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BEFORE AN ARBITRATOR  
STATE ATHLETIC COMMISSION  
STATE OF CALIFORNIA

In the Matter of the Arbitration of Contract  
Dispute Between:

**BOWIE TUPOU, Boxer**

**and**

**RICHARD WILNER, Manager.**

Case No. **010809-1**

**DECISION OF THE ARBITRATOR**

The above captioned arbitration matter came on regularly for hearing before Dean Lohuis, Chief Inspector, of the California State Athletic Commission, the Arbitrator duly appointed by the Commission. The matter was convened at 10:30 a.m. on January 8, 2009 at the Office of the Attorney General in Los Angeles pursuant to written notice to all parties. Karen Chappelle, Supervising Deputy Attorney General acted as counsel to the Arbitrator. Bowie Tupou, Licensed Boxer (Hereinafter "Boxer") appeared and represented himself. He was present with John Elmer, a friend and his wife, Georgia Tupou. Manager Richard Wilner, Esq. (Hereinafter "Manager") was present and represented himself. Both parties were prepared to proceed. Based upon the Notices to the parties, and following the taking of testimony of the parties under oath, and following receipt of documents in evidence and upon taking official notice of the records and proceedings of the California State Athletic Commission and following submission of the parties of oral arguments on

1 the evidence and due consideration thereof, the Arbitrator now makes the following:

2 **FINDINGS OF FACT**

3 1. Boxer and Manager were at the time of the making of the Boxer/Manager  
4 contract which is the subject of this arbitration, both licensed by the Commission and  
5 Boxer and Manager are currently licensed in California.

6 2. On February 8, 2007, Boxer and Manager appeared before an official of  
7 the Commission in Los Angeles and executed a standard boxer/manager contract, the term  
8 of which was five (5) years. The contract was approved by the Commission on or about  
9 February 8, 2007.

10 3. In or about December 2008, Boxer requested arbitration of the contract  
11 pursuant to Section C.4 of said agreement, specifying violations of either laws governing  
12 boxing or regulations of the Commission, and requesting that the Commission terminate  
13 the contract.

14 4. Thereafter the matter was set for hearing by written notice.

15 5. Boxer is currently 26 years old and has an overall  
16 record of 15 wins, no losses with 12 of his wins by knock out. During the course of his  
17 contract with Manager, Boxer has had five bouts and was the winner all of them.

18 Boxer testified to his dealings with Manager. Boxer met manager in  
19 November 2006, at a rugby game in Newport Beach California. They had a conversation  
20 in which Boxer informed Manager of his dream to move to the United States from  
21 Australia and box as a heavyweight. Subsequently, Boxer first returned to Australia to  
22 discuss matters with his wife, and then returned to the United States on December 26,  
23 2007 whereupon, Manager picked them up from the airport. Thereafter, arrangements  
24 were made for Boxer to train at the Wild Card Gym, which was near the Vagabond Inn  
25 where Boxer was located. The plan was for boxer to train with Freddie Roach and Justin  
26 Fortune at the Wild Card gym in Hollywood, California. Boxer testified that he became  
27 concerned over his lack of improvement working with Justin Fortune. He moved to Las  
28

1 Vegas and began to train with Jeff Mayweather. Boxer testified that he was improving, but  
2 after a while wanted to improve even more and began to work with Eddie Mustafa who  
3 helped him with sparring. Up until that time, Manager was paying Boxer's expenses and  
4 continued to pay Boxer while in Las Vegas.

5 Boxer testified that he wants to get out the contract because Manager wants  
6 him to do Ultimate Fight Championship ( UFC) events and that he has not arranged for a  
7 fight since September 2008.

8 Manager then testified to his work with Boxer. Manager admitted that he  
9 suggested UFC to Boxer as an option due to his background ( rugby) and his physique.  
10 Manager also testified that Boxer trains very hard, works hard and that fights were booked,  
11 but they fell through. Manager also testified to the relationship with trainer Justin Fortune  
12 and Boxer. He indicated that Justin would yell and curse at Boxer, and tell him to be tough,  
13 and that after the Ramon Hayes fight in April 2008, they no longer got along, and Boxer  
14 wanted to switch trainers. Manager suggested moving to Northern California and working  
15 with another trainer, and also considered moving him to New York City. Manager was not  
16 opposed to Boxer switching trainers, but was opposed to the way Boxer did so by simply  
17 moving to Las Vegas without telling him beforehand.

18 Manager testified that many fights fell through that he had arranged for Boxer.  
19 He does not oppose the release of Boxer, but wants to be paid for his expenses that were  
20 incurred on behalf of Boxer. Manager testified and Boxer agreed that Boxer was allowed to  
21 keep the manager's share from his fights as well as the purse. He testified that there are  
22 no manager fees owing. However, a number of other expenses were established through  
23 documentary evidence. Manager's declaration lists a number of items for which he seeks  
24 reimbursement. Manager seeks reimbursement for filing for immigration papers for boxer.  
25 He asserts that he charges \$5,000.00 as a flat rate to perform this service. This amount is  
26 found by the commission to not be allowed due to the fact that Boxer is his client. The  
27 filing fees in the total amount of \$1, 320.00 are allowed as well as the \$75.00 Fed. Ex fees

1 for shipping the documents. Manager is entitled to reimbursement for a last minute one  
2 way plane ticket to the United States from Australia in the amount of \$2, 200. Manager  
3 also established that he had paid the rent and expenses for Boxer and his wife in  
4 Hollywood, California in the amount of \$9,000 ( \$750.00 per month for 12 months). The  
5 amount Manager paid for Boxers utilities and cable for that same time period is also  
6 reimburseable in the amounts of \$1,200 and \$880.00 respectively. The cell phones and  
7 internet service used by Boxer and his wife were also paid by Manager and amounted to  
8 \$1, 680. Additionally, Manager testified that he also provided monthly checks to Boxer  
9 and his wife for groceries in the amount of \$400.00 per month for a total of \$4, 800.

10           Manager paid the training fees and gym fees at LB4LB in the amount of \$196.00.  
11 Manager is entitled to half of that amount for a total of \$98.00. The medical fees for  
12 licensing are found to have been paid by Manager, and he is entitled to \$750.00. Manager  
13 is not entitled to reimbursement for the money he gave to Boxer while he was in Las  
14 Vegas.

#### DETERMINATION OF ISSUES

15           1. The Arbitrator has jurisdiction over the parties and over the subject  
16 matter of the arbitration and pursuