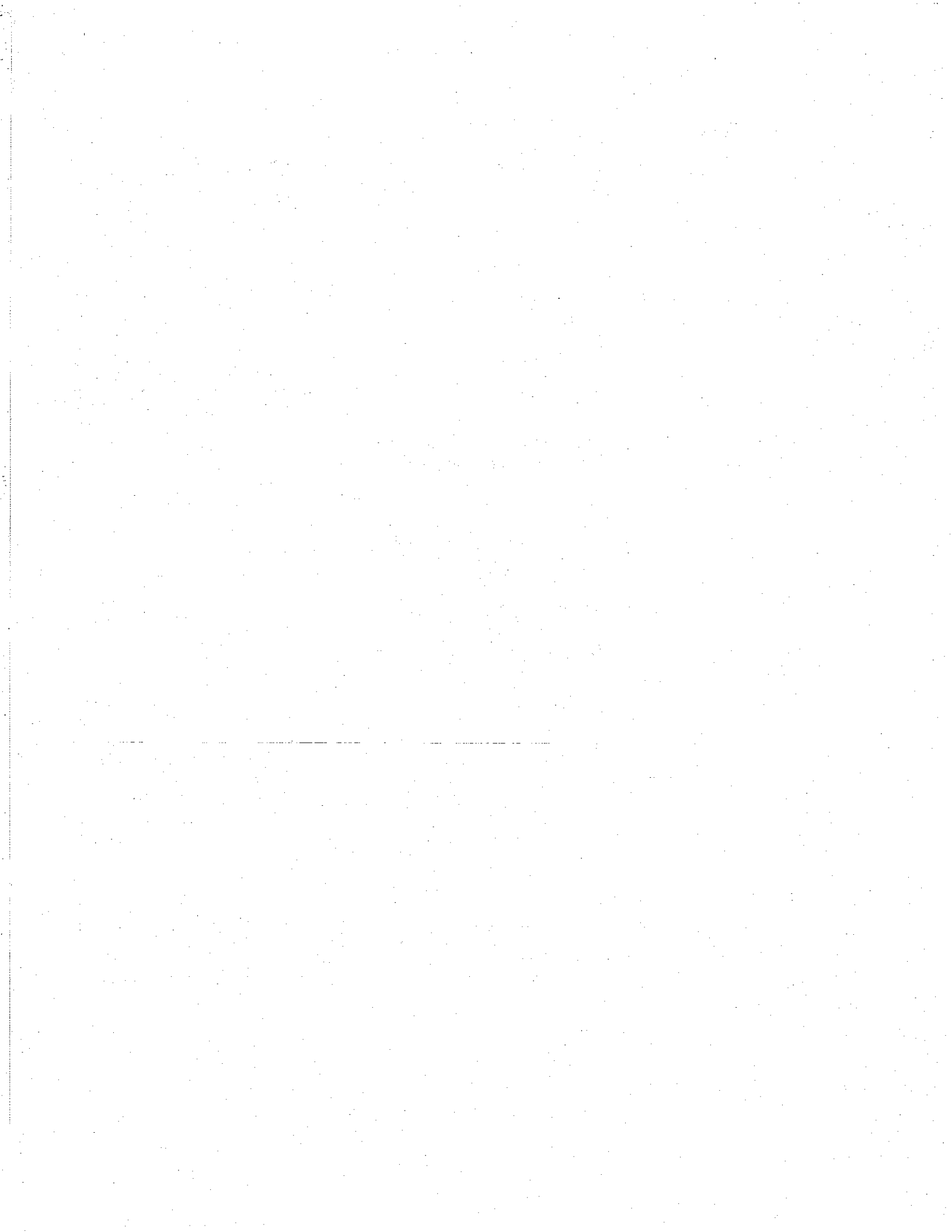


**INTERIM REPORT**  
**and**  
**RECOMMENDATIONS**  
**of the**  
**STATE OF NEW JERSEY**  
**COMMISSION OF INVESTIGATION**  
**on the**  
**INADEQUATE REGULATION**  
**of**  
**BOXING**





State of New Jersey

COMMISSION OF INVESTIGATION

COMMISSIONERS

ARTHUR S. LANE  
CHAIRMAN

ROBERT J. DEL TUFO  
WILLIAM S. GREENBERG  
HENRY S. PATTERSON, II

88 WEST STATE STREET  
TRENTON, N.J. 08608  
TELEPHONE (609) 292-6787

MARCH 1, 1984

JAMES T. O'HALLORAN  
EXECUTIVE DIRECTOR

JAMES J. MORLEY  
DEPUTY DIRECTOR

JOHN O. DAVIES  
EXECUTIVE ASSISTANT

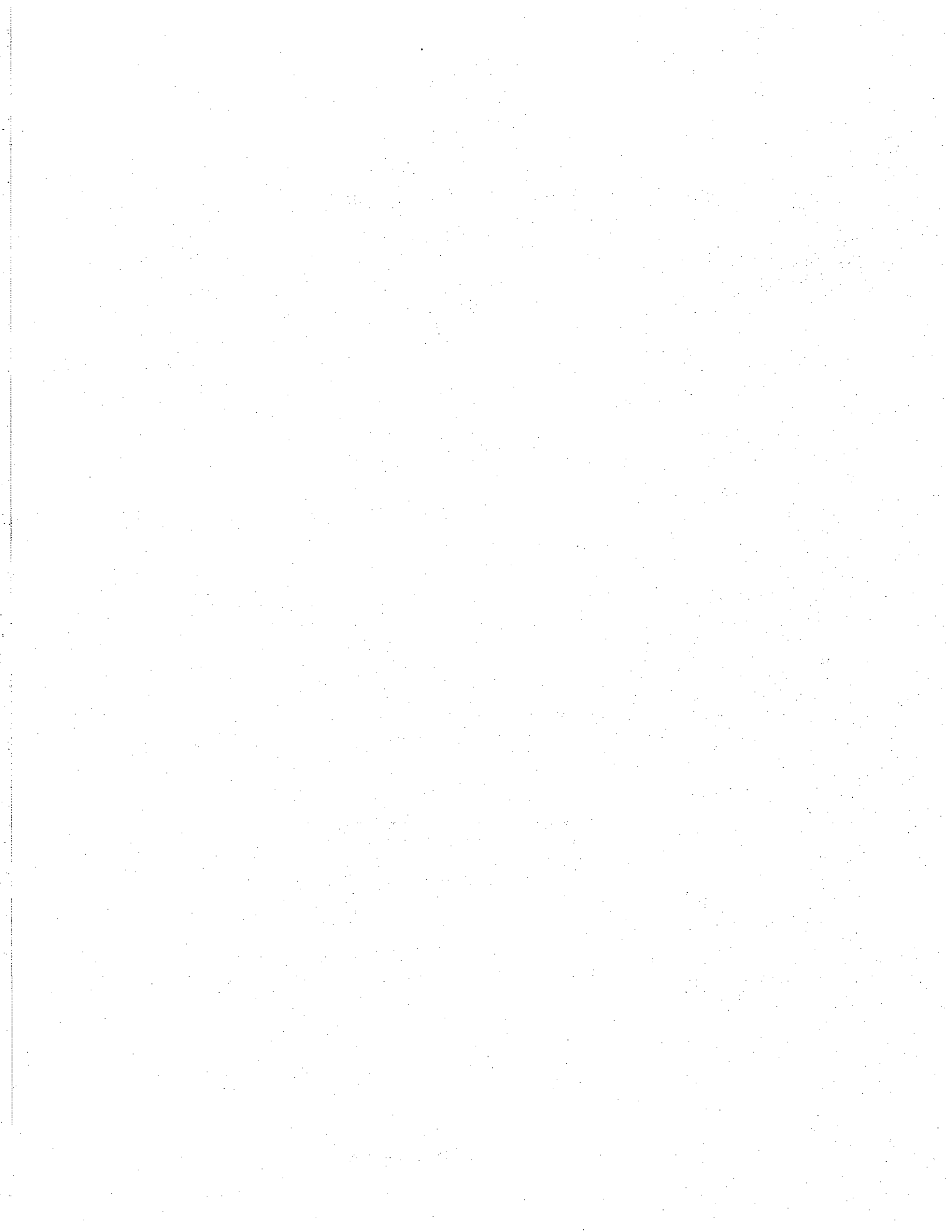
COUNSEL  
PAUL D. AMITRANI  
MICHAEL V. COPPOLA  
JAMES A. HART  
GERARD P. LYNCH

TO: The Governor and the Legislature

The New Jersey State Commission of Investigation herewith submits this Interim Report delineating inadequate and improper regulatory procedures governing the sport of boxing and calling for immediate restructuring of New Jersey's regulatory controls over boxing. The Commission meanwhile is continuing its inquiry. This transmittal is made under Section 10 of L. 1979, Chapter 254 (N.J.S.A. 52:9M-10), of the Act creating the Commission.

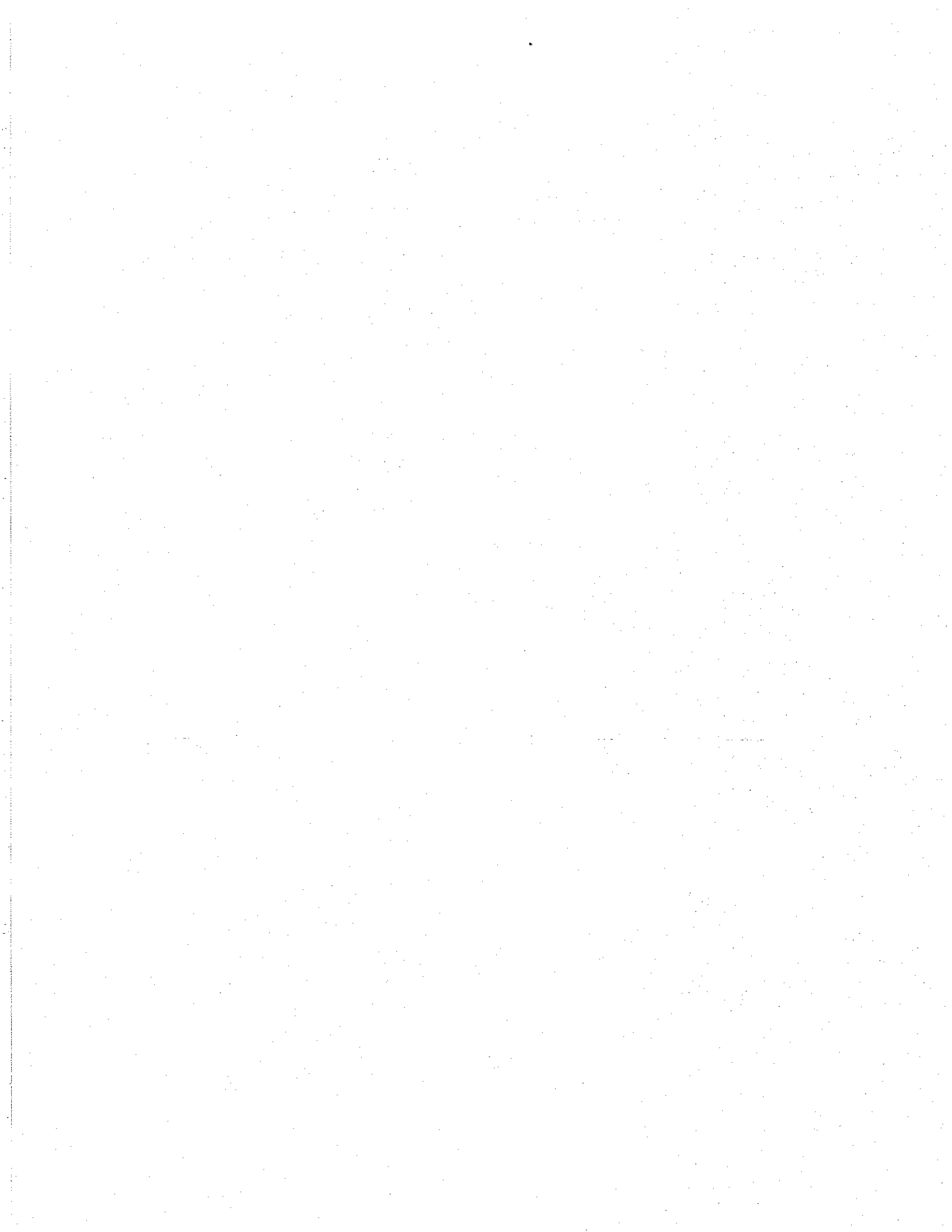
Respectfully submitted,

Arthur S. Lane, Chairman  
Henry S. Patterson, II, Commissioner  
Robert J. DelTufo, Commissioner  
William S. Greenberg, Commissioner



**CONTENTS**

	<u>Page</u>
INTRODUCTION . . . . .	1
OFFICE OF STATE ATHLETIC COMMISSIONER (OSAC) . . . . .	3
Background/3	
The Commissioner/3	
Licensing Problems/5	
Problems With Sanctioning Groups/16	
Tax Problems/21	
Medical and Safety Problems/43	
Conflicts of Interest/60	
RECOMMENDATIONS. . . . .	68
Preface/68	
Administration/69	
Taxation/70	
Medical and Safety/70	
Conflicts of Interest/72	



INTERIM BOXING REPORT

**INTRODUCTION**

The expansion of the boxing industry in New Jersey has precipitated increasingly serious problems caused by inadequate and inappropriate regulation. These problems have been exacerbated by the utilization of prizefighting as a gambling casino business promotion. So intense has become the demand for boxers that many with even less than minimal physical and professional eligibility are crowding the fight scene throughout the state. As a result boxing contests no longer can be conducted in this state without breaking the law at worst or bending the rules at best -- all at high cost to the integrity of the industry. As the SCI's inquiry has determined, not even New Jersey's registry of more than 700 boxers is sufficient to meet the demand because inept licensing procedures make suspect the stated qualifications and actual availability of so many on the list. Indeed, the Office of State Athletic Commissioner, according to the SCI's investigation to date, is demonstrably unable to cope with its regulatory obligations or keep pace with its workload. Its organizational structure is passe, its operation lacks administrative expertise and policy supervision, and its inadequate staff is devoid of essential skills, most noticeably in medical monitoring and fiscal controls. Meanwhile, regulatory laxity is certainly enlarging the sport's always threatening potential for death and injury. The dramatic increase in the number of boxing events alone suggests a proportionate increase in the number of injuries commonly associated with the sport, particularly injuries to the eyes and brain.

This document, based on testimony at SCI executive sessions and investigative activities in the field, pinpoints areas where the regulatory leadership, while well-intended, has been ineffective. Although the Office of the State Athletic Commissioner must regulate boxing events generating hundreds of thousands of dollars in purses, gate receipts and broadcast revenues, its licensing procedures are slipshod, erratic and antiquated and its auditing controls over receipts and disbursements are almost non-existent. Even its annual budget, fragmented within the Division of Consumer Affairs' appropriations, can hardly be identified. More importantly, the industry's monitors are failing to properly safeguard the physical welfare of boxers. In this as in other areas both the law and related regulations affecting the industry are being flouted. Boxers of questionable physical and professional qualifications are being allowed to fight, stronger boxers are being matched with inexperienced opponents, and the policing of the matches by ringside officials is becoming increasingly irresponsible.

Obviously, if boxing is to remain a viable albeit grisly form of public entertainment, an immediate legislative effort must be made to modernize the regulatory process and repair the corroded administrative machinery by which the industry is governed. The basic overall objective must be -- perhaps without precedent -- that boxing must be regulated by monitors who put the public interest ahead of the industry's.

The SCI, therefore, is issuing this report to demonstrate why a more effective regulatory structure is imperative and how it can be achieved quickly. The Commission, of course, has continued its investigation of related problems in the boxing industry that will be assessed in a final report. It should be noted that Attorney General Irwin I. Kimmelman requested the boxing investigation.

The SCI has supplemented this preliminary critique of the system with proposals for statutory and regulatory improvements. Already several proposals have been developed, in the Legislature and by the Attorney General, for enactment of a more appropriate regulatory scheme than now exists. The SCI has taken note of these.

The SCI is hopeful that -- even before its continuing inquiry into other problems afflicting the boxing industry is completed -- some substantive progress on enacting the reforms proposed here will be evident. As this interim report attests, the need for immediate corrective action is urgent.



