

1 **Richard D. Ackerman, Esq. (171900)**
2 **ACKERMAN, COWLES & ASSOCIATES**
3 **29975 Technology Drive, Suite 101**
4 **Murrieta, CA 92563**
5 **(951) 308-6454 tel. / (951) 308-6453**
6 www.InlandValleyAttorneys.com

7
8 **BEFORE THE**
9 **CALIFORNIA STATE ATHLETIC COMMISSION**

10
11 IN RE:) CASE NO. 2009-0413-1
12)
13 Cease & Desist Order of 3/23/09)
14 as to USA BOXING ASSOCIATION, INC.) OSC HEARING
15) April 13, 2009
1:00 pm
Ronald Reagan State Bldg.
_____)

16
17 **AFFIDAVIT IN SUPPORT OF USA BOXING, INC.**

18 I, RICHARD D. ACKERMAN, do declare as follows:

- 19 1. I am a member of the United States Boxing Association (Member No. 2862294333) and I
20 am an attorney at law. I have been duly licensed to practice law in the State of California
21 since 1994. I am also licensed to practice law before the United States District Court
22 (Central, Southern & Eastern) within the State of California, the U.S. Ninth Circuit Court
23 of Appeals, the United States Tax Court, and the United States Supreme Court. A true and
24 correct copy of my curriculum vitae, as maintained on the Internet, is attached as Exhibit 1.
- 25 2. For the last five years, I have regularly served as a Judge Pro Tem for the Superior Court of
26 the State of California, in and for the County of Riverside. I regularly sit on the juvenile
27 dependency and delinquency panels and have had occasion to assist in the resolution of more
28 than 300 juvenile cases. On the small civil and criminal matters panel, I have resolved more

1 than 200 juvenile infraction cases, more than 100 misdemeanor dispositions, and
2 approximately 1000 small claims, unlawful detainer and civil harassment matters. In the
3 past, I have also served as a Volunteer In Probation for the Orange County Juvenile
4 Probation Department and in other capacities where I have been able to serve the needs of
5 troubled youth. Based on over a decade and a half of working with minors, I can honestly
6 say that USA BOXING provides a good outlet for thousands of young athletes, many of
7 whom might otherwise be in trouble.

8 3. I have served as a volunteer official for USA BOXING for the last year. During this time,
9 I have been trained in the Southern California LBC. I also submitted to a background check
10 as required under the current USA BOXING rules and regulations.

11 4. As a *pro tem* Superior Court judge, and as a litigator, I am familiar with the requirements
12 imposed on persons coming into contact with minors on a regular basis. In fact, I have
13 extensively litigated the issues of mandatory reporters failing to report suspected or actual
14 abuse of minors. From my perspective, I have seen nothing in the activities of the USA
15 BOXING ASSOCIATION that would suggest that there is any significant threat to minors
16 – so long as the current regulations and background checks are implemented and enforced.
17 If I felt otherwise, I would be the first to ‘whistle blow’ on any offenses which posed a threat
18 to children or the safety of participants.

19 5. During the last year, I have been allowed to “practice judge” over 75 bouts. At all times, I
20 was directly and closely supervised by an experienced official and was repeatedly advised
21 of the safety concerns that are recognized in each match. Each of my score cards were
22 examined for accuracy and, at all times, safety concerns were addressed on the spot
23 whenever they came up. I was hoping to complete my training over the next several months.
24 Unfortunately, my training has been cut off because of the actions of some persons in the
25 Northern California LBC. Frankly, I am quite disappointed in what has happened.

26 6. During the last year, I attended the training seminar required for new officials. This is where
27 I first came in contact with Mr. Joe Zanders. The training was carefully done and took about
28 a full day to complete at the Long Beach Police Activities League Gym. A test was given,

1 which I passed, and I was given the opportunity to meet many of the senior officials. In fact,
2 I did find the test to be much more difficult than I would have expected. Additionally, Mr.
3 Zanders and the other lead officials also displayed nothing but professionalism during the
4 process. I had the chance to observe part of the training given to coaches that day, along
5 with his involvement in all training that day. Mr. Eddie Hernandez was responsible for our
6 training (i.e., the officials), and was a consummate professional as well. Throughout the last
7 year, I have come to know and appreciate the dedication of Irma Ortiz, Joe Zanders, and
8 Eddie Hernandez, all of whom are associated with the Southern California LBC.

