

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA STATE BOXING COMMISSION

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File #	2013-05625

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

DOAH CASE NO 12-0142
DBPR CASE NO 2011-040852
LICENSE NO AMAT 10

Petitioner,

Vs.

AMERICAN AMATEUR MIXED MARTIAL
ARTS, INC., a/k/a UNITED STATES
AMATEUR MIXED MARTIAL ARTS, INC.,

Respondent.

FINAL ORDER

THIS CAUSE came before the FLORIDA STATE BOXING COMMISSION (COMMISSION) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, during a telephonic hearing on September 13, 2013, in Tallahassee, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order, Petitioner's Exceptions to the Recommended Order and Respondent's Reply to Petitioner's Exceptions, in the above-styled cause, (copies of which are attached for reference purposes as Exhibits A B and C, respectively). Petitioner was represented by C. Erica White, Esq., Deputy Chief Litigation Counsel. Respondent was present and was represented by its counsel, Melissa Posey Furman, Esq.

The Commission was represented by its Counsel Robert A. Milne, Esq., Assistant Attorney General.

Upon review of the Recommended Order, the argument of the parties and after a review of the complete record in this case, the Commission makes the following findings and conclusions.

RULINGS ON EXCEPTIONS

The Commission reviewed the Petitioner's Exceptions to the Recommended Order and ruled as follows:

1. To the extent that paragraph 45 is a finding of fact, the Commission rejects the Petitioner's Exception to paragraph 45 of the Recommended Order because there is competent substantial evidence in the record to support the Administrative Law Judge's findings and for the reasons stated in Respondent's Reply to Petitioner's Written Exceptions, both oral and written and, because of the oral comments set forth by Commission counsel.

2. The Petitioner also took exception to the Conclusion of Law in paragraph 46 of the Recommended Order highlighted and underlined below dealing with the Commission's authority to approve amendments which states;

Count II of the Administrative Complaint involved alleged violations of Respondent's original rules regarding weight classifications of fighters. However, the clear evidence demonstrated that the Respondent had amended its rules and submitted them to the Commission. Such rule amendments did

not have to be approved by the Commission since the Commission has no statutory authority to approve those amendments.

(emphasis supplied).

While the Commission rejects the legal basis for the Petitioner's Exception to the Administrative Law Judge's conclusion of law in paragraph 46 of the Recommended Order, the Commission finds as a matter of law that it does have statutory authority to approve a sanctioning body's rule amendments because paragraph 46 contradicts section 548.0065(2), Florida Statutes (2010-2011), which provides that;

The commission may not approve any amateur sanctioning organization unless it has adopted and agreed to enforce a defined set of standards that applies to all matches which will adequately protect the health and safety of the amateurs participating in the matches and the public and can adequately demonstrate to the satisfaction of the commission that the principals of the organization have sufficient background, training, and experience in sanctioning and supervising matches for which the organization is approved.

(emphasis supplied)

Thus an amateur organization such as AAMMA cannot get Commission approval unless it has adopted rules, "which will adequately protect the health and safety of the amateurs participating in the matches..."

It defeats the purpose of section 548.0065(2), Florida Statutes (2010-2011), to conclude that an amateur sanctioning

organization can get Commission approval for a certain set of rules and then amend them without Commission approval. See generally Central Motor Co. v. Shaw, 3 So. 3rd 367, 369 (Fla. 3rd DCA 2009) (stating " [t]his is not the intent of the statute, such interpretation would lead to an absurd result."). This would allow sanctioning organizations to amend rules previously approved by the Commission, with nothing to prevent them removing all the same health and safety standards originally approved to protect the public and the amateurs participating in matches, without any Commission oversight.

Accordingly, paragraph 46 of the Recommended Order is amended to read as follow;

Count II of the Administrative Complaint involved alleged violations of Respondent's original rules regarding weight classifications of fighters. However, the clear evidence demonstrated that the Respondent had amended its rules and submitted them to the Commission. ~~Such rule amendments did not have to be approved by the Commission since the Commission has no statutory authority to approve those amendments.~~ Further, the evidence showed that the Birge-Grooms fight complied with Respondent's amended weight rules. Moreover, as with the ISKA age restriction, the ISKA modifiable weight classes were not shown to be minimum health and safety standards within the ISKA Overview. Given these facts, Petitioner failed to establish by clear and convincing evidence that Respondent violated rule 61K1-1.0031(1)(c), or sections 548.006(4), 548.071(1), or 548.071(4), Florida Statutes, and Count II of the Administrative Complaint should be dismissed.

In conformity with section 120.57(1)(1) Florida Statutes (2012), the Commission finds section 548.0065(2) falls under its substantive jurisdiction and that its substituted conclusion of law is "as reasonable or more reasonable than that was rejected or modified".

3. To the extent that footnote 1 of the Recommended Order is a finding of fact, the Commission accepts the Petitioner's exception to Footnote 1 of the Recommended Order wherein it stated that the Petitioner voluntarily dismissed its administrative complaint because this finding was not supported by competent substantial evidence and for the reasons set forth in Petitioner's written exception both oral and written, and by statements made by Respondent's counsel concerning the fact that Petitioner did not voluntarily dismiss its administrative complaint but rather, amended its administrative complaint after first relinquishing jurisdiction from DOAH in order to do so. Accordingly, as to this finding of fact the Commission adopts this wording in footnote 1.

Jurisdiction was relinquished to the Petitioner in case No. 11-5102. The original Administrative Complaint was amended prior to hearing by the Petitioner in DOAH Case No. 11-5102 due to significant inaccuracies in its allegations which were based on investigative reports of the same matches by the same investigator involved in this action.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order, as amended above, are approved and adopted and incorporated herein by reference.

2. There is competent substantial evidence to support the amended findings of fact.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 548, Florida Statutes.

2. The Conclusions of Law as set forth in the Recommended Order as amended above are approved and adopted and incorporated herein by reference.

DISPOSITION

Upon a complete review of the record in this case, the Board determines that the disposition recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

The Second Amended Administrative Complaint filed in this matter is hereby DISMISSED.

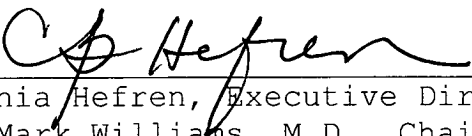
RESPONDENT'S REQUEST FOR INJUNCTIVE RELIEF

Respondent had initially requested injunctive relief in its Reply to Petitioner's Exceptions to the Recommended Order, but Respondent withdrew this request for injunctive relief prior to the hearing. The Board notes that in any event it has no jurisdiction to award injunctive relief.

This Order takes effect on filing with the Clerk of the State Boxing Commission.

DONE AND ORDERED this day of September, 2013.

FLORIDA STATE BOXING COMMISSION



Cynthia Hefren, Executive Director
For Mark Williams, M.D., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