## OFFICE OF STATE ATHLETIC COMMISSIONER (OSAC)

### Background

OSAC was established in 1931 as a single-commissioner office to regulate the conduct and taxation of professional and amateur boxing, wrestling and "sparring" exhibitions and performances. (This report will be confined to OSAC's regulation of professional boxing). Prior to OSAC, such athletic activities were governed by a State Athletic Commission under a 1918 law which the 1931 statute repealed.

Except for salary, the status and functions of the commissioner have remained unchanged. He is appointed by the Governor, subject to Senate confirmation, for a five-year term. He serves full time and may be removed by the Governor for proven cause, after a hearing. The commissioner appoints inspectors, referees and other officials, as well as clerical help, necessary to fulfill his statutory obligations. His regulatory control is practically absolute and his rule-making powers are restrained only by a requirement that they be consistent with the OSAC statute.

Despite such broad powers, OSAC has never achieved a clearcut bureaucratic identity. The "boxing commissioner," as its occupant is most commonly called, once was attached to the Department of State. In 1972 the office was transferred to the Attorney General's Department of Law and Public Safety as part of the Division of Consumer Affairs. This attachment largely serves payroll and other budget purposes. Other than receiving periodic reports, the Division exercises little or no operational authority over OSAC.

### The Commissioner

New Jersey's most recent athletic commissioner was, until mandatory retirement at age 70 in February, the former heavy weight champion Jersey Joe Walcott (legal name, Arnold Cream). He was largely a figurehead commissioner who, particularly in later years, had little influence on the day-to-day administration of his office. However, because of his personal integrity and hard-earned professional laurels, he enjoyed wide respect in the boxing world and, as a result, served a valuable public relations function as commissioner.

Important as the public relations aspect of the job might be, more was demanded of an OSAC commissioner by conditions in the industry than fight scene celebrity status. Indeed, at a time when boxing's renaissance outpaced, in New Jersey at least, the ability of its regulators to properly control its growth, almost the entire regulatory responsibility had shifted from Walcott to a trusted subordinate. Although Walcott's signature may have been affixed to important official edicts, as he approached retirement the actual decision maker was almost always Deputy Commissioner Robert W. Lee.

Deputy Commissioner Lee had been a Scotch Plains policeman, a Union County prosecutor's detective, and a Hudson County lieutenant of investigators prior to joining the Division of Consumer Affairs as a special investigator in 1971. Except for a brief stint "on loan" to OSAC in 1976 to fill in for a retiring deputy commissioner, Lee had no personal or official experience in professional boxing when the division designated him as OSAC's chief inspector in February, 1978.

Lee's transfer coincided with an acceleration of boxing action in the state that severely challenged OSAC's limited personnel and funding capabilities, and particularly Walcott's leadership. To fill the command void Lee began to assume more control of OSAC than his assignment as Walcott's deputy commissioner would ordinarily suggest. However, as he said frequently during his testimony at executive sessions of the SCI, he was saddled with too small a staff to cope with the mounting workload. His staff then, and now, included another deputy commissioner, a part-time worker mostly in the field, and three clerks to handle the mass of paperwork at the Trenton office. Excerpts from his SCI testimony illustrate the extent of OSAC's operations:

(We) oversee professional boxing, amateur boxing and professional wrestling. We have to license all of the participants...the match-maker, the promoter, the seconds, the managers, the boxers and doormen, the box office employees...We review their applications...We collect a fee from them, depending upon what they have applied for...The fees are set forth by our rules and regulations...If someone wants to put on an amateur boxing event, they must first receive permission through the commissioner to do so. Once that's done we send an inspector to collect the taxes and assist the doctor in what he may have to do.

The professional boxing is more difficult. We have to -- first we get the (boxers') card in and then we determine if it's a mismatch or what the records are and we do the background work in order to make sure a show does go on. That entails me contacting various (state) commissions to determine what a fighter's accurate record is and to make sure that he is properly licensed; and if he has a manager, that the manager gets his proper monies. (We) review the television contracts and determine what amounts have to be paid on those and appoint the officials, the referees, the judges and so on.

My duties also include running seminars for these officials. We have had three this year and we try to have at least four a year because we feel they ought to be well-groomed and schooled in what they have to do.

Professional wrestling, we review the cards that are going to be put on and we make sure that the wrestlers are properly licensed, they have their cardiograms and we set the stage for them to go on and do what they have to do.

When a boxing or wrestling event is completed at the site, the inspector brings the information into the office and it is reviewed...and we determine where the problem areas are and we may have to go back to get papers that we didn't get initially, have some taxes paid that weren't paid and just complete it to our own satisfaction.

Lee also testified about the increase in OSAC's receipts from admission and television taxes and license fees, further evidence of the agency's expanded workload. In this connection, the SCI reviewed OSAC's files to determine its actual revenue growth. However, this assessment was inhibited by the agency's unorthodox budget practices and incomplete record keeping. According to the SCI's most accurate tabulation, OSAC's revenues skyrocketed from \$74,000 to \$437,300 between Fiscal Year 1978 (the first full year of operation for Atlantic City casinos) and Fiscal 1984. This jump included increases in tax collections on tickets of admission to professional boxing events of from \$17,600 to \$203,900, and on revenues from the sale of television broadcast rights from nothing to \$147,300. At the same time OSAC's expenditures for all purposes, including wrestling and amateur boxing, rose from \$65,000 to \$169,300.

As noted, testimony by Lee and other witnesses at the SCI confirmed that violations of OSAC's regulations were and still are commonplace. Some rules are bypassed merely because OSAC believes they serve no purpose or unduly inhibit accepted if inappropriate practices, others because of carelessness or failure to follow businesslike procedures. As a result, licenses are issued on the basis of applications that are incomplete or falsified and permits to perform various duties critical to the integrity of the sport are granted without question. Background inquiries, particularly criminal record checks, are sparse and superficial if made at all.

#### Licensing Problems

Lax licensing procedures have been a particularly flagrant example of inept administration. Even conceding the agency's personnel limitations, the statutory and regulatory violations that are condoned in order to assure that scheduled events take place are inexcusable. Further, not even the most minimal modern business practices are followed, such as establishing job qualifications, performance criteria or personal conduct standards for the entire range of boxing activities requiring licensure. Lee's SCI testimony repeatedly pointed up inadequacies in OSAC's application process. For example:

Q. Could you describe for us what application process there is for a person who wants to be an inspector?

A. Well, most of the inspectors have sent a request or personally asked the commissioner about becoming an inspector and they file a resume, and if the commissioner feels that they know something about boxing and they can be utilized, then he will hire them as an inspector. I might add that these guys only get \$15 a day.

Q. I will get into that. Is there any kind of a standard application form that's used for inspectors?

A. No. A resume.

Q. Are qualifications anywhere articulated or written down for a person to be an inspector?

A. No.

Lee told the SCI that the State Police had turned down a request for assistance in checking on applications:

Q. Is there any kind of a background investigation conducted either by your office or by any other agency in cooperation with your office when somebody is seeking the position of inspector?

A. When somebody seeks that position and they file a resume, then we will do the investigation that we feel is necessary to hire him or not to hire him.

Q. Generally, typically, what kind of an investigation is conducted?

A. Phone calls are made to the place where they were last employed or to people in the industry who might know them.

Q. Is any attempt made to do a criminal background investigation?

A. No. We tried that once and it didn't work out.

Q. Could you tell me what the circumstances of that attempt were?

A. We asked the state police if we could get some background information, if we could submit to them dates of birth and they told us at that time they didn't have time to do it.

Lee's staff often relies on what he described as "gut feelings" and "horse sense" to determine the validity of answers to questions on applications. This is particularly true of boxers, many of whom are from out-of-state, who often show up at an event just prior to their bout without adequate identification

and other personal data. An illustration of this questionable subjective approach to qualifying boxer-applicants for instant licensure was provided in Lee's testimony:

- Q. What does the interview consist of?
- A. Their record, how many fights they've had, where they've fought, whether they're just coming out from an amateur bout or whatever.
- Q. All right...in the event of a licensing that takes place at an event by one of the chief inspectors, is it completely within the discretion of that person to decide whether the evidence of the fighter's record is sufficient?
- A. Yes. If they feel that something is improper, they have the authority through the commissioner to stop a fighter from fighting. They won't license him.
- Q. Well, what kind of a thing might be deemed improper?
- A. All right. If they feel that the fighter is older than what he is saying or they feel his record is not proper -- you can look at some of these guys and you know they've been in more than one war, and it's good common sense has to prevail in some of those instances and that's what they use.
- Q. From our discussion the last time, it's my recollection that there are some cases in which it might be impossible even through those sources you have mentioned to verify a fighter's ring record because those are not comprehensive sources. Is that correct?
- A. That is correct.
- Q. If you were unable to confirm a fighter's record through any one of those sources, would you deny him a license to box in Jersey?
- A. Not on that alone, no.
- Q. What else would you have to have in addition to that to deny him his license?
- A. Well, if we just did -- if you have a gut feeling that a guy is not who he says he is or if you have that same gut feeling that he does not have that kind of record or should not be in the ring with another fighter, then I think we have an obligation to stop it until we can get such information. But there have been fighters that have come in from different jurisdictions that have no commissions, no way that you can check on them, and that's where you got to use your good old-fashioned horse

sense to determine whether they ought to be fighting or not.

Lee's testimony included other illustrations of inadequate and inappropriate 11th-hour licensure of boxers. These procedural deficiencies are critical since they could result in "fixed" fights or "mismatched" bouts resulting in serious injury to a contestant. Following are additional excerpts from Lee's testimony on this subject:

- Q. What kind of an attempt is made to confirm the identity of a person who applies to be a boxer in New Jersey?
- A. Well, when a fighter sits down at a table and he represents that he's John Brown, we ask if they bring pictures, sometimes they do and sometimes they don't. We ask for licenses or registrations. These guys are loose. They don't even walk around with any identification.
- Q. You mean driver's license?
- A. Driver's license. You have no idea how loose they are, you know. But we try to get them to bring something. Sometimes they do and sometimes they don't. Now, if we feel satisfied that this is fighter A or fighter B, then we'll go ahead and license that fighter to fight that night.
- Q. From the answer you just gave us, am I correct in concluding that it's possible for a person to show up in New Jersey, apply for a license, get a license, and get into a ring without ever showing any kind of, any positive form of identification?
- A. That is possible.
- Q. And that your decision, not yours personally, but your office's decision through any one of its agents, could be based on nothing more than a personal sense that the fighter is truthfully representing himself to be who he is?
- A. That's correct. And that's the only way you can do it in boxing. Not only here, but any place else that you go. You can't do it any other way.
- Q. Would you be -- I think I know the answer to the question based on what you just said. But would you be in favor of a regulation requiring that a person, before he be licensed to box in New Jersey, produce some verifiable sort of identification?
- A. Now, we have a regulation to that effect; that the person must be licensed in his home state

before he can be licensed in the state of New Jersey. And we try to enforce it. But if you can picture a fight that's going on tonight where you have the weigh-in at noontime and the fighter comes in and loses his baggage or he has no baggage and he has no means of identification, then I think it becomes up to the person from our office to determine whether that fighter ought to fight, whether that show ought to go on. And many times it may mean the difference in whether the promoter has 28 rounds of boxing or whether he doesn't. Now, you have to decide whether you are going to knock the whole card out or whether you're going to use your gut reaction and gut instinct and let the fight go on. And many times we are saddled with the prospect of using our gut instinct to let fights go on.

- Q. Wouldn't the problem that you just articulated be obviated if you had a regulation prohibiting people from getting licensed on the night of the fight?
- A. No, we can do that now. We don't need another regulation. You know, we have the tools to do it with now. But I think it comes down to whether we want boxing to go or not. If we followed this book all the way down the line, we'd never have another fight.

According to Lee, informers are among the limited means by which OSAC verifies what a prospective licensee says about himself on an application. He testified about what he called the "rat system" in connection with licensing referees:

- Q. You have no way of checking whether a person has been truthful in answering a question concerning his criminal record?
- A. That is true.
- Q. So you are, therefore, denied information which may or may not be useful to you in reviewing the application?
- A. Yes.
- Q. Do you have any means of confirming any of the other information that's put on the application? For instance, there is a question on the first page, "Are you now employed by a corporation duly licensed to hold boxing or wrestling shows?" The person gives an answer of "no" there. You don't have any mechanism of investigating to determine the truth of that statement?

A. I don't have any mechanism, but they got a good rat system and all I have to do is ask one guy and he will tell on another one.

Q. With respect to the last question on the first page which says, "Were you ever dismissed from employment from any position listed in the fee schedule at the top of this form?" And that lists various official positions in boxing. If a person's answer is "no" to that question, do you have any other way, other than the rat system, of confirming the veracity of that answer?

A. No.

X X X

Q. Okay. When a person fills out these applications and gives a response to the question concerning the criminal record -- I understand this is repetitive of other questions I have asked you, but I want to make the record complete -- is there any attempt by your office to confirm the truthfulness of the applicant's answer?

A. Only in our conversations with him, and we have no means -- it's repetitive, but we have no means of checking the validity or whether the truthfulness of these forms that are filled out. I think in this boxing world, and it's repetitive again, the best means we have is that one guy's going to tell on another guy. If there's something hidden, we're going to find it out. It may take us a little longer, but we'll find it out and then we'll deal with it at that time.

Regarding a boxer's contention that he meets the minimum age 18 qualification (or is not over the maximum age of 35), Lee said that subjective rather than objective evidence of truthfulness is sometimes the determining factor, contrary to OSAC regulations requiring documentation. Lee's testimony on this point:

Q. Now, I take it from what we have talked about earlier, that age regulation is not complied with. Is that correct?

A. In its entirety, no, you're right.

Q. Positive proof is not required, positive proof of age, documentary proof is not required?

A. Is not required.

It would appear that the only way a prospective OSAC licensee could fail on the basis of his application alone would be to provide self-destructive, derogatory answers to questions, according to Lee's testimony:



- Q. Looking at C-94, the questions in that application. Among others they concern criminal record, whether the applicant has ever had a license to manage revoked or suspended in another state, whether a boxer managed by the manager has ever been disqualified. Is there any effort to verify the accuracy of the answers to those questions?
- A. No. We accept what they put down.

Lee indicated during his appearances at the SCI that OSAC gave less priority to the possibly serious consequences of an inappropriate licensing decision than to a perceived necessity that a show take place as scheduled. At one point he made this outlook particularly clear:

THE CHAIRMAN: The question is, I think, would it inhibit boxing, would it disturb boxing, the normal course of boxing if you had a regulation, and stuck to it, to have a man licensed ten days, five days, whatever amount of days, prior to the fight that he's appearing in?

THE WITNESS: Yes, it would inhibit boxing.

THE CHAIRMAN: Why?

THE WITNESS: Because when people fall out of a card, you may not have sufficient number of rounds in order to let the entire card go on.

THE CHAIRMAN: In other words, you want a substitution the last minute?

THE WITNESS: That's correct.

- Q. Is it your view that letting the show go on is more important than being certain that the person who is getting in the ring in that show is the person who he says he is?
- A. Well, I think the show, the show should go on provided we're satisfied that that is the person.

THE CHAIRMAN: But you have no means, if he doesn't have a card, he doesn't have identification, he shows up the last minute, you have no means?

THE WITNESS: The only means we have is contact another commission if we can reach them by phone or the gut instinct whether he is, in fact, that fighter.

Lee's testimony was replete with references to OSAC's tendency to ignore its own rules. For example, he noted that a non-resident 17-year-old could be permitted to box in New Jersey if he had been properly licensed by his home state, despite OSAC's minimum age limit of 18 for licensing boxers. The testimony continued:

- A. ...some fighters develop much faster than others and some develop much later than others. But because a fighter is only 17 and capable is no reason not to permit him to fight, particularly when we have checked him out very well.

THE CHAIRMAN: But, then, if that's so, the regulations ought to be changed?

THE WITNESS: Yes. That is one of the amendments that we made that never came to pass.

THE CHAIRMAN: When the regulation stays on the books, it seems to me it ought to be followed. That's what it's there for.

THE WITNESS: That may be true, Mr. Chairman, but if we followed every regulation, we wouldn't have any more boxing.

Other excerpts from the testimony will follow, to illustrate the serious nature of the inability or unwillingness of OSAC regulators to obey the law. Although the SCI believes, according to the record presently in hand, that no criminal or evil motivation exists, the pattern of numerous and repetitive violations certainly reflects the inadequacy of the regulatory structure, the absence of legal and policy guidance and a misguided notion that the monetary success of various boxing promotions is a primary regulatory objective.

Law breaking and rule bending by OSAC offer probably the most compelling evidence of the need for federal regulation of professional boxing, given the inability of the various states and of national and international boxing organizations to establish and enforce uniform regulations and procedures. As has been noted, many infractions that Lee described in his testimony take place on the day of, even the night of, various prize fights when OSAC officials are suddenly confronted with unknown boxers, managers, trainers and others appearing with requests for instant licensing. Of course, many such individuals are New Jersey residents, about whom OSAC knows less than it should. However, out-of-state boxers and aides, appearing without proof of home state licensure and other evidence of eligibility, even more often confront state regulators with the crucial question of violating the law by either accepting unconfirmed credentials or canceling a show. Improved and uniform interstate regulatory procedures, augmented by a 24-hour communications network, would alleviate

these difficulties -- but the OSAC attitude appears to be, as extracts from Lee's testimony indicate, that until a more cooperative system of collecting and exchanging data among the states is devised, little can be done beyond "gut feeling" decision-making.

The following extract from Lee's testimony illustrates why OSAC violates one or another of its 20 rules for regulating managers of boxers:

- Q. This is a list of 507 names. It's a list which was obtained from your agency by this commission and it's a list of managers licensed by your agency in 1982 and '83. In looking through this list, which simply lists 507 names and next to most of those names it lists an address, and I've come across perhaps two dozen names which do not have addresses next to them. Is that the list of managers that you provided to us?
- A. Yes.
- Q. Are there persons listed there who do not have addresses next to their name?
- A. There are.
- Q. Do I take that to mean that you do not know -- your agency does not know the addresses of those people?
- A. That's correct.
- Q. Can you tell us how it's possible for these people to be licensed as a manager without your agency being able to locate --
- A. The day of a fight the fighter will come in for a weigh-in and some of these fighters don't know what time it is, let alone where the manager is, and they'll sit down with the chief inspector and he'll say "What's your manager's name?" "My manager's name is John Brown." The chief inspector will take one of these cards and the monies will be deducted because the guy has to have a manager to fight in the state. The manager may never show up or if he shows up he'll never show up until five or six o'clock when everything's in the turmoil and try to get the show and you never get the name of the manager -- not the name, the address. That's how come some cards don't have addresses.
- Q. In fact, you issued a license to a person you have never seen before?
- A. That's right.
- Q. And typically are these fighters last minute substitutions?
- A. Usually when that happens.

Another requirement that is ignored when compliance cannot be certified in timely fashion demands that an out-of-state boxer, manager or second, before he can be licensed by OSAC, "first be qualified for or obtain a license for approval from the state in which he maintains his residence." Lee was asked:

Q. Is that requirement in effect in New Jersey?  
A. Yes, we try to follow this, but we can't always follow it to the letter.

Q. All right. Why do you try to follow it? What's the rationale behind it?

A. We tell the manager, boxer and trainer all have to be licensed in their state before they come here. Invariably we have a fighter or manager who comes and indicates to us he never received that information and he doesn't have his license, he hasn't been licensed in his state of residence and then it becomes a matter of whether you permit the fight to go on or whether you stop it.

Q. What about the guy who comes in, tells you he comes from Ohio, that he's not licensed in Ohio and he arrives on the day of the fight and you're not able to contact the Ohio commission. It's a Saturday, say. Do you automatically refuse to let him fight?

A. No, we don't. If we -- if we have -- some of it's done on gut instinct. If you have the feeling that this guy is telling you the truth and he's physically fit, you go ahead and let him fight. If there's something funny or shaky about it, there's time. We won't let him fight.

The manager and seconds in a non-resident fighter's retinue seldom get disqualified on a last-minute basis. Lee discussed this:

Q. What kind of considerations do you make with respect to a manager or second, assuming all the other facts are the same?

A. Yes, that is a concern.

Q. How do you dispel that concern with respect to a manager or a second?

A. It's -- it's just guts. You got to have a gut feeling for it and you question them to your satisfaction; and if you're satisfied that they're okay, then you let them go ahead and work in the state.

Lee's testimony indicated he is sincerely concerned about the welfare of fighters, as he should be, but he also left an

impression that the special interest of promoters is of equal if not greater concern at OSAC. For example, OSAC does not always obey a requirement that a promoter notify the agency of an event at least two weeks in advance and obtain a written permit to conduct it at least 10 days in advance, according to Lee's testimony:

- Q. Are those time limitations strictly enforced?
- A. If a promoter comes in with less time than that and we're able to accommodate him, we certainly try to do so.
- Q. And what's the purpose? And I ask you this under the background that this is a recent amendment, so we can't look at this as some antiquity that's been handed down over the years. What's the purpose of the 2-week and 10-day requirements?
- A. It will give us an opportunity to check the fighter, it will permit us the opportunity to make sure the contracts are in the office, and it will insure that there is a location, a site for the fight to go on and we don't have a conflict, two fights on the same night.
- Q. But if it's possible to do all of those things in less than 2 weeks and 10 days you'd do it?
- A. Yes, and we have done it.

The testimony turned to another regulatory breach:

- Q. Subsection B says, "No permit shall be issued unless the promoter shall have first submitted to the commissioner in writing the names of all contestants for that match which constitutes the main event of the program and that match immediately proceeding the main event." Is that provision enforced?
- A. Not strictly. Most of the time we know the main event and the semi-windup. The undercard falls into place as we go along. Usually the main event, that's the most important thing.

A promoter is allowed to bypass other regulations affecting contracts that he is supposed to submit to OSAC before an exhibition. Lee's testimony:

- Q. Subsection C says, "No permit shall be issued unless the promoter shall have submitted to the commissioner signed contracts of boxers and managers in those matches described in B above." That is the main event and the semi-windup, as you called it. "These contracts shall have the bona fide addresses of the contestants." Is that provision strictly enforced?

- A. Not the addresses of the contestants, no.
- Q. Do you, in all cases, have the signed contracts of the main event and semi-windup fight in hand before the permit is issued?
- A. No.
- Q. Do you always have the signed contracts of the main event boxers in hand before the permit is issued?
- A. No. And we don't as a rule issue a permit every time we have a fight.

### Problems with Sanctioning Groups

A significant portion of OSAC testimony at the SCI dealt with the role of prizefight sanctioning organizations and their interrelations with various state boxing regulators. Such groups include the United States Boxing Association (USBA), North American Boxing Federation (NABF), World Boxing Association (WBA), World Boxing Council (WBC), World Athletic Association (WAA), and International Boxing Federation (IBF). Members of USBA, according to Deputy Commissioner Lee, who is its president, comprise the boxing commissions or commissioners of 32 states and other entities of the United States and, through its newly created IBF, boxing commissioners from Canada, Korea, Japan, Thailand, Hawaii and Australia. The NABF represents the United States, Canada and Mexico and is a "direct arm" of the WBC.

A stated purpose of these boxing groups is to establish weight classes and to rate boxers according to their performance, be they fly weights (not more than 112 pounds) or heavy weights (usually over 175 pounds) or some category in between. Most important to the treasuries of these organizations is their designation of champion boxers and challengers and their sanctioning (for varying fees) of championship prizefights. They also establish rules and regulations and set minimum standards for rating eligibility. Further, these groups supposedly maintain updated files on the performance records of most licensed boxers, which are available to members. Many state regulators belong to more than one such professional body and, like Lee, hold elective office and committee posts in them.

During the SCI's review of these groups, Lee recalled that New Jersey had been a WBA member but withdrew in 1983 because "we were very dissatisfied by the manner in which the WBA conducted its business." Despite this dissatisfaction, OSAC not only permits WBA sanctioned events but ignores state regulations to accommodate them. The testimony on WBA:

- Q. Could you expound on that?
- A. I think that the WBA was not really serving the best interest of boxing and there were many things we wanted to get through that would be helpful to boxers in this country and other places other than Latin America, and they just weren't going for it.

Q. What kind of things?  
A. Safety, for one thing; and uniform set of rules; the use of a passport (boxer identification, including record); the development of a central office. Those are some of the things we wanted, but they didn't want.

Q. What aspect of safety?  
A. Their knockout rules, technical knockout rules. The use of a passport so everybody had an idea as to who got hurt and when. The use of a bulletin and a use of a computerized system to keep records.

Q. Does the USBA have all of those things?  
A. Not yet, no. We have some of them.

Q. Is the primary purpose of anyone of these organizations to rank and rate the fighters?  
A. That is the primary purpose.

As stated, the various national and international boxing groups obtain most of their revenues from various prize fight sanction fees assessed on a flat or percentage basis. For example the promoter of a USBA-sanctioned bout would have to pay a \$500 fee to obtain the association's endorsement. The champion-rated boxer would pay a \$250 fee, the challenger \$100. Another group, the WBA, requires a sanctioning fee of a percentage of the champion's and challenger's purses, up to a limit of, say, \$5,000. Lee recalled that WBA has charged a promoter's fee of \$1,500 and, if a promoter wished to join, membership fee of about \$1,200 a year. WBC, according to Lee, charges sanction fees that range up to \$50,000 and "generates more money than any other organization."

The SCI's inquiry indicated that, from the standpoint of adequate, uniform regulation of boxing activities from state to state and in various foreign countries, the boxing organizations tend to heighten rather than ease the complexities of a far from stable industry. Subject to frequent question is the fact that, although more boxing events take place in the United States than anywhere else, certain international groups are headquartered, rather inaccessibly, in foreign countries such as Panama and Mexico. The performance records on the basis of which fighters are ranked internationally are inadequately maintained and, with the possible exception of certain fighters of world renown, seldom up-to-date. Indeed, the process by which some groups actually rate a fighter among the "top 10" or in lower echelons of quality are suspect. Weight classifications have been arbitrarily increased in number, ostensibly to provide more professional opportunities for the rising influx of boxers but largely to widen the field for promoters, managers and matchmakers seeking ever-larger profits from widely televised world championship contests.

Testimony at the SCI suggested that these national and international bodies adversely affect state regulatory efforts. Their rules take precedence over state law and their relationships with state agencies breed conflicts of interest. Lee's testimony illustrated some of these problems.

For example, the SCI questioned Lee about the possibility that his role as president of the USBA might conflict with his responsibilities as a state boxing regulator. The testimony:

Q. If your position as the deputy commissioner is to regulate the industry in New Jersey and the primary or one of the primary objectives of the USBA is to make boxing as profitable as it can be for promoters through the granting of sanctions, how does that interest of the USBA or the purpose of the USBA match up against your responsibilities in regulating boxing in New Jersey?

A. Well, I think the two are very easy to discern. I have responsibilities as the deputy commissioner. They're outlined in the statutes and regulations and we try to do the best we can with what we have to follow from. When you're talking about the USBA, that's another ball of wax, and the USBA -- I don't make the decisions for the sanctioning or not to sanction a bout, that's made by a championship committee, not by me, and I -- I really don't have any difficulty in separating the two.

Q. In your mind, what is the reason for having an athletic commissioner in New Jersey?

A. To regulate boxing and wrestling. To see to it that it's safe and to see to it that the rules are adhered to and to just overall regulate and administer boxing as best he can.

Q. And does that include regulating promoters? And when necessary disciplining promoters?

A. Yes.

Q. Do you perceive it to be at all your responsibility as the deputy commissioner or at all to be the responsibility of your agency to advance the interest, the financial interest of promoters?

A. I don't see it to be -- for us to help better their financial interest. You know, I think we have to regulate the sport and I think if we can work to bring more activity in the state, I think that's part and parcel to it.

Q. Do you perceive that the interest of protecting boxers and their safety will sometimes, if not



often, be at odds with the interest of the promoters in making as much money as they can on fights.

- A. Oh, sure. But I have to take the side of the boxer. If I don't think a boxer is physically fit and should be in that ring, it doesn't make a difference to me how much the promoter may lose, I don't want that fighter in the ring because I don't want him to get hurt.

Lee eventually conceded that some boxing organization rankings might be rigged:

- Q. I don't think it's any secret that there have, from time to time, been reports in the newspapers that ranking ratings and sanctions in the WBA and WBC can be bought?

A. Yeah.

- Q. Do you have any knowledge of any of that ever happening in either the WBA or the WBC?

A. No, only what we all read in the newspaper, and what Bob Arum had in Ring Magazine and scuttlebutt that people say that rankings can and cannot be bought, and I don't know that to be a fact. Sometimes I just don't know how they rank these fighters, but I don't know if they can be bought.

- Q. Do you have any reservations at all about the integrity of any of the people in influence of the WBA and WBC?

A. Very much so.

- Q. Referring to the WBA, can you name somebody?

A. I rather not name anybody. I had a bad experience down there and I'd just rather not name anybody and it cut deep, so I'd rather not.

- Q. Are your reservations about integrity based at all upon your suspicion that these people are capable of being bought?

A. I think some of them may be capable of being bought, and I just think that they have no regard for what's right and fair and that's what hurts so bad.

- Q. On what do you base your belief that any of these people are capable of being bought?

A. Well, when you see a fighter who is not ranked and all of a sudden he becomes number two in the world, you got to wonder what happened. When you run into a situation where like Davie Moore and Tony Ayala. The way that thing happened, I can't believe it was done above board.

Q. What kind of scuttlebutt did you hear? Other than -- I'm familiar with Arum's statement in Ring Magazine.

A. Yes. When I first came into boxing I was told that in order to get a fighter ranked in the WBA or the WBC it cost \$5,000 and it cost another \$5,000 to get them -- if they fought for a championship. I can't swear that there's any validity to that. I never owned a fighter or served on their championship committee.

Q. Who told you that?

A. I don't know. I have been to Atlantic City and to all the different fights and this is what the guys in the industry say.

Q. Did you ever ask anybody of stature in the Organization whether that was an accurate statement?

A. No.

Lee said members of boxing organizations are supposed to share mutual problems, such as the proper identification of fighters when they appear at scheduled bouts. He noted that NJBA issues a "passport" certifying that a boxer is who he represents himself to be, is licensed and what his fighting record is. He described the system as "a means of tracking boxers across state lines" and to enable state regulators "to know and determine whether a fighter should or should not fight." However, the system is voluntary and its maintenance and enforcement is erratic and inefficient. Lee discussed this aspect at the SCI:

Q. Given that passport can be issued in any one of a number of places across the country, is there any place a central registry of all the passports, all the USBA passports that have been issued?

A. No.

Q. Again, this may be a redundant question, but just for purposes of completeness, is there anywhere a central depository for photographs of persons who have been issued USBA passports?

A. No.

Q. So would it be correct to say that no one at any one time knows to whom USBA passports have been issued?

A. We know in our state to whom they have been issued.

Q. I mean in the totality?

A. No, and I don't think New York does either or the World Boxing Council.

- Q. It is possible that a fighter could obtain more than one USBA passport? Simply by going to a number of USBA states and representing that he has no passport and getting a new one in each state?
- A. That is a possibility.
- Q. Does that defeat at least one of the purposes of the passport?
- A. Yes.
- Q. And that purpose that I'm referring to is the purpose that you would have access to a complete fight record by looking at a passport?
- A. Right.
- Q. The fighter could go from state to state at any time presenting a different passport which would not truly reflect what his most recent fight activity was, is that correct?
- A. That's correct.

#### Tax Problems

New Jersey's OSAC is not collecting gate and television taxes in the manner and form required by its enabling law. Some tax payments are illegally delayed. Improper "expense" deductions are permitted which reduce tax revenues. False or incomplete reports accompany some tax payments. The full tax rate imposed by statute is not enforced. These are among the tax assessment and collection problems afflicting OSAC. Solving them is vital to this interim report's proposed reforms because the SCI perceives that OSAC revenues can be tapped to pay for regulatory improvements.

One factor in OSAC's tax collection and other fiscal difficulties is the absence of liaison that would assist the agency in identifying and coping with such concerns. For example, in 1982 the State Treasury Department's Internal Audit Unit (IAU) scrutinized OSAC finances for the period from April, 1979, to April, 1982, and submitted its report to the Attorney General on May 27, 1982. Although this document pinpointed critical deficiencies in the handling of receipts from taxes and license fees, and contained recommendations for corrective action, Lee said he had never seen the report until his initial appearance at the SCI in November, 1983. Following is an indication, from the IAU report, of the significance of its findings:

...we observed that the schedule of events were informally kept and the subsidiary financial records were incomplete and poorly handled. Further, due to inefficiencies in making collections and deposits, a significant amount of delinquent taxes and fees had accumulated in violation of statute and code provisions. The operation of the OAC demonstrates the serious internal control problems that are generally characteristic of small business organizations.

For example: a) There is a high potential for managerial override of the limited accounting procedures with a concentration of control in the Deputy Commissioner; b) There is a limited segregation of functions because of the small number of employees, and c) There is easy access to the receipts by the clerical and administrative personnel.

The most significant factor in the above deficiencies appears to be the inadequacy of OSAC's full-time staff. The licensing, tax collection and enforcement functions have increased greatly within the past year because of the increase in professional boxing events being held in Atlantic City... This situation has seriously challenged the ability of OSAC's employees to cope with the increased paperwork and recordkeeping associated with the increased activity.

State auditors in May, 1982, noted that, although the law requires admission taxes at boxing events to be remitted within 24 hours, such payments were being delayed for as long as a month. When Lee was questioned at the SCI at a hearing at which Commissioner William S. Greenberg presided, he admitted that such remittance delays are of even longer deviation:

- Q. Have there ever been cases in boxing where the taxes were not paid on time?
- A. It may be a week, two weeks, sometimes a month, two months. When you deal with the casinos you have a peculiar problem that they can't give you the money right away, and there's a tremendous lag when we have fights dealing with the casinos, but if it's a fight or something outside of a casino there's no problem, it's paid right away.
- Q. You mentioned the difficulty of collecting money from casinos for the -- I take it that's for the gate receipts tax? Isn't the promoter the individual that's liable in each case for the gate tax?
- A. Yes.
- Q. Why is it necessary then to proceed against the casinos for them?
- A. We don't really proceed against the casino, but the promoter is responsible to pay the taxes because he's the one we have the licensing power over. What happens in the casinos is the

promoter sells or he sells the gate to the casino and the casino will give him X number of dollars when the fight is over for that particular fight. The casinos can't, according to what I am told, they cannot pay the money out right on the spot to the Athletic Commission or to the promoter for that matter from what they tell me, so therefore it lags just a little bit, and we play catch-up.

Q. Under the laws in the regulations, when is the gate tax suppose to be paid?

A. Within 24 hours.

Q. And under the regulations in the law who's responsible for paying it?

A. The promoter.

Q. Why don't you get it from the promoter and get it in your treasury and let the promoter worry about the casinos regulatory problems?

A. I could do that if I had the manpower to do that.

Q. What I'm saying, rather than chasing the casino, why don't you tell the promoter you pay us as you're suppose to pay us under the law and you get it from the casino?

A. We do tell the promoter. He says as soon as I get my check from the casino you'll get your check.

Q. So you'll let the promoter go until he can get the money from the casino?

A. Yes.

Q. In spite of what the law says?

A. Yes.

The New Jersey admission tax on OSAC licensed events is 10 percent of the gross, except for championship bouts where the tax is 5 percent. Lee again discussed delayed tax payments, indicating that starting in 1984 an attempt would be made to enforce the 24-hour remittance rule:

Q. That system, I think we mentioned this before, is at odds with the requirement in the statute. That the tax be paid within 24 hours after the event?

A. Yes, it is. Casinos only.

Q. It would be possible, however, to require payment of that tax immediately and then let the promoter and the casino quibble over who's responsible for what?

A. Yes.

- Q. And the waiver of the 24-hour rule is nothing more than a concession to the casinos?
- A. To the casino and the promoter, yes. Which will stop after January 1st.
- Q. What rule will prevail after January 1st?
- A. We will go back into the 24-hour rule, that the promoter must pay the taxes directly to the gentleman we will have collecting the taxes, then we won't run into that problem any longer; and if they can't do it, they just won't have a show. That's all.

OSAC's regulatory code restricts the distribution of free tickets to authorized media representatives, uniformed police, firemen and others with specific official duties at an event, as well as "principals and seconds" engaged in the show. The IAU's 1982 report said as many as 500 free tickets had been issued for an exhibition and that the average was about 100. IAU was concerned with the issuance of untaxed complimentary tickets because they reduced admissions tax receipts. As long ago as August, 1980, OSAC had formalized a rule permitting up to 100 free tickets. Lee's testimony on this issue:

- Q. Why was it necessary to raise the permitted number to 100 from 50?
- A. All right. When -- along about this time we were starting to feel that there could be some movement in the casinos and we could bring more fights into the State of New Jersey. The promoters with whom we spoke, who were trying to get established in Atlantic City, seemed to feel that if they were able to offer something in the way of getting more and more people to come into the bouts, that it would bring more to the benefit of boxing in the state, naturally to the casinos, but it definitely would bring more people in and broaden our program, and they asked for some additions to the complimentary ticket rule. And that's why the rule was made, in a effort to bring more people in.
- Q. When you say that they wanted an expansion of the complimentary rule, were they asking for an expansion merely of the numbers? Or were they asking also for an expansion of the classes of persons who were eligible to receive complimentary admissions?
- A. Well, they were asking for complimentary tickets and I never broke it down like that. They wanted more, that they would be able to bring more people in with.
- Q. But it was still your understanding at the time that complimentary tickets would be limited to

boxers, trainers, seconds, media people and police?

A. Right.

Q. Was that consistent with the interest of the promoters that you just mentioned who now wanted to bring more of the public into the fight?

A. Well -- no. I think that the promoter wanted to fill the house, and in so doing not only would he use those tickets for the people that we have here, but he would use the ticket for other people, too, people from the public.

Q. Given the policy expressed in sections (of the code), did you in August of 1980 believe that the commissioner had the authority to permit promoters to give complimentary tickets to members of the general public?

A. Yes, I believe that he did.

Q. What prompted you to that belief?

A. Well, it's not written. I just felt in the best interest of boxing to try to broaden the program, I feel that the commissioner should have some latitude in the rules.

Q. Did you ever discuss the policy with anyone at the division level in your department?

A. No.

Q. So it was solely a decision made by yourself and the commissioner?

A. That's correct.

Q. And it was your understanding that any complimentary ticket that might be issued would result in a diminution of the tax that was received by the state?

A. Yes.

Q. Because no taxes is due on a complimentary ticket?

A. That's right.

Again contrary to law, OSAC gave itself the power to approve of even a larger distribution of free tickets, as Lee further testified:

Q. How high did any of those approvals go?

A. I think 500 complimentary tickets.

Q. How often did it go as high as 500?

A. Only when we were able to more or less steal a

fight from Las Vegas and bring it here. That was the bargaining power that we had.

Q. Do you recall how many times you went as high as 500?

A. Four, five times. I don't know. I don't know.

Q. Okay. In passing on those requests for comps in excess of 100, did you at that time consult with anybody else in the Division of Consumer Affairs or anybody else in the department?

A. No, we did not.

Q. You did not. Other than your interest, to use your words, stealing a fight from the Las Vegas, was there any other criteria or standard that was used in passing on these requests?

A. It usually took the form of when a promoter -- there's a possibility of getting a fight to come to the state, and the promoter would balance whether he would have it here or whether he'd have it in Las Vegas, and the only thing that we were able to pull them in with is that we would give them more complimentary tickets.

Q. And, therefore, reduce the promoter's tax liability; and, therefore, increase his profitability of that fight?

A. Yes.

Q. Was it ever your understanding that the complimentary tickets were used primarily by the sites of the fights, that is the casinos, to use them as rewards to high-stakes gamblers?

A. Yes, I assumed that was the reason for it, that they could bring in their high rollers.

The OSAC law also requires promoters to pay within 24 hours of an event a tax of 5 percent on revenues received from the sale or lease of television or radio tapes -- limited by an amendment in November, 1979, to only money attributed to transmissions received or exhibited in New Jersey. (The origin of this amendment, which sharply reduced New Jersey's TV tax revenues, can no longer be traced). In connection with TV tax collection deficiencies at OSAC, here are excerpts from Lee's testimony reciting additional instances of rule-breaking:

Q. In the code, Section 13.2, there's a requirement that special forms be provided to compute the payment of the television tax. Are there any such forms?

A. There are forms, but we're not using them.

Q. Is there a reason why you don't use them?



A. Really because I don't think we need them. It's just as easy to do it without them. They're cumbersome, really.

Q. In Section 13.3 it's provided that the commissioner's approval shall be required as a predicate to a promoter entering into a television agreement. Is that rule followed?

A. No. The way the -- the manner in which it's done is that the promoters usually contact the television network to determine if a date is available and if the date is available and if the -- ABC, for instance, will say to a promoter fine, you have a TV date for January 5th, then the promoter comes to us with a request for holding the fight in our state on that day.

Q. Section 13.5 provides that the television tax must be paid on the same night as the show. Is that complied with?

A. No. On many occasions, on most occasions (when) you deal with television they have a clause that the promoter is not paid for the fight until at least three business days later, and the promoter has to submit to the television industry a copy of the article in the newspaper that the fight did in fact take place, and then he's given his money. The promoter in turn pays us. When it's a small show it's not bad. Like if it's ESPN, they can put out 300 or \$400, but when you deal with the million dollar contracts the promoters just don't have that kind of money laying around.

What happened after the 1979 law revision restricting OSAC's television tax to broadcasts transmitted or received in New Jersey is revealing. For one thing, Lee testified he knew nothing about the law change until September, 1980, almost a year later. That was when he received a memo from legal counsel at the time which belatedly observed: "obviously this is not going to be an easy calculation." The memo suggested that Walcott and Lee discuss with television representatives the problem of determining what portion of national broadcasts can be attributed to New Jersey and then OSAC and its counsel could consider "appropriate" action. Lee said he later was informed that another deputy attorney general was attempting to devise a tax formula, but nothing tangible ever developed. Finally, Lee said, he asked the OSAC lawyer what procedures he should follow to conform with the amended tax law:

Q. What did he tell you?

A. Well, it was his feeling we had obviously overtaxed people for too long because we just didn't know that the statute existed, and he said, you're going to have to work out a formula

whereby you might -- you might not tax them as heavily as you are doing. I suggested to him, how about cutting it in half? He said even if you cut it in half you're still probably going to overtax these people because the language in the statute is attributable to transmissions received or exhibited in the State. And it was his feeling that was going to be way lower and even at two and a half percent we were still overtaxing the promoters that had the contracts, and that's when we went into the production costs, permitting the production costs and some of the other things that promoters -- some of the other experiences that promoters had. Unexpected expenses. Im sorry.

- Q. Did he advise you to reduce the tax collected to two and a half percent?
- A. Yes, he did, and I don't think he ever did it in writing. He suggested it to Mr. Walcott and myself, and I sent a memorandum to the promoters as a result of that, based on that.

In addition to resolving the tax formula dilemma by merely reducing the 5 percent tax to 2 1/2 percent -- which defied both logic and the law -- OSAC then proceeded to permit promoters to further reduce their tax obligations, ostensibly to help them compete with Las Vegas, by deducting so called "production" or "unexpected" expenses from television revenues. Lee said this resulted from a belief by OSAC's counsel at the time that even when reduced by half the tax would still be excessive. Lee's testimony continued:

- Q. Did he (OSAC counsel) ever advise you to also allow for production costs or unexpected costs?
- A. No. To the best of my recollection is that he said even at two and a half percent you're still probably overtaxing. And I said what about some of these anticipated costs? You may be in line even if you did permit them, because -- it was his feeling that for some reason or other, and I don't know what it was, that the transmissions coming into the state at that time were very small, and the amount of taxes far exceeded what we should be taking.
- Q. All right. So consistent with his advice you reduced the tax to two and a half percent and communicated that to the promoter?
- A. Yes.
- Q. Also based upon your discussions with him but not on his advice you decided to permit the promoters to take these exclusions from the gross?
- A. That's correct. Yes.

- Q. How did you communicate your decision to permit the exclusions to the promoters?
- A. It was all done verbal. I never reduced anything to writing dealing with that.
- Q. Did you wait until a promoter had an event that was televised to advise him that he was allowed certain exclusions?
- A. No. We had periodic meetings between the promoters and I verbally communicated a lot of this information to the promoters at that time.

Lee testified that, despite the IAU report's critique of OSAC's television tax procedures, the reduced 2 1/2 percent assessment continues to this day, reduced by production costs that have never been codified:

- Q. Are you still excluding production expenses?
- A. Yes.
- Q. And are you still calculating the tax at two and a half percent?
- A. Yes.
- Q. Regarding the exclusions that you do allow, who has defined those exclusions which are permissible?
- A. Well, when the -- if the promoter sends the information to us there's some exclusions that I will knock out because I don't think they're fair, but there are exclusions that I think in order to get the fight here, in the state, I think these exclusions are bona fide and valid.
- Q. Have you ever sat down with the promoters in a group and suggested to them what categories of exclusions you believe to be acceptable?
- A. No, not in a group, but when a promoter sends recommended exclusions in, if I disagree with it, I'll tell him what I red line and I tell him I need a correction on the dollar.
- Q. What you're telling us is sometimes you received a tax payment from a promoter with his itemization of exclusions and you found it necessary to go back and say I don't think this is a legitimate exclusion?
- A. Exactly.
- Q. Do you take any steps to validate or to substantiate that the claimed exclusions actually incurred?
- A. No, I haven't been able to do that. In some cases there's some that just don't look good and

I'll go back to the promoter on them. In other cases, if I feel they're bona fide, I permit them to go.

Q. Did you establish that every claimed deduction has a bill to back it up?

A. No.

Q. Or canceled check to back it up?

A. No.

Q. Have you ever extended over a long period of time efforts at collecting a television tax from the promoter?

A. That's not occasioned by the promoter's unwillingness to pay.

Q. What's it occasioned by?

A. Occasioned by our inability to get the manpower to collect the taxes to do the job the way it's suppose to be done.

During its inquiry the SCI interrogated a number of individuals subject to OSAC licensure, including boxing promoters. One of these was J. Russell Peltz, president of Peltz Boxing Promotions, Inc., which operates primarily in New Jersey and Pennsylvania. He gave a promoter's version of OSAC tax collection -- and tax reduction -- procedures. In connection with OSAC's liberal policy on complimentary tickets, he was confronted with letters to and from Deputy Commissioner Lee concerning 500 untaxed free tickets he was allowed to distribute for a boxing event at Bally's casino in October, 1980, ostensibly to "paper" the house and thereby "make it look like there's a big crowd for the television cameras." Other excerpts from Peltz's testimony:

Q. Why was it necessary for you to request permission to give away tickets?

A. ...I guess because I didn't want to have to pay the tax on them. I think -- well, in Pennsylvania there's a two percent rule. You can't give away more than two-percent of the total amount of tickets printed. I don't know, I'm not sure if there's a percent rule in New Jersey or just a limited number of tickets you have to, you're allowed to give away before you have to start paying tax on them.

Q. But, in any event, whatever portion of those 500 tickets that you did give away and which represented people who did come in and see the fight, you did not pay tax on those tickets?

A. Correct.

Q. To whom were these tickets given?

A. Friends of the fighters, friends of mine, almost anybody we could get in just to paper the house.

To determine how promoters established "production costs" that could be deducted from television revenues and thus reduce the tax due to OSAC, the SCI discussed with Peltz bills and correspondence relating to a boxing exhibition in May, 1981, at Resorts International in Atlantic City. Peltz received a television fee of \$150,000 from CBS for this event but deducted a "production fee" of \$42,500 before calculating the tax. The testimony revealed that Peltz had a peculiar method of vouching for these costs, utilizing an invoice on the letterhead of Video Techniques, Inc., made out to his promotions company. The testimony continued:

- Q. Could you tell us what was the nature of the services that Video Techniques provided under that invoice?
- A. Well, first of all, I paid Video Techniques. In return, they provided the television, basically, the television production which the promoter has to provide any time CBS Television televises the fight. They don't provide their own pros, the promoter has to farm it out. I paid them to pay the directors, the men who run the cameras, the rental of the cameras, things like that.
- Q. That was seventeen-five?
- A. 17,500.
- Q. Right. Was there anything else that Video Techniques provided?
- A. For the Rossman fight, no, not to my knowledge.
- Q. Well, would you look at the second page? The total amount of that invoice is 42,500. Is that correct?
- A. Yes.
- Q. And you just told us that you paid 17,500 to Video Techniques?
- A. Yes.
- Q. All right. Can you explain the difference between what you paid to them and what you claim you paid to them?
- A. The difference was what I charged the company for our production costs.
- Q. What company?
- A. Peltz Boxing Promotions. Salary for myself, the assistant, our automobile, our entertainment, travel, postage, whatever I considered production costs in putting on a fight at a hotel in Atlantic City.