9 7. At no time, have I ever been given the impression that the boxers' safety was not important
10 or to be strictly abided in. To a minor degree, it seemed that the rules were too strictly
11 enforced so as to cause problems with practical issues regarding the process of putting a
12 boxing tournament together. However, the officials I've dealt with have been far more
13 concerned about safety and compliance with regulations than they were with simply getting
14 an event up and running. In fact, at one San Diego event, the event had to be held up for at
15 least 1.5 - 2.0 hours so as to ensure that all safety issues were addressed. This included a
16 mismatch that was caught and promptly addressed, weigh-in issues which were properly
17 addressed, and a delay in physical exam clearance by the attending physician. There did not
18 appear to be so much as a fleeting thought of short-cutting the regulations. I must say that
19 I was very much impressed by the adherence to regulation, even if it meant that some boxers
20 or coaches might be upset because of delays or the fact that their boxer might not be
21 participating at all because of a concern over safety.

22 8. During the times that I was in training, at several events during the last year, I experienced
23 weigh-in procedures, match-making processes, glove and wrap inspection, scheduling,
24 assignment of officials to particular rings, physician examinations, screening, and all other
25 processes involved in putting on a boxing event. At no time, did I observe anything but the
26 highest professionalism, orientation toward safety, and a sense of wanting to serve the
27 overall well-being and success of the participants.

28 9. At all times in the last year, I have been constantly reminded of the safety concerns of the

1 participants and have been told by local officials that safety was their first concern.

2 10. When I first signed up to be an official, I must admit that I was somewhat skeptical of the
3 notion that boxing was carried out as a safe sport, especially at the amateur level. However,
4 I found out quickly that this is the foremost concern in the Southern California LBC. In
5 fact, even after having been supervised for many dozens of matches, I am still in training and
6 have not officially judged nor refereed a match. At all times, even when I felt that I was
7 ready to do so, I was reminded that experience and safety are top concerns among the
8 officials that I worked with.

9 11. I was shocked and dismayed when I discovered that a cease and desist order had been issued
10 against USA BOXING, INC., late last month. I immediately took action to review the video
11 available from ABC News so that I could determine how bad the problem was. When I did
12 review the video clips concerning the investigation of what was going on in the Bay Area,
13 I was appalled. I could not believe that people would be sponsoring, participating in, or
14 supporting prize fighting amongst children. Moreover, I was surprised at the callousness of
15 the spokesman for the promoter of these primitive events. Most of my shock came from my
16 comparison of what I had experienced as an official in training and what was being
17 described as going on in Bay Area private clubs. There simply is no comparison and it
18 seems incredibly unfair that the Southern California LBC should be deprived of its ability
19 to serve the community as it has for so many years.

20 12. From a legal liability standpoint, I must say that the activities of the Northern California
21 LBC, as described by ABC News, and as described further in your Memorandum of 4/7/09,
22 do stand out as a serious issue that must be addressed. However, it seems that significant
23 sanctions, or even a criminal prosecution for gambling, would be the appropriate remedy to
24 deal with the described activities (especially with respect to the wagering and prize-fighting
25 with child-boxers).

26 13. I personally see no problem with the recommendations set forth at pp. 3-4 of the CSAC
27 Memorandum, dated 4/7/09, wherein it is suggested that physical examinations take place,
28 that financial dealings be monitored, and that inspectors be present at events. All such

1 requirements seem reasonable where not preempted by federal law.

2 **Comments on Questions Raised by CSAC**

3 14. From a legal perspective, it does seem that maintaining a centralized data center for boxer
4 information would be beneficial. However, at this time, it does not seem that there is any
5 proprietary software that would allow for efficient management of the data relating to boxers
6 and which would capture and report the data that would be required in order to ensure
7 compliance with all applicable safety and demographic data concerning boxers. Also, the
8 Commission does not address privacy or other concerns that might arise under HIPPA with
9 respect to ringside physician-based data. It seems that implementation of an adequate
10 software and hardware infrastructure would take more than six months. In the interim, it is
11 respectfully submitted that the existing documentary requirements remain in place.

12 15. The requirement that background checks be implemented is non-objectionable to the extent
13 that no more is required of boxing personnel than would be required of other persons
14 associated with youth-oriented sports such as soccer, baseball, football, etc., in California.

