety each time there is a bad decision.\textsuperscript{298}

\textsuperscript{297} See, e.g., Newfield, \textit{supra} note 98, at 233 (detailing the strange deductions made by King from Tim Witherspoon's purse, a practice which became common throughout his career).

\textsuperscript{298} See \textit{supra} notes 242-45 and accompanying text.
C. A Private Solution Is the Best Long-Term Solution

The Ali Act must be enacted in order to jumpstart the reform process in the boxing industry. Without this legislation, the current holders of power in boxing have no incentive to change the current structure because they have complete control over the athletes, and are able to reap massive financial rewards through their exploitative practices. In the long-term however, there is no reason why boxing cannot operate through a system similar to those used in the other major sports. In order to eliminate the exploitation that the Ali Act seeks to curb, it is not enough to police the current exploiters—the entire structure of boxing must be changed.

The sport of boxing should implement a structure that represents the interests of promoters, management, and boxers. An independent organization should be used to oversee all of the transactions that occur within the boxing industry, similar to how leagues operate in team sports. All contracts should be registered and reviewed by this organization, which should also make certain that all parties perform their obligations under these agreements. The organization would also rank boxers in each weight division, and provide rules that govern how the sport is to operate in all capacities. These rules should be strictly enforced, and disciplinary practices such as fines, bans, and suspensions should be exacted against all parties who violate the regulations. While promoters would maintain their current role by promoting events, and managers or agents would continue to represent the athletes, these parties would be bound to proceed according to the rules of the independent organization, thus eviscerating the exploitation of the boxers. Because boxing is a simple sport, there is no reason that it cannot be run in an efficient manner, as long as there is an apparatus in place that provides uniform standards and enforces them so that they apply equally to all parties.

As in other professional sports, boxing should also establish a union or association that represents the interests of the boxers. Currently, there exists a group called the Boxing Organizing Committee ("BOC"), chaired by former middleweight boxer Paul Johnson, and former light heavyweight champion Jose Torres, that hopes to unite boxers and provide a voice in deciding how their sport is to be governed. The BOC is concerned with the exploitation of boxers and aims to negotiate with television networks, promoters, and sanctioning organizations in an effort to change the unethical practices that have become commonplace in boxing. The BOC is also

299. See supra Part I.B (outlining the differences between the governing organizations of other professional sports and that of boxing).
300. See Fordham Sports Law Symposium Transcript, supra note 17, at 33-34 (statement of Paul Johnson, Chairman, BOC).
301. See id. at 34.
interested in establishing a pension fund and medical insurance for all professional boxers so that they will not be neglected after retiring from the sport.\textsuperscript{302} As in other professional sports, the existence of a group to represent the interests of the boxers would protect against abusive practices, provide greater equity throughout negotiations, and potentially lead to a system where disputes could be settled internally.\textsuperscript{303} Through private governance and dispute resolution, boxing could join the other major professional sports as a credible industry.

Establishing an independent “league” and a boxers’ union will serve several purposes.\textsuperscript{304} First, uniform standards will mean that the sport of boxing is operated in a manner similar to other major sport industries. The establishment of specific rules that all parties are required to follow will move boxing in the direction of an efficiently run business, and away from what it frequently resembles today—an organized crime organization specializing in extortion and bribery. Second, the interests of all involved parties will be represented, and a discontented party will always have an outlet for the resolution of a dispute through an arbitration process. Third, the rankings and recognition of world champions will be handled in an unbiased manner so that boxers with the appropriate skills, not the appropriate promoter, will be rewarded. Fourth, the exploitative measures discussed in this Note will be eliminated because all contractual transactions will be reviewed by the league to make certain that all parties are in compliance with its rules. And finally, governing the sport with a private organization that operates in an unbiased manner will renew public confidence in the sport through a combination of credible ratings, more competitive matches, and fairer treatment of the athletes. These conclusions are evidenced by other major professional sports that are regulated and policed by an independent league, and that consequently do not suffer from the credibility problems that plague boxing.

CONCLUSION

Exploitation of professional boxers occurs because the current system allows promoters and sanctioning organizations to operate with virtually no restraints. By proceeding without rules that eliminate unethical conduct, or remedies to address the abuse of boxers, the current system allows and even rewards corruption.\textsuperscript{305}

\textsuperscript{302} See id. at 33-36.
\textsuperscript{303} See supra notes 79-83 and accompanying text.
\textsuperscript{304} See supra Part I.B (describing the advantages of independent governing organizations in sports industries).
\textsuperscript{305} See Ron Borges, Why Are There So Many Mismatches? There's Plenty of Blame to Spread Around, KO, Feb. 1999, at 44, 47 (quoting Seth Abraham, President, HBO Sports, as saying “in a strange way the promoters really aren’t to blame. They
Although this Note has highlighted the most notorious parties and the most highly publicized incidents in boxing, it is important to remember that even if the current abusers were eliminated, there would always be others to take their places because the system allows the exploitation to perpetuate itself. Boxing ills do not simply result from a few bad apples as some would think, but from a system that allows the athletes to be exploited by their business associates. The Ali Act is important because without it, boxing will continue to operate in the same fashion in which it has for the past century. The Ali Act is the vital first step in transforming the industry and protecting boxers, and will hopefully result in a flood of reform in the sport of boxing. Promoter Don King has stated that “[o]nce federal regulation would come into boxing, people like myself would never have an opportunity to be part of the boxing hierarchy.” Though this may be reason enough for Congress to regulate boxing, it is important to keep sight of the fact that the exploitation will only be completely eliminated when the system itself is changed. The time has come to ensure that the only abuse boxers face is that inflicted inside the ring, not in business transactions outside of it.

306. See Fordham Sports Law Symposium Transcript, supra note 17, at 49 (statement of Louis DiBella, Senior Vice President, HBO Sports) (stating that passage of the Ali Act is necessary for beneficial changes to occur, and that it is ridiculous that the Ali Act has not yet been passed).

307. Brubaker, supra note 263.