Q. How does that show up on an invoice to Video Techniques, Incorporated?

A. Because I thought it was the easiest way of doing it.

Q. I'm going to show you what's been marked C-23A. It is another invoice from Video Technniques, also bears the date of May 26, 1981, and is in the amount of \$17,500 for the Braxton-Rossman fight. Is that correct?

A. Yes.

Q. All right. Now, did Video Techniques provide you with two invoices, one in the amount of seventeen-five --

A. No, just one invoice.

Q. Which invoice?

A. Seventeen-five.

Q. Where did you get the Video Techniques invoice for forty-two-five?

A. I typed it.

Q. Are you an officer of Video Techniques, Incorporated?

A. No.

Q. Do you have any interest in Video Techniques?

A. No, none at all.

THE CHAIRMAN: How did you obtain their letter-head?

THE WITNESS: Oh, I don't know. I guess I just have it.

Peltz's customary use of Video Techniques stationery for his alleged cost deductions from television revenues was discussed again in connection with a later boxing event that he promoted. This was a June, 1981, bout for which NBC paid a television fee of \$35,000 and from which Peltz deducted \$17,500 for his "costs." Peltz testified:

Q. So you were declaring \$35,000 as revenue and \$17,500 as production cost?

A. Yes.

Q. Attached to that letter is an invoice from Video Techniques, Inc., in the amount of \$17,500 for that same event. Correct?

A. Yes.

Q. Did you receive that invoice from Video Techniques?

A. No.

Q. Where did you get the invoice?

A. I typed it myself.

Q. Has anyone at Video Techniques ever authorized you to use their letterhead for the preparation of their invoices?

A. I told them I would be using it for my personal production costs for the fights.

Q. And they agreed to that?

A. They said, you know, "You do whatever you want."

Q. Did they provide you with the letterhead?

A. No. I just had the letterhead, I guess, sitting around in the office, whatever.

Q. Multiple copies of their letterhead?

A. I don't, I don't know. Maybe I had two, three. Maybe I made copies.

Q. In any event, somebody at Video Techniques was aware of your intention to use their letterhead for the purpose of submitting invoices for services they had not provided to you. Is that correct?

A. Yes.

Q. And in the case of this particular event, the June 14th, 1981 event, you made no payments to Video Techniques?

A. None.

Peltz also testified that, in order to further reduce his tax obligation to OSAC, he listed other production costs he never incurred:

Q. Would you refer again to the first page there, your letter? The second additional expense you have listed there is, "Extra security, \$1500." Would you tell us how that expense arose?

A. That's an estimate from the hotel of what it cost them to provide additional security whenever there's a fight because they feel that the people who come to the fights, it's not always the kind of people they'd like in the hotel, so they order extra security, especially in those early days when they were having some trouble with the fights.

Q. In what form did you make payment of the \$1500 to Resorts for the extra security?

A. I didn't make that payment. That was an estimate that it cost Resorts. It didn't cost

me. It didn't cost me directly. It cost the hotel.

Q. The hotel made that payment?

A. Yes.

Q. And you did not pay that money?

A. No, not directly.

Q. Well, how did you pay it indirectly?

A. Yes. Well, among other expenses, if they didn't have to hire the extra security, it would be more money we could negotiate for the fee from the hotel.

Q. What you're saying, Mr. Peltz, if the hotel had not had to bring in extra security because of the nature of the event, that is a boxing match, they might have been willing to pay you \$1500 more to bring the event in?

A. Yes.

THE CHAIRMAN: I think we can agree that's sheer speculation, can we not?

THE WITNESS: I think it's probably a little bit stronger than speculation.

Q. The Resorts contract, in fact, requires Resorts to provide all the security at the arena; is that correct?

A. Yes.

Other examples of false tax deductions for expenses Peltz never actually paid marked his testimony?

Q. The second entry there under expenses is extra security. Once again, you did not actually pay that out-of-pocket --

A. No, I didn't.

Q. That was an expense which was borne by the casino?

A. Yes.

X X X

Q. The next entry is tickets for NBC in the amount of \$750. Was that an actual out-of-pocket expense?

A. I had -- that fight was a complete sellout. If I hadn't had to give those tickets to NBC, I could have sold them with no problem.

Q. But you didn't pay anybody for them?

A. No, I didn't pay anybody for them.



X X X

- Q. ...the club report to OSAC is a fair representation of the computation that was used in arriving at your liability for the gross receipts tax?
- A. Right.
- Q. And in arriving at that figure, you excluded 594 tickets, if my addition is correct?
- A. Right.
- Q. And within that 594 tickets were the tickets that you provided to NBC?
- A. Yes.
- Q. So you excluded them twice for taxation purposes. Is that correct?
- A. Yes.

X X X

- Q. How about the next entry, TV crew meals, \$300; did you actually pay for those meals?
- A. No, I gave them meal tickets that I had gotten from the hotel.
- Q. Did you pay the hotel for those meal tickets?
- A. No.

Another peculiar item in Peltz's production cost deductions was what he characterized as "nonappearance insurance." He represented himself to be a self-insuror and the premiums he listed as expenses, according to his testimony, were paid to his own general corporate account. Following are excerpts from Peltz's testimony on this subject:

- Q. When you estimate your -- when you figure your contributions to this fund, is there any formula that you use similar to that which might have to be used if you were buying insurance?
- A. Not really, not really.
- Q. Do you simply pull a figure out of the air?
- A. Well, some reason 2.2 percent sticks in my head. I think that's the percentage.
- Q. 2.2 percent of?
- A. Of your estimated --
- Q. Potential loss?
- A. Yeah. I remember the few times we bought it when I was at the Spectrum the figure 2.2

percent sticks in my head. So if we lost \$25,000 we're talking about \$3,500.

X X X

THE CHAIRMAN: On these nonappearance insurance figures, they're on all of these submissions. This \$7,500 you have here, did you actually put that money, that premium in an escrow account for all these things?

THE WITNESS: No. As we explained in the first session, this was carried on our general account. There's no separation.

THE CHAIRMAN: None of these nonappearance insurance (premiums) create a fund that can be drawn on in the event of a claim against the fund, is that right?

THE WITNESS: Not a separate fund. We always made sure we had it in our general account.

THE CHAIRMAN: \$100,000 or \$200,000, you always had it?

THE WITNESS: It was never that high. Maybe you're talking \$30,000, 35,000.

THE CHAIRMAN: I think what I've seen here it's much more than \$30,000. My understanding of self-insurance is the person who wants to be self-insured puts a premium in a fund, puts this \$7,500 in a fund and it's there and remains there with other like sums until you build up an insurance fund, that that will withstand presumably whatever future claim you have against you?

THE WITNESS: We never did that. We never put it in a separate fund.

At one of his promotions, at the Sands casino in 1981, Peltz received a television fee of \$50,000 from PRISM which he never declared in his tax return to OSAC. The testimony on this subject:

- Q. There's no declaration of any revenue from PRISM there. Is there any reason for that?
- A. It looks like to me it was just omitted as an oversight. That's the best I can tell you.
- Q. Do you recall how much you received from PRISM

- for the rights to this?
- A. I would say between 45 and 50,000 -- I would say \$50,000.
- Q. Before just now has it ever been brought to your attention that you --
- A. I just brought it to my attorney's attention five seconds ago.
- Q. But it's never been brought to your attention by anyone else before just now?
- A. No.

Peltz disclosed literally dozens of assorted "expenses" that actually had little or no relationship to the events for which he submitted OSAC tax reports. Telephone charges were in this category, according to his testimony:

- Q. How about the next expense, telephones, \$500?
- A. Those are my telephone bills which I charged to the show.
- Q. Do you have any documentation to support that?
- A. Yes. I submitted today all the telephone bills that I got in this period, some payable directly to the hotel where the fighters were staying and some paid directly to the phone companies.

THE CHAIRMAN: Attributable to this particular fight?

THE WITNESS: Yes, as per instructions from the boxing commission.

THE CHAIRMAN: How would you differentiate between the charges for this fight and the charges at that same time for other things, regular office work or anything else?

THE WITNESS: Only because I was told that I could deduct my telephone charges from the fight.

THE CHAIRMAN: So you took them all?

THE WITNESS: No, I didn't take them all, as a matter of fact.

THE CHAIRMAN: That's what we want to know. How did you compute \$500?

THE WITNESS: I added up the phone bills that I got just around the time of the fight.

- Q. How were you able to distinguish on your telephone bill between those calls attributable to this fight and to other fights?
- A. Because I break them -- because, as you see as we go along for the fights, and you've got just about every fight in here, we've got sets of phone bills from each fight. I just did them basically chronologically.
- Q. I'm not following you. Did you go through your phone bills and identify on your phone bills those calls --
- A. No.
- Q. -- which were attributable to this fight and those which were not?
- A. No.
- Q. How did you come up with this figure?
- A. I added the phone calls up from the bills I was getting around the time of the fight.
- Q. So there were calls that were within this computation that were not attributable to this fight?
- A. And there may have been calls that weren't charged to this fight that should have been on other bills.
- Q. You just took your phone bills around that time --
- A. Yes.
- Q. -- and threw them into the computation?
- A. As per instructions of Bob Lee.
- Q. Did he specifically tell you you could charge your office phones?
- A. He told me I could take telephone expenses for the fight.
- Q. Did he tell you you could take all your telephone expenses regardless whether they were attributable to that fight? Did he tell you that?
- A. I mean, he told me I could deduct telephone costs for the fight. How specifically, I couldn't tell you.

Another bizarre example of expense deductions from television revenues to reduce a promoter's TV tax obligation to OSAC came to light during the testimony of Ronald E. (Butch) Lewis, operator of B. Lewis Productions, Inc., of New York. Lewis contended at the SCI that many of the production tasks at boxing matches he promoted were handled by an outside company but his recollections about what this company did and what it charged were hazy.

Indeed, he frequently couldn't remember anything at all about certain expenses despite the size of the claimed cash outlay. In scrutinizing Lewis's records on seven randomly selected fight promotions from October 18, 1980, to April 12, 1982, SCI accountants were unable to confirm payment by Lewis for a total of \$152,302 in claimed "production costs." In fact, the auditors could not find any actual liability, contractual or otherwise, by Lewis for these expenses except for one promotion where he may or may not have been liable for a \$46,900 outlay. Even so, his records supplied no proof of any payments whatsoever for this or any other claim.

Lewis tried to explain his relationships with a so-called "producer" who handled what he described as "technical details" of his televised fight promotions. He not only claimed ignorance of these details but also could not remember cash disbursements in connection with deals worth tens of thousands of dollars to him. Following is an example from his testimony:

Q. Would you look through that paragraph (of the TV network contract) there and tell me what things associated with the TV production are your responsibility?

THE CHAIRMAN: Well, there are nine things in all. Are you asking him if he had all those responsibilities?

MR. MORLEY: I'm asking if any of those things are responsibilities, TV production responsibilities, technical responsibilities?

A. You're asking me something I can't answer, man. I don't even get into that end of it. I don't even get into that end of it.

Q. Well, just from a reading of that, does that require you to bring in cameras and crews and cables and things like that?

A. It may, cables. It may even require --

Q. Can you point --

A. Hey, look.

Q. Can you point me to the portion of that paragraph that you understand --

A. Again, I don't know about this end of the business, so I'm not going to sit here and say -- I don't know. I don't understand.

Q. Were you obligated under this contract for this event to provide the production facilities necessary to broadcast the fight over NBC?

A. I don't know.

Q. Who in your business would know if you don't know?

A. Damn if I know. I don't know.

THE CHAIRMAN: You say you hire somebody to do this?

THE WITNESS: Yes. In other words, as soon as I have a fight -- I have a fight coming up in a few weeks, a TV fight. I immediately put my guy -- they don't even talk to me about it.

THE CHAIRMAN: I understand.

THE WITNESS: I'll put my guy in touch with the network guys and they'll work it out.

THE CHAIRMAN: And does he do this type of thing regularly for you? For fights you promote?

THE WITNESS: Yes. And other fighters as well, but he's the only one that handles my stuff, he or his people that work for him.

THE CHAIRMAN: And you pay him a flat sum for taking care of it?

THE WITNESS: It's different fees. I have a situation with Lou. We have a situation with each other where I guarantee him X amount of money a year for his expertise in handling my productions or whatever I need, and I help him in boxing events and what not; but we're -- you know -- opposite side of the coins. He's an expert on one thing, I'm considered an expert on something else and we can use each other --

THE CHAIRMAN: Expertise?

THE WITNESS: Yes, the expertise. So it's never that I even get into this, what camera, what this, boom-ba-boom. I don't know.

Q. And you just tell him to do what has to be done?

A. Yeah.

Q. If he comes back to you after this event and says it cost me \$25,000 to do those things that you were required to do under the NBC contract, how do you know whether he's ripping you off or not?

A. Because I know him well enough that I don't think that he would.

Q. If he charged you \$50,000, would you wonder whether he's ripping you off?

A. Again, I would say no.

THE CHAIRMAN: Let me ask this: What was the charge that he --

THE WITNESS: I don't know, Your Honor. I mean -- I don't know.

THE CHAIRMAN: -- charged on this particular fight?

- A. In other words, look, Butch, I have to do this, this and this, but I don't think they should require you to do that. You already got this piece of paper and this means something. I'll call CBS. Yeah, CBS, yeah, my guy told me -- I don't know. Why are you objecting? No. Go ahead with it. I don't know.

Other excerpts follow from Lewis's testimony on his tax deductions:

- Q. In C-189, the contract with Resorts, it says that the fight will be telecast live in the United States over the ABC Television Network? Item number one there in production, TV production, \$15,400. Do you recall to whom those payments were made?
- A. No.
- Q. Do you recall what kind of production expenses you incurred for that fight?
- A. I wouldn't know. That's the point I'm telling you, I would not know. I wouldn't know a camera machine cost 2,000 or 10,000.
- Q. Somebody came in to you with a bill for 15,400 and you didn't make any effort to determine whether that was a legitimate claim?
- A. Maybe I'm not the best businessman. This is what I owe or this is what was paid or this is what credit I owe you or due. That's the kind of relation I got with...If I can establish that with you, then maybe I'm not the best businessman in the world, but that's the way I do my business.
- Q. Who told you the amount of the expenses? Is that what you paid him?
- A. No, not necessarily.
- Q. Same deal as before, it may have been a debit and credit arrangement?
- A. It could have been anything.

X X X

- Q. How about number three, state officials, \$2,100.

- A. That's what I paid the officials for the fight.
- Q. Pardon me?
- A. That's what I had to pay the officials.
- Q. Like the referees and the judges and those kind of people?
- A. Whatever.
- Q. That deduction didn't appear on the tax return for those other fights, is there any reason for it?
- A. Probably I didn't think of it that I should deduct it.

X X X

- Q. On C-190, the tax return, the third item under unanticipated TV expenses. Let me ask you about again the phrase "unanticipated TV expenses." What does that mean?
- A. I don't know how I came to use unanticipated.
- Q. Did anybody suggest that term to you?
- A. Maybe. Probably my attorney.
- Q. Did you ever discuss this with any other promoter?
- A. No, because they then want to discuss my business.
- Q. It's unlikely you would have come up with unanticipated from another promoter?
- A. Probably. But I got it somewhere.

X X X

- Q. And once again the use of the word unanticipated, whether you have administrative, clerical and travel expense?
- A. Uh-huh.
- Q. What's the reason for the word unanticipated there?
- A. I don't know.
- Q. How about the USBA championship belt?
- A. Yeah.
- Q. Would you have put the fight on TV without the championship belt?
- A. Oh, yeah. I could have put it on TV without the belt.
- Q. Why is the \$300 deduction there?
- A. Because it's part of the production.



- Q. As a TV expense?  
A. It's part of the production. They show the belt -- it's a part of the production. You ask me could they put it on. They weren't going to stop it for that. But it's a part of the production. That's a part of the show business part that goes with boxing, the entertainment part of the industry.

X X X

- Q. Okay. Number seven is additional staffing for \$3,950. What kind of staffing is that?  
A. It could be from production people staying, meals. They won't eat in the coffee shops. I got to give them cash money to go eat in a restaurant where they feel that their taste calls for. A lot of things, man. I mean, additional staffing to put the fight on.

X X X

- Q. How about the additional telephone expenses, number eight. How did you arrive at that figure? Did you set up a separate telephone line for this production?  
A. We pay a bill.  
Q. What is \$425?  
A. Probably one -- the one right at the hotel. I pay all incidentals. Telephone calls, alcoholic beverages, meals outside the restuarant, of the coffee shop, I mean.  
Q. All right. What about the unanticipated administrative and clerical expenses?  
A. Having extra people come in and do clerical work, whatever else there is to do for the fight.

#### Medical and Safety Problems

The adverse impact of regulatory improprieties on the physical safety of boxers is of such urgency that it demands attention now. Thus it comports with the primary aim of this interim report -- to spur instant legislative re-structuring of OSAC.

No effort to promote the integrity and stability of professional boxing can make progress without reducing the physical hazards to boxers. Indeed, unless these hazards are reduced, the effort is doomed. What follows here are examples of regulatory deficiencies that have been increasing the risks of cerebral and other potentially fatal injuries. Such episodes illustrate areas that will be covered by recommendations for

corrective action at the conclusion of this report.

Again, OSAC's pattern of bypassing its own statutory and regulatory requirements represents probably the most dangerous flaw in its responsibility to protect fighters from death and injury in the ring. For example, a regulation requiring that a boxer submit proof of physical qualification to box prior to going into action is largely disobeyed by OSAC, as excerpts from Deputy Commissioner Lee's testimony indicate:

Q. In Section 3.27 of the regulations it says, "Any boxer who is scheduled to participate in a proposed contest or exhibition shall, before doing so, submit in his handwriting a statement of experience and a report of his medical history on a State Athletic Commission form and give the same to the State Athletic Commissioner or his designated representative." Is that regulation followed?

A. Not in its entirety, no.

Q. What aspect of it is not followed?

A. Well, the statement of experience and the report of his medical history, when these boxers come in, they sign that they are going to be examined by the doctor on the boxer informational sheet and that is, in effect, a statement of their experience because they do have the last fights, the record of the fighter, and he signs that as well as that also indicates that he's going to be examined by the doctor.

Aside from the always potential threat of death or mental debilitation from a head injury, damage to the eyes is among the most serious physical perils of boxing. One OSAC requirement for visual protection, however, is also overlooked, as this extract from Lee's testimony confirms:

Q. Now, Section 5.22 of the regulations states that: "Every licensed boxer, within 30 days after receiving his license, shall submit to the commissioner a medical report of the condition of his eyes. Any failure to comply shall result automatically in suspension." Is that regulation followed in all cases?

A. No, it is not.

Q. Is there a reason why it is not followed in all cases?

A. Because it's pretty difficult to do, and -- well, that's it. It's very difficult to do. You know, frankly, I -- we haven't done it and it's not that easy to do.

THE CHAIRMAN: You mean there's not sufficient discipline among the class of boxers to submit to something like this?

THE WITNESS: That's correct, sir. It is very difficult to do, and --

THE CHAIRMAN: But don't you think if you absolutely require it and they're knocked out of a fight or two by failure to meet the requirement, that they will start doing it?

THE WITNESS: Or either they will go someplace else and fight. They may not fight in the state of New Jersey.

Lee indicated that OSAC rules requiring stipulated periods of rest for boxers -- 60 days after a knockout and 30 days after a technical knockout -- are strictly enforced. Nonetheless, the general tenor of his comments on OCAC's administrative defects and the lack of effective exchange of data among various states and professional groups suggest that there is no way at present for effectively policing compliance with such medical suspensions. Lee's testimony suggested various weaknesses in the enforcement effort:

Q. Okay. When a fighter is subjected to suspension for reason of a knockout, or a TKO, or for any other reason, what form of notice is he given that he's been placed under suspension?

A. Well, all fighters are notified of what the rules are at the physical and the weigh-ins, and if a fighter is knocked out he's told by the doctor as well as the inspector that he's on suspension for 30 or 60 days or on indefinite suspension.

Q. He's told orally?

A. Yes.

Q. At the time of the fight?

A. Yes. Now, there is -- there at one time we were able to send out suspension notices directly to the fighters. The problem we have had with that is that the fighters don't live where they say they live. A lot of them come back and then we've been saddled with a clerical problem that we can't get those forms out as we would like to get them out. But they're notified orally at the time that it occurs.

Q. And as we have discussed before, the notice of the suspensions is sent out to other commissions by virtue of the boxing show results?

A. Yes.

- Q. And similarly, you get notice of suspensions in other jurisdictions?
- A. Yes.
- Q. Are all suspensions imposed in other jurisdictions for what I will call medical reasons enforced in New Jersey?
- A. Yes. We respect every other commission's suspension notices. If a fighter is permitted to fight here or anywhere, I would tend to think, while he's on suspension, it's because that commission just didn't know about it or never received any notification to that effect...

Medical proof of ability to resume fighting after a medical suspension is an extremely valid OSAC rule -- but it also is subject to infraction, as the testimony indicated:

- Q. Subsection B of 5.14, which I read before, requires a written request and quote, medical proof of physical well-being, unquote, before a fighter will be allowed to again fight following these suspensions. Is that regulation enforced?
- A. Not in its entirety.
- Q. And in what respects is it enforced?
- A. If a fighter is knocked out and hurt seriously, the doctor at ringside may direct that he go in for a CAT scan or go for observation, or if there's an eye problem, severe eye problem, the doctor may say that he does not want this fighter to fight again until he has proof of his well-being and that his eye is okay or whatever. Now, if a boxer is exhausted and technically knocked down in the third round, you know, we haven't required him to come in with any proof that he's all right to fight. It's one of those things where he ran out of gas, he's not required to have it.
- Q. The judgment to require more than simply the passage of time before the fighter is allowed to fight again is made at the time the suspension is imposed. Is that correct?
- A. Yes, pretty much. It's usually made the night of the event.
- Q. All right. So that any problems, any physical problems, medical problems which might manifest themselves a week or two weeks after the fight will not normally undergo scrutiny by a physician before the fighter is allowed to get back into the ring again. Is that correct?
- A. Right, unless, unless there is some real problem with the fighter and he goes to his doctor or comes back to our doctor.

THE CHAIRMAN: Otherwise you would have no communication with him?

THE WITNESS: That's correct.

To Lee's credit, based on his testimony, he has made a strong personal attempt to improve boxing safety but more often than not has been deflected by an ineffective enforcement system. His testimony on a move to strengthen the medical suspension requirement is pertinent, since it applies to unsupervised training and other gymnasium operations:

- Q. When a boxer is suspended by your agency, does, at least in your mind, the suspension extend beyond ring appearances to training?
- A. We suspend for 30 days on a TKO or 60 days on a KO. The fighters are told if they're technically knocked out that they should not have any contact training for 14 days.
- Q. Can you define contact training, is that sparring?
- A. That's when you spar, right. We can't hold them to that, but we certainly make that recommendation to them.
- Q. Why can't you hold them to it?
- A. Because we don't have the manpower to check the gymnasiums.

COMMISSIONER PATTERSON: So the 14-day suspension is an absolute suspension. He's suspended for 30 days, 14 days of which he can't do any boxing?

THE WITNESS: Yes.

COMMISSIONER PATTERSON: And it isn't that you haven't gotten the right to make the suspension, but as a practical matter you can't police the suspension, you can't go around to all the gymnasiums?

THE WITNESS: Right, the contact training.

- Q. If you had the manpower, your understanding of the present regulations gives you jurisdiction over gymnasiums in the state?
- A. No. But wait a minute. I would tend to think that the statutes might.
- Q. They might?
- A. Because I think the commissioner has the right to police all boxing in the state, and if the guys are in the gymnasium boxing, he ought to have jurisdiction and control over that, too.

- Q. Do you know how many boxing training facilities there are in New Jersey?
- A. No, I don't but I know that most of them are substandard.

COMMISSIONER PATTERSON: Would you guess how many there are?

THE WITNESS: You got to have at least 100. It would probably be more with the amateurs. 150, maybe.

COMMISSIONER PATTERSON: Are they mostly gyms run by charitable organizations rather than commerical organizations?

THE WITNESS: They're run mostly by commerical organizations.

According to OSAC rules, any boxer applying for a license must first be examined and physically and mentally qualified by a physician "appointed by the Commission." Lee said OSAC permits boxers to be examined by physicians of their own choice, a clear violation. Lee emphasized, however, that before a bout, every fighter is examined by an OSAC doctor, who must fill out a "physician's report" on the reverse side of the OSAC inspector's report forms. But this ringside report form does not provide space for certain critical physical tests of fighters just prior to their scheduled engagement, as the testimony showed:

- Q. On the physician's report, the columns as they go across are entitled: "Name of contestants," "Address," "Age," "Lungs, Heart, Temp.," which I assume means temperature, "Pulse, sit and stand," "Blood pressure," "Weight," and "Abdominal inspection." Is that correct?
- A. Right.
- Q. There's no space there for an eye examination?
- A. No, there isn't.
- Q. Is an eye examination done as a matter of course?
- A. As a matter of course, every doctor does it.
- Q. Is there anything other than the eye examination that is done as a matter of course that does not appear in the columns?
- A. The equilibrium test.
- Q. The equilibrium test?
- A. The hand inspection of the hands and where they shoot these needles in the arms.

- Q. Okay. The C-91 which you have in front of you that we have just referred to, which is entitled "New Jersey Athletic Commission Boxer Physical Examination," requires a much more extensive examination than is required to complete the back of the inspector's report?
- A. Yes.
- Q. But from what you have told us, I take it that in some cases, at least a fighter is able to go into the ring in New Jersey without an examination sufficient to complete this report C-91?
- A. That is correct. This is usually completed by the boxer's medical doctor, his family physician. It gives our doctor some kind of history as to what the fighter may or may not have had.

Lee said he would favor a more thorough medical examination process but contended his previous efforts to obtain financing for such an improvement have been ignored. The testimony:

THE CHAIRMAN: It would be, it seems to me, quite an advancement of the present regulation, to require a complete exam on file at least once a year plus the periodic (pre-fight) exams?

THE WITNESS: And I think it would be good. The problem is then they have to determine who is going to pay for it, and that's the hang up with this regulation right now.

THE CHAIRMAN: How much does an examination like that cost?

THE WITNESS: If you talk about -- CAT scans I'm not in favor of. But if you talk about a thorough physical, I would tend to think you're talking in the neighborhood of a hundred to a hundred fifty dollars or maybe more. If you throw a CAT scan in, you're talking \$500. But my feeling is that some of the revenues that we collect ought to be put back into boxing because at this point nothing goes into boxing, but some of those revenues ought to go back into boxing for a boxing center. At least once every two weeks or once, twice a week, at least, we can send the boxers to that particular center and have them examined and then we know that they're fit. The doctor that examines them later knows that they're fit.

THE CHAIRMAN: Well, that seems to me a pretty practical suggestion.

THE WITNESS: Well, it's fallen on deaf ears for the last five years.

OSAC has appointed medical doctors to oversee its medical requirements and to serve at authorized boxing matches in each of its North, Central and South Jersey areas. In South Jersey, which, of course, includes the lively casino boxing action, OSAC's chief physician is Dr. Frank B. Doggett, a general practitioner who is on the staffs of the Atlantic City Medical Center and The Betty Bacharach Rehabilitation Hospital. Dr. Doggett has been a licensed OSAC physician for 20 years. The SCI had the benefit of Dr. Doggett's views on the medical and safety aspects and problems of boxing.

Dr. Doggett explained some of his responsibilities, which are the same for the OSAC doctors in the other two boxing districts. He must, for instance, make certain that there is at least one other physician at a boxing exhibition, an ambulance and paramedics. He conducts or supervises the physical examination of boxers, the weigh-ins, the record keeping. He advises on the condition of the contestants during the course of a bout and, if he deems necessary, recommends that a fight be halted. He made a number of helpful suggestions for improving medical procedures during his testimony. In fact, he testified that he and other boxing physicians had submitted recommendations for reforms to OSAC, some at Deputy Commissioner Lee's request, but that nothing happened:

Q. Did you ever receive any response from the Commission concerning your recommendations?

A. A written response, no. By telephone, yes.

Q. What was the nature of the response?

A. Discussing our recommendations with the Deputy Commissioner and he said he would forward the recommendations to the proper -- to the Commissioner and that was as far as we know.

Q. Have any of your recommendations been implemented?

A. Not yet.

When he discussed the recommendations he and other boxing physicians had submitted to OSAC, Dr. Doggett said that he had urged the regulations restricting a doctor's ringside role be revised to allow more medical input and control. The testimony on this subject:

Q. What is your understanding of the present policy in New Jersey with respect to the doctor's role in stopping a fight for medical reasons?

A. Medical reasons, No. 1. The doctor is not to go into the ring unless called by the referee or



directed by the Commissioner, Deputy Commissioner, whoever is in charge of the fight at that particular time.

The doctor makes his evaluation of the boxer and then he recommends to the referee that the bout be stopped or the bout, like in the Bogner fight, the recommendation was after being called in by the referee, that he has a deep laceration, it's being controlled by his aid man, let the next round start, if it reopens, bleeds heavily, he is to stop the fight.

And usually -- and all the time the referee will do whatever the medical recommendation is, I've never had anyone go against that.

Q. Let me show you what has been marked C-150, it's an article that appeared in the Trentonian on January 7, 1984 after the Bogner-Curet fight.

A. Right.

Q. This article recites, if you look at the bottom portion, the continuation page portion, the left-hand column, about two-thirds of the way down, is the paragraph that begins, "Dr. Doggett, who examined Bogner." It says in there, you told the referee "Let the fight go on, but if the cut opened or got worse to halt the fight"; that's essentially what you just told us here?

A. Yes.

Q. As a physician are you comfortable with a situation in which you're saying to an untrained person, who is untrained medically, you make the judgment as to whether the cut is now again bad enough to stop the fight?

A. That's one of our recommendations in the report to the Commission, that the doctor, medical personnel, have more of a say as to stop it now or I will stop it, some way that I can tell you to stop it.

Because many times we sit there and see a boxer receiving a whole lot of blows, think the referee should stop it and he doesn't.

Q. If after giving that instruction to referee Rainone the other night, if he had let the fight continue and the cut had opened up, if he had not stopped the fight when he did, you would have been powerless to do anything?

A. No, I don't think so. Because when I went in, whatever, the eighth round, whether we told

Bogner's corner that we will give you one more round, this is your last round coming up, if the cut doesn't stop and is bleeding, fighter will be removed. They knew this before the ninth round started, that this was his last round.

Q. What I'm saying to you, in mid round, if mid round --

A. I would have to wait.

Q. You would have to wait?

A. Yes. This is our argument. Have to wait for the bell to ring and then say the fight is over. That's just a recommendation to the referee, the fight is over, stop it now.

A veteran referee, Vincent A. Rainone, who is licensed in both New York and New Jersey, discussed this same issue when he was questioned at the SCI. He was asked for his views on the question of a physician being empowered to halt a fight, as is presently permitted in New York. Rainone testified:

A. My knowledge in boxing throughout the county, throughout the world, a doctor cannot stop the contest, the referee can. With the exception of only a few years ago, again, I am going back to New York, only a few years ago, since Benny Kid Paret not Benny -- Willie Clawson, now the doctor can jump in in New York and stop the contest, prior to that he could not. Nowhere. Nowhere.

Q. That can't happen in New Jersey?

A. No. As far as I know, the referee -- the doctor will advise you that this contest should be stopped and it's the referee that stops it.

Q. Have you ever stopped a fight after a doctor said to you it's okay for him to continue?

A. Oh, definitely. Definitely.

Q. Where you have sensed that the fighter was in danger, notwithstanding the medical advice?

A. Sure.

Q. Have you ever allowed a fight to continue after a doctor said I don't think this fight should go on?

A. No, sir.

Q. What is the nature of the referee's authority in New Jersey to stop a fight?

A. He's the chief official and if he sees that the safeguard of the boxer is a necessity for him to stop that contest, whether it be a cut or unable to continue, he may -- he may do so.

Q. What is your understanding of the role of the ring physician with respect to your authority to stop a fight?

A. The ring official only has the authority. (The physician) is to advise me through his medical experience as to like a cut breaks open.

Q. The ring physician?

A. The ring physician. Or if a fighter is unable to continue because he might be very tired, he might advise me that he thinks it would be -- thinks it may be best, but I have the authority to stop the fight, he doesn't. The referee has the authorized authority.

Q. So it's your understanding that in New Jersey the doctor does not have the authority to say to the referee, you've got to stop the fight and that's the end of it?

A. No.

Q. If the doctor says to you, this fight should be stopped, it's still within your authority to ignore his admonition and let it go on?

A. Yes, but it would be foolish.

Q. But it's at least within your authority?

A. Yes.

Q. You would still rely on your own judgment?

A. Yes.

Dr. Doggett frequently expressed disapproval of lapses or omissions in OSAC enforcement of medical rules:

Q. Deputy Commissioner Lee has told us that in most cases boxers are licensed without ever having a complete physical examination, other than the pre-fight physical performed. Were you aware of that fact?

A. That boxers are licensed in New Jersey without having this medical examination form?

Q. Right.

A. No, I wasn't aware. I thought everybody had to have (completed medical form) this before they got the license.

Q. It's been Mr. Lee's testimony that that is not the case. Do you approve of that situation, if that is the situation?

A. No, I don't approve.

Even the medical report a physician must file after such pre-fight examination is inadequate. Dr. Doggett's testimony

suggested how the report process could be improved:

- Q. Now, looking at C-4, the physician's report portion of C-4, other than the areas of examination that are noted on that form are there other areas of examination that are, as a rule, performed in the pre-fight physical?
- A. Yes.
- Q. What are those?
- A. The eyes, in this form it has nothing about eyes.
- Q. Right.
- A. It has nothing about the neurological findings. And I think it should have something about the past history, ask them about the win and loss record and have it on this form.
- Q. You've already told us that you do make that kind of inquiry.
- A. We do make it, but there's nothing to fill in here.
- Q. Mr. Lee has told us that you also, as a matter of course, can make an examination of the fighter's hands and feet?
- A. Yes, we had problems, arms, of course, we're looking for drug marking. On both of these forms there should be something about drug test. They should be given a drug test here and --
- Q. Prior to licensing?
- A. Prior to licensing. And also sometimes during the fight we will get their urine and run it through, because we have -- we don't like how the fighter is acting, something like that. And we have done it and we have come up with one case where it was positive for marijuana. Of course in championship bouts we do it. And I don't know whether any of you gentlemen know we had one come up positive with morphine. We had one come up positive with marijuana use. And something in here should be added on both these forms about drug use.

A more detailed pre-fight eye examination also was urged by Dr. Doggett, but he noted that no one had responded to recommendations to this effect:

- Q. Would you advocate the administration of a more comprehensive eye exam prior to letting people go in the ring?
- A. I would.

Q. Did you make that recommendation to the Commission?

A. Yes.

Q. Did you ever receive a specific response to that recommendation?

A. When I talked to the Deputy Commissioner and he said that, the first response was it was placed on the Commissioner's desk and he hasn't gotten around to it, that's usually where they leave us.

Dr. Doggett said he favored a regulation that would permit him to disqualify a fighter who could pass a test but was obviously out-of-shape:

Q. Would you endorse a regulation that provided that the physician could disqualify the fighter not solely on the basis of any identifiable defect or ailment, but on the ground that it's the physician's medical judgment that the person is not in condition to endure the kind of stress that he must undergo in the course of the fight?

A. The answer would be yes. You see, some men come in, "How old are you? 28, 30." And obviously out of shape, of course, yes. Then when they tell you their age, no way we have any definite proof of what he's saying is correct, age-wise.

Dr. Doggett emphasized the importance of a detailed medical examination prior to licensing a boxer. His testimony suggested several areas for more advanced tests that are not now required:

Q. What is your understanding with respect to the nature of the physical examination which is required of a boxer before he is licensed?

A. He should have a complete physical. Should have -- we don't have, but we should have probably an office here in Trenton and every boxer that is licensed should come through the central office, that they should have the complete physical with neurological, with probably a CAT scan, laboratory tests and the like and a permanent record kept, made available to fighters -- I mean to the doctors before the man is going to fight in this area. That, we don't have.

Q. Is it your understanding that pre-licensure physicals are not in all cases performed by Commission physicians?

A. No, they are not. Any doctor in the State of New Jersey can perform. They send them -- I think they send them the form and they have to have the examination done by a licensed New Jersey physician.

Q. Do you think that it would be a good idea to require -- assuming that you could not have all exams done by Commission physicians, would you recommend that --

A. That someone review them, yes, from the Athletic Commission, yes.

Q. A licensed medical person, a doctor?

A. Yes.

Boxing physicians must be constantly on the alert for indications of drug usage or addiction, Dr. Doggett testified he would endorse a regulation empowering a doctor to disqualify a fighter even on suspicion of drug influence:

Q. Do you favor a regulation which would permit the physician who is clearly convinced, based on nothing more than the fighter's demeanor, that the fighter is under the influence or is abusing some substance, would you favor a regulation which would permit a physician on that basis alone to say you cannot fight tonight?

A. I would.

Q. But it's your understanding that you do not now have that authority?

A. I would say yes.

Q. Have you ever said to anybody from the Commission, look, I don't see track marks or needle marks or any membrane problem in the nose, but the guy is so -- is acting so strangely that I'm convinced that he's on something and I want him off the card? Have you ever had to make that recommendation?

A. Not that I said we want him off the card, but we will say all the first part you said, except not that we want him off the card. Then they have said we will get his urine, let him fight and test him afterwards.

Q. From what you've already testified to, I understand that the only urine testing that goes on in N w Jersey is when you have some suspicion of use or when you're involved in a world championship fight?

A. Yes.

Q. Would you favor universal urine testing? Assuming the money was there for it.

A. I would.

Q. How do you feel about random tests?

- A. That would be better than what we have now, yes.
- Q. Do you think universal testing is necessary or do you think random tests would be sufficient?
- A. At the present time I would say random testing would be sufficient in that it would serve notice, they will never know who they would be testing.

Certain so-called "cut-men" -- who patch up lacerations and prevent bleeding so boxers who are otherwise capable of fighting can continue doing so -- are highly respected in the industry. According to Dr. Doggett, who has watched "more fights than almost anyone" in his years as a ringside doctor, "we have a majority of bad cornermen." However, there are no OSAC qualifications for such a paramedical practice even though the presence of a cut-man is required to attend each boxer at every bout. Dr. Doggett said this should be changed:

- Q. Do you think there should be standard qualifications?
- A. Regulation or qualifications should be set up to qualify as a cut man, whatever you want to call him. There should be some regulation of those persons, I think. We have had a fight when, in one corner the boxer was cut and they have nothing, absolutely nothing to control the cut with. So there should be some regulation, some standards, I think.

OSAC's inability to check up on a fighter's eligibility and physical qualifications just prior to his scheduled contest also creates problems for the physician who must make important medical judgments in a relatively short time. This situation was reviewed with Dr. Doggett:

- Q. When conducting the pre-fight physical and you ask a fighter what his record is and when his last fight was and what the result was, do you have to rely on what he tells you?
- A. We usually make a note of it and compare what they told the Inspector down at the other end. But there's no way I can check on it. I don't know whether he's telling the truth or not telling the truth. But we will ask and then we'll ask what did he say to the Chief Inspector.
- Q. As long as he's told you the same story he told the Chief Inspector you have nothing else to go on?
- A. Nothing else to go on, no way to check if it's right or wrong.
- Q. Do you feel there should be a more accurate system of checking on those kinds of things?

- A. Yes. Because now you're getting fighters from all over, especially the southern states, states that don't have boxing commissions, South Carolina has one, several states that have none. You have the fighters out of the country, they come and tell you, there's no way, I don't think that they check on these records.

More stringency in other OSAC requirements on medical procedures also was demanded by Dr. Doggett. He would, for example, require suspensions of boxers after KO's and TKO's of 90 and 60 days, respectively, rather than the present 60 and 30 days. Dr. Doggett would go even farther, according to the testimony.

- Q. The same regulation also says that when a fighter has been suspended for whatever period because of a KO or a TKO, he must submit proof of doctor's approval of his returning to fighting before he can again fight following the suspension.

Now, Mr. Lee, again has testified that in most cases in New Jersey the mere passage of time is all that prevents the fighter from coming back into the ring. Once the time has elapsed he's allowed to fight again without a doctor's examination.

Do you approve of that practice?

- A. No. Again, keep on going to the recommendations. In the recommendations you'll find that it was recommended that if a knockout, or technical knockout was suffered, take an electroencephalogram, then CAT scan.

If the electroencephalogram is abnormal, must get results of the CAT scan. Several times after we hospitalize fighters after that, we will say that they must submit to the electroencephalogram first, if it's abnormal, CAT scan results. But we will accept either one, and in the recommendations you'll see that's made, too.

Dr. Doggett expressed much concern about cerebral damage to boxers, as indicated by his references to the need for neurologists and for CAT scans and other forms of advanced testing. However he said he could not comment from a medical standpoint on whether boxers should be required to wear special headgear. He did comment on the use of "thumbless gloves," designed ostensibly to reduce eye damage from gouging. His



testimony on this subject:

Q. What about thumbless gloves, do you have a feeling?

A. Those presently developed (are) unsatisfactory, I think. Those that we saw, had tried at one time in Atlantic City, the thumb is in a position to be broken easily. It had no protection over the thumb part.

If he would hit somebody, not hitting with the fist, you're hitting with bare thumb, didn't have the padding over the thumb. That was within the past year, I suppose. Maybe they have developed better gloves of the thumbless type, I don't know.

Q. Do you know whether those gloves that you experimented with in Atlantic City are the same gloves that are required in New York State?

A. I don't know if it's the same company that makes them.

COMMISSIONER DEL TUFO: If they could solve that problem that you mentioned would you think they would be an asset?

THE WITNESS: That could be solved, I think so. We have seen a lot of thumbing of the eyes, which causes severe damage to the eyeballs at times.

Dr. Doggett recalled a series of hearings on boxing problems conducted by Assemblyman Buddy Fortunato's Independent Commissions and Authorities Committee. Although numerous important medical and safety recommendations were proposed, he said, no implementation has resulted. He said certain proposals to require neurological testing and mandatory hospitalization of KO'd boxers have been discussed at OSAC. He noted that if you hospitalize a boxer who has been knocked out, "he can sign himself out before the next morning." He added:

We recommend that if a boxer suffers a knockout he must be hospitalized and he must remain in the hospital until discharged by the neurosurgeon.

And we have no laws to that effect. It was one of the recommendations that was made that might help.

Dr. Doggett concluded his SCI appearance with a brief recap of his experiences and ideas:

And I think I've seen more bouts than any doctor in the United States. Because of the casinos, I think we had about 183 bouts last year, and we have been having, since four years now, and there's no end.

This week we have Friday night, we have Saturday and then two on Sunday. That's four and we had one Tuesday. Six bouts in one week. We need help and personnel. We should have a central office, I think. Of course we don't know how long fights will be popular in New Jersey, in Atlantic City.

But if New Jersey is going to continue in the fights, (we should) have a medical office in either Trenton or Atlantic City, a staff, equipment, laboratory, make every fighter that's going to be licensed get his license in the -- I think New York does that. They have their own medical staff and setup. To be licensed you have to pass their examination. Here you can go to any doctor.

#### Conflicts of Interest

This report already has noted the potential for conflicts of interest arising out of OSAC's dual role as a state boxing regulator and a member of a national or international federation sanctioning prize fights. On the state scene alone there is also a serious threat of conflict problems largely attributable to the lack of uniform and clearly defined standards for the personal and professional conduct of OSAC officials and the individuals subject to OSAC licensure. Indeed, the dialogue between the SCI and OSAC officials and licensees strongly suggests that, without adequate legal guidance and ethical counsel, the discretionary power of the boxing commissioner to permit exceptions to and otherwise alter the rules provides a particularly vulnerable area for misconduct. The SCI's reform proposals will attempt to cure this deficiency. Certain testimony also indicated that OSAC sets disparate standards. For instance, it requires referees to behave by a more rigid code than its inspectors. This despite Deputy Commissioner Lee's characterization of an inspector's role as OCAC's ringside policeman, its "eyes and ears" before, during an after every bout. During the questioning of Lee, a question arose about problems that might ensue if relatives of OSAC officials promoted fights or managed boxers:

- Q. Are close relatives, and by close relatives I mean a parent, a spouse or a child of an official or an employee of your agency permitted to manage boxers in New Jersey?
- A. Yes, I would think so.

- Q. Do you see any potential for conflict or appearance of conflict in that kind of a situation?
- A. Not really. If you talk about a referee managing -- a referee's wife managing a fighter, I'd have some trouble with that.
- Q. How about an inspector's wife?
- A. Managing a fighter?
- Q. Yes.
- A. I don't have any problem with that because I don't think they could do anything that would be a problem.
- Q. What's the basis of your making a distinction between the wife of a referee and the wife of an inspector?
- A. I think the referee plays a very important part of the fight and he has to be unbiased and impartial. I just wouldn't want a referee's wife to be managing because he's to referee that fight and he may have a tendency to lean one way or another.
- Q. And you don't see the same potential existing in the case of the inspector?
- A. Not really.
- Q. ...If you knew an inspector had a relative who was managing, and you knew a boxer managed by the relative was going to be on a certain card, would you permit the inspector to act as an inspector for that card?
- A. If he acted as an inspector on that card I certainly wouldn't have him near that fighter or maybe we'd send him down that night.
- Q. Can you tell me what you would do? You said you might do something. Would you let him be an inspector that night?
- A. Yeah, I can see him being an inspector working at ringside, but certainly not in the dressing room.
- Q. Would you let him be in the corner of the fighter managed by his relative?
- A. No, that's bad.
- Q. But you would conceivably let him be the inspector in the opposite corner?
- A. In the opposite corner or an inspector at the door, or an inspector assisting the commissioner or bringing the fighters in.

- Q. You said a little while ago that employees and officials of the commission are not permitted to manage fighters in New Jersey, is that correct?
- A. Well, maybe I better rephrase that. If we were to find that employees were managing, you know, we'd have to take a real hard look at that, and I would tend to think -- my recommendation to the commissioner would be to dismiss them. I don't think any of our officials should manage fighters.

The testimony of one of OSAC's South Jersey licensed inspectors indicates the problems that have resulted from loosely enforced standards of conduct. This inspector is Steven W. Smoger, who is Atlantic City's fulltime municipal prosecutor, and whose interest in boxing is such that he is also a licensed "second" or cornerman in New York State. Smoger's wife, Daisey, is an OSAC-licensed boxing manager who also testified at the SCI. Their mutual interest in the business of boxing once caused OSAC to cancel Smoger's official participation in one event in which a fighter managed by his wife was on the program. The testimony:

- Q. Have you ever worked as an inspector at a fight in New Jersey where Roger Troupe was on the card?
- A. To the best of my recollection, I went there and was told not to perform because of the fact that he was at that time licensed to my wife, and I was present but I did not function as an inspector. I was told to stay out of the dressing rooms and be seated in the general area of the public, and I did not participate officially on that evening.
- Q. All right. Who was it who instructed you not to participate?
- A. The chief inspector.

X X X

- Q. Okay. Was it your intention when you arrived at the arena that night to take up your inspector's duties on that night?
- A. I came there with the intention of inquiring as to whether or not I should.
- Q. Did you have any doubt in your own mind as to whether you should?
- A. Yes, I did.

Smoger also described how he assisted his wife in managing boxers. Pertinent excerpts from his testimony:

- Q. Now, this letter was sent to the commissioner in connection with your wife's functioning as a licensed manager?
- A. Yes, that's correct.

Q. Now, in what capacity did you sign this letter for your wife?

A. As her agent. I told her I would take care of it for her.

Q. All right. Were you at any time involved in your wife's work as a boxing manager?

A. My wife consulted me with reference to her functions as a manager, as a licensed manager. Of course, we discussed it, and I tried to be whatever help I could. She indicated that, since I was so interested and consumed with both amateur and professional boxing, she would like to become a part of it, and I saw no reason why she couldn't. She qualified and was duly licensed and performed that function.

Q. All right. Now, you told us that you signed this letter as her agent?

A. Right.

Q. In her role as a boxing manager. Correct?

A. Correct.

X X X

Q. Did you ever make calls to any promoters in an effort to get fights for boxers managed by your wife?

A. I have made some calls, yes, but I would say more in person. I would say, "Anthony is available, he's in the gym," or something like that, "Give us a call."

Q. Have you ever negotiated with promoters or matchmakers the terms of contracts to be signed by fighters under the management of your wife?

A. With her and with her knowledge and in discussing with her, I have, yes.

Q. All right. And did --

A. If I couldn't get back, if she couldn't get back, if she was with the children or whatever, I would make the call.

Q. And these activities that you pursued as an agent or on behalf of your wife in her managerial role, were any of these performed during the time that you were functioning as an inspector?

A. Yes.

Q. Did you ever disclose to the commissioner or the office of the athletic commissioner, that you

were assisting or acting as your wife's agent in her managerial business?

- A. No, I did not.
- Q. Did you ever -- I recall we spoke a few minutes ago about the Troupe fight where you did not function as an inspector. Did you ever work as an inspector at any fight where one of your wife's fighters was performing?
- A. No. Once the policy was established in the Troupe situation, that was it, and I can count on one hand the fights that fighters under my wife's banner participated in that I was at the show.
- Q. Could you estimate how much of the negotiating for fights and with respect to the terms of fighters' contracts that you performed on behalf of your wife and that she personally performed?
- A. She would consult me and say that X offered so forth, what do I think. And having a standardized idea of what was paid and so forth, I would render an opinion to that affect and I would indicate to her, tell them to send contracts if they're interested.
- Q. All right. Would you review these contracts?
- A. Yes, I would.
- Q. Were there times when you would yourself make the call to a matchmaker or a promoter and say, we would like so much money for this fighter to fight?
- A. I have made calls to that effect. Yes, I have. I will indicate that I don't want to say all just as you never say never. I would become more active in and out-of-state fight. I can recall directly negotiating with Madison Square Garden for Troupe. I felt very much at ease that it was outside the jurisdiction. I'm cognizant of the jurisdiction of New Jersey, and I would call, I would return calls to New York and things of that nature. New Jersey, very, very limited. I'd ask my -- my wife would function and I would advise.
- Q. Well, with respect to a fight that was taking place in New Jersey, did you ever directly deal with a matchmaker or promoter on the terms of a contract or in setting up the fight?
- A. With my wife. I would say they would come in. It would be joint. The call would come in. I would ask that she request contracts, and if we

were unhappy with the terms, then at that time she'd return the contract or take whatever steps she thought best.

- Q. You never directly spoke individually, without your wife being present, with a promoter?  
A. I can't say that. I'm sure I have.

X X X

- Q. Now, when dealing with promoters and match-makers, do you have any sense of whether you were representing yourself to them as the alter-ego of your wife in her managerial business?  
A. I could very well have given that impression, yes, sir.

- Q. In New Jersey?  
A. Yes, sir.

- Q. Did that cause you any concern as to whether the possibility of conflict of interest existed? I ask you that because of a few minutes ago you said you were very much at ease in your dealings with the out-of-state fights.  
A. And I bring that to your attention only that if it were in New Jersey I would endeavor to have my wife handle as much as she could. But, quite naturally, she would ask me because of my supposed expertise.

- Q. If you were not involved in boxing or not interested in boxing, is it safe to say that your wife would never have become a boxing manager?  
A. Very safe to say so, yes.

The testimony of promoter Butch Lewis also suggested conflict-of-interest situations that should not be condoned. At one point Lewis was asked if he had ever given any gifts to OSAC officials, which he said he had not. But he has played dinner host, he testified:

- Q. Have you ever taken any one of those people to dinner?  
A. Yeah.  
Q. Who?  
A. The announcer; the commissioner, Mr. Walcott; the deputy commissioner, Mr. Lee.  
Q. How often have you taken Mr. Walcott to dinner?  
A. I don't know, maybe -- I don't know, maybe two, three times.

Q. Do you recall where you went to dinner?  
A. Probably had to be in Atlantic City if I was there for a fight or he was.

Q. In one of the casinos?  
A. Probably.

Q. How many times have you taken Mr. Lee to dinner?  
A. Maybe once or twice.

Q. Do you recall where that was, same place?  
A. It would have to be around the circumstance of more than likely we were at a fight, didn't necessarily have to be my fight, but could be a group and they were in the group. I don't think I've ever been out to dinner with them one on one.

Q. But, in any event, you paid for the dinner?  
A. Oh, yeah.

Like other promoters, Lewis provided hotel rooms and meals for various OSAC officials and licensees:

Q. Have you ever provided accommodations at any of the casinos in Atlantic City to any official or employee of the Athletic Commission?

A. Judges, referees, when they come in. We get X amount of rooms. They use the room to change, stay in, announcers, yeah.

Q. What about Walcott or Lee or Johnson, have you ever provided them with a room?

A. Yeah.

THE CHAIRMAN: These are rooms that the casino allocates to you for a promotion?

THE WITNESS: To me, yeah.

Q. That's a consideration given to you by a casino in addition to any fee the casino might be paying to you for putting on the event?

A. Right.

Q. The practice of giving, providing rooms to the officials, to the athletic commissioner's office officials --

A. Yeah.

Q. -- was that your idea?

A. Yeah. I mean, it's every promoter's idea, and if they tell you anything else, they're lying.



Q. In connection with these rooms, have you ever provided the athletic commissioner's people with meal tickets?

A. Yeah, which again is an accommodation that's a part of my deal, so it's not costing me anything.

Q. All right. To whom do you give the tickets or the room keys or stuff like that when you're dealing with the Athletic Commission people? Is there any one person who's usually your contact person down there that says "I'll pick up the keys and the meal tickets for whatever rooms we're allocated?"

A. No. The way my organization, the way they're set up, when you come to check in there's a room for you, there's a package, your key, your meal ticket, whatever.

THE CHAIRMAN: You mean it's at the desk of the casino when they check in?

THE WITNESS: Right. Yes.

Q. So you don't physically handle the package personally?

A. No.

Also according to Lewis, it is commonplace for promoters, managers and other boxing people to contribute to the financial and social success of various conventions of the national and international boxing groups. He testified:

Q. Let me show you what's been marked as C-170, a carbon copy of a letter I will represent to you was obtained from the files of the office of the State Athletic Commissioner and is a letter dated July 5th, 1982, to you from Robert W. Lee, bears the title president under his name. Because it's a tissue carbon, I can't tell what letterhead was used for the letter, but I take it was on United States Boxing Association letterhead?

A. Uh-huh.

Q. In effect, the letter thanks you for absorbing the cost of a social event that was conducted at the United States Boxing Association convention in Las Vegas in April, 1982?

A. Uh-huh.

Q. Do you have any recollection of the events that are described in the letter?

THE CHAIRMAN: Yes, tell us about it. What did

you do to --

THE WITNESS: I'll give you an example the way -- I may not recollect this example, but I'll tell you the way it normally happens. USBA, WBC, WBA, IBF, any organization generally recognized in boxing, they will have individual solicitors for the program to put an ad in the program that's being had at the convention or whatever they're having, and to sponsor a cocktail party on a given afternoon or evening after a session, and we make out checks. When I say "we," I mean we as promoters, managers, so forth.

We buy ads in the magazines and we also can say we'll sponsor a cocktail party and they put a banner up, Butch Lewis Productions, sponsored by, you know what I mean, the guy's in the boxing industry, and it goes a long way. So that's how it works.

This incident -- I do two or three or four of these a year. So to relate to this one, it means nothing.

- Q. Did Bob Lee ever contact you either by telephone, face to face, by mail, telegram or any other means and ask you to pay for an event at a USBA convention?
- A. He might have sent me a letter from an organization representing New Jersey.
- Q. Do you have any recollection of Bob Lee ever communicating with you by any means and asking you, in his capacity as president of the USBA or -- I'm limiting it to that as president of the USBA and say, "Butch, will you foot the bill for a social event at one of our conventions?"
- A. He might have. I couldn't say.

## RECOMMENDATIONS

### Preface

Rather than propose a detailed remodeling of OSAC, the SCI believes it would be more effective to specify areas of administrative, operational and policy-making concerns that a restructuring should address. A variety of agency revisions has been suggested in both the Executive and Legislative branches. One plan, for example, calls for a part-time, nine-member "State Athletic Control Board" to oversee a "commissioner" who would direct an administrative staff. Less cumbersome, perhaps, is the pending legislative proposal of Assemblyman William P. Schuber of Ridgefield Park. His bills would establish a part-time three-member "State Athletic Commission" to assume all of OSAC's

powers and whose staff operation would be augmented by a "Medical Advisory Board" of licensed physicians. Whatever the new structure, of course, its effectiveness will be determined by the capability of its leadership, the integrity of its staff and the efficacy of its statutory and regulatory mandate. This is the SCI's primary concern, as reflected by the following proposed reforms of the system.

### Administration

The SCI favors as streamlined an administrative format as possible. It leans to the relatively small but flexible entity described in Assemblyman Schuber's legislation. Most important, the restructuring should transfer control of all policy issues from a single administrator to a body of overseers who would determine the operational pattern. A professional manager should be appointed to implement policy decisions. Such an executive must recognize that his primary obligation is not to promote solely the economic aspects of boxing but to develop and maintain its integrity as a professional sport.

The revised regulatory process should remain in the Attorney General's department. However, it should have stronger legal guidance than in the past. As befits an agency attached to the state's chief law enforcement officer, it should be motivated -- prodded, if necessary -- to enforce its own law and related regulations. If it is to remain with the Division of Consumer Affairs, a much greater degree of managerial oversight must ensue than has been the practice.

The cost of administering an expanded regulatory program should be paid out of the control agency's revenues from license fees and taxes. The agency for the first time should have its own budget so it can more effectively fulfill its fiscal requirements. Taxes and fees should be collected in a timely fashion and to the full extent of the law, with no exceptions, exemptions or other exclusions not permitted by law. If need be, taxes and fees should be increased to finance certain medical safety proposals that the SCI believes are essential to the welfare of boxers.

A revised administrative process should eliminate certain questionable practices that have become part of its day-by-day conduct of the sport. Instant licensing should be banned. No 11th hour substitutions of boxers (or managers, seconds, etc.) should be permitted without prior confirmed qualification and identification. Rules requiring advance notice of fight cards should be enforced rather than ignored and should be buttressed by strong penalty provisions against violations.

Agency staff duties and responsibilities should be defined by more effective personnel guidelines than now exist. Additional back-up officials should be employed to maintain regulatory stability in emergencies. Antiquated pay-scales must be replaced by more realistic compensation.

New Jersey should set an example for computerized recordkeeping, particularly on boxers who are state residents or to whom the agency has otherwise easy access. No boxer, from any state, should be permitted to fight without complying with requirements for advance submission of his career record, medical data, and personal background that determine his eligibility. As noted earlier in this report, federal registration of boxers may be the only appropriate solution to the sport's recordkeeping chaos.

### **Taxation**

Various classes of taxation should be eliminated. That is, the same 10 percent tax imposed on gate receipts for run-of-the-mill events should prevail at so-called world championship bouts (for which the tax now is halved to 5 percent). The unauthorized reduction of the 5 percent television tax to 2 1/2 percent should be discontinued. The 1979 amendment limiting the tax to transmissions received or exhibited in New Jersey should be repealed. The TV tax should be imposed on all forms of television broadcast revenues, whether live or delayed, foreign or domestic.

A collection system to assure the integrity and timeliness of the tax collection effort should be instituted by the State Treasury Department's Division of Taxation. Taxes should be collected at the source. All promoters' contracts with television companies must contain a provision assigning required state taxes to the control agency. Furthermore, regulations mandating submission of such contracts to the control agency as a condition for granting a permit must be more strictly enforced than has been the case.

The SCI is aware that more stringent enforcement of fiscal regulations and other requirements may result in increased taxation of the sport and thus generate complaints by promoters, casinos and other sponsors and developers that boxing will be destroyed in New Jersey. However, those who profit most from boxing, directly and indirectly, must realize that if the sport is to be permitted to exist they must bear the burden of guaranteeing its safety and integrity.

### **Medical and Safety**

The SCI subscribes to lawmaker Schuber's proposal to establish a medical board. However, such a board should have more than only an advisory responsibility. Its rulings should have the force of law. In matters involving complex medical issues, no regulatory official should have the discretionary authority to dismiss the expert judgment of medical professionals. As this report has demonstrated, safety precautions have frequently been skirted in efforts to make boxing in New Jersey more lucrative to promoters. A truly effective medical board should have the authority to promulgate regulations defining not only the scope of physical examinations but also the standards for passing them. Members of such a board would, of course, include specialists in cardiology, neurosurgery, orthopedics and ophthalmology.

Because of the urgency of assuring the physical safety of boxers at a time when the demand for fighters is outpacing the supply, the following medical improvements also are proposed:

-- Pre-licensure physicals must be conducted only by an agency-designated physicians. No fighter should be allowed into the ring unless this examination has been conducted, the results of all tests have been received and the physician has certified his fitness to participate. No agency official should have the power to waive any medical requirements.

-- Periodic physical examinations should be required in addition to the less intensive pre-fight tests. Dr. Doggett has suggested in his testimony that these examinations be conducted every two years but in his written proposals has recommended an annual test.

-- Pre-fight physicals should be conducted privately. The regulations should be strengthened to buttress a physician's right to disqualify a boxer for any medical reason.

-- Standards for passing the pre-fight physical should empower a physician to exclude a fighter who, although able to meet all customary requirements of medical fitness, nonetheless appears unable to endure the physical stress of a contest. The examining doctor should also have authority to exclude a fighter if he suspects drug use, particularly if circumstances do not enable him to resolve the issue prior to the fight.

-- A urinalysis should be required to detect drug abuse among fighters in connection with the pre-fight physical. Since the technology apparently now exists to permit urine testing in a matter of minutes, a system of random testing should at least be attempted.

-- Post-fight physical problems: Fighters who have suffered knockouts and technical knockouts should be obligated to follow the instructions of agency physicians regarding post-fight medical procedures such as checking in to a hospital for observation or undergoing specified medical examinations, or suffer license suspension or revocation. Medical suspension or revocation should be solely within the discretion of the attending agency physician, subject to later review by the medical board.

-- Mandatory suspensions for specified periods of time following knockouts or technical knockouts should be fixed by the medical board. Such suspensions should remain in effect until an agency physician authorizes reinstatement after conducting a complete physical examination, including an EEG and, when indicated thereby, a CAT scan.

As provided by Assemblyman Schuber's legislation, agency physicians should have full authority to stop fights. It should be made clear that a doctor can intervene not only between rounds but also at mid-round on his own initiative rather than, as now, waiting for an "invitation" from the referee.

As suggested by Dr. Doggett, the control agency should maintain a permanent medical history record on every licensed boxer, including the results of pre-fight physicals. At present, results of pre-fight exams are kept only in "event" files, not in boxers' individual files. Such medical histories should be required to be available at pre-fight examinations.

So-called cutmen who provide paramedic attention to boxers in their corners should be licensed according to standards set by the medical board. Substances used to close lacerations should be confiscated for laboratory analysis on a random basis. A more stringent but certainly safer approach would require the agency to appoint two cutmen for each event in the same manner in which it appoints other ring officials and to provide them with the medical materials to be used in their work.

### Conflicts of Interest

There may be good reasons why a New Jersey boxing representative should be a member of one or more of the national or international sanctioning bodies. Nonetheless, their purposes and interests are so at odds with those of the state's regulatory system as to require an absolute prohibition on officeholding in such organizations by any agency official or employee.

The sanctioning bodies should not be allowed any role whatsoever in the selection of ring officials for exhibitions in New Jersey. Similarly, no control agency regulation should ever be modified or waived to conform with a conflicting provision of a sanctioning body.

Compensation to all agency licensed officials including judges, referees and timekeepers, should be paid directly by the agency. Agency-licensed doormen and box office employees should be appointed by the agency rather than by a casino or other party against whom state gate taxes are to be assessed.

Lastly, OSAC must adopt a strict code of ethics, including a provision barring its officials and employees from accepting free meals, rooms or other gratuities from promoters or other licensees or any other entity participating in the sponsoring of an event. Also, officials, employees and appointees and their families (spouses, parents, children) should be barred from having any financial interest or contractual relationship with any person or entity operating in a capacity subject to licensure by the agency.

- 0 -

(The SCI's investigative team for this boxing report consisted of Deputy Director James J. Morley, team leader, and Attorney Gerard P. Lynch, Special Agents Wendy A. Bostwick, Dennis McGuigan, Kurt S. Schmid, Anthony Quaranta, Analyst Robert K. Lagay and Investigative Accountant Arthur A. Cimino).