15 16. Based on my experience, particularly at the San Diego event referenced above, it does
16 appear that the current matching system does work to provide safety measures against
17 mismatches. The current system requires an official review of the number of prior matches,
18 success rates, and weight class. Based on my personal experience, it appears that the current
19 system involves review by one or more officials before any match can go forward. As
20 indicated above, I personally experienced the process of seeing a match called off for safety
21 reasons which were picked up during this review process. I also noticed that a good portion
22 of the review was completed through the process of event registration by boxer-participants
23 and double-checking at the time of the actual event.

24 17. I have no personal knowledge of the financial aspects of USA BOXING in Southern
25 California or elsewhere.

26 **Comments on Recommendations**

27 18. Having a boxing official at each corner seems impractical given the resources available to
28 USA BOXING and the State of California. Rather, it seems that strong interaction between

1 the corners, the judges, and the referee is the more practical way of dealing with safety
2 during a match. Much of what happens is judged on a second-by-second evaluation by the
3 participants, the judges, the referee, the coaches, and the timekeeper. If all such persons are
4 trained in safety, then it does not seem that an additional two staff per ring will be helpful.
5 If anything, having additional personnel could cause confusion and even, perhaps, a greater
6 safety risk because of additional distraction.

7 19. It does not seem that additional requirements should be placed on boxing officials which are
8 not placed on other youth activities and sports. As the Commission likely knows, not all
9 persons involved in youth sports such as soccer, baseball, football and the like, are required
10 to submit to extensive background checks nor LiveScan. To some extent, this is an Equal
11 Protection issue that is not adequately addressed in the Recommendations.

12 20. With respect to Recommendation No. 4, it seems that stringent enforcement of existing rules
13 and regulations would remedy the harms sought to be avoided by the Commission. Again,
14 having experienced the training myself, it is abundantly clear that more can be accomplished
15 through existing rules and caring professionals such as the persons who trained me (i.e.,
16 Eddie Hernandez, Irma Ortiz, and others).

17 21. As to the scheduling of shows, it seems that the Commission's recommendations could be
18 implemented so long as any pre-approval review or application period does not exceed more
19 than 30 days and the paperwork is not overly burdensome or complicated. As the
20 Commission knows, events require much planning and hard work by promoters and
21 participants ahead of time.

22 22. USA BOXING has the most experience with amateur boxing and it seems that they are in
23 the best position to direct and manage the day-to-day affairs of the sport. Again, I have
24 personally experienced the consistency, safety-mindedness, and professionalism
25 demonstrated by ranking officials with USA BOXING. Unfortunately, a few 'bad apples'
26 in Northern California have caused a horrific situation that does not accurately reflect the
27 hard work and dedication demonstrated by officials in Southern California.

28 23. Having a number of internal regulatory compliance officers, associated with USA BOXING,

1 would be a better use of resources than having additional State employees hired to supervise
2 amateur boxing events. I would respectfully propose that the Commission consider the
3 implementation of a regulatory compliance division within USA BOXING which would be
4 required to report from each event directly to the Commission by pre-approved regulatory
5 compliance forms and procedures. I would be more than willing to work with USA
6 BOXING and the Commission to develop such forms and to define the scope of a regulatory
7 compliance arm of USA BOXING.

8 24. I implore the Commission to give the utmost consideration to the needs of the many people
9 involved in the sport of boxing. Many of the kids involved in this sport would otherwise be
10 out on the streets and in trouble if it were not for the positive environment created by local
11 gyms and the opportunity to participate in sports. If even one kid is lost to the streets
12 because of unnecessary delays or the selfish acts of a few in Northern California, a great loss
13 will be felt by all.

14 25. I sincerely thank the Commission for its attention to the issues presented in this matter.

15 I declare under penalty of perjury that the foregoing is true and correct to the best of my
16 personal knowledge. If called to testify as to these facts, I would and could competently do so.

17 Executed this 13th Day of April 2009, in the City of Murrieta, State of California.

18
19 [Original signature provided to Commission]

20 _____
21 RICHARD D. ACKERMAN, Declarant.
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "1"

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Copy of following attached:

<http://www.avvo.com/attorneys/92563-ca-richard-ackerman-48193.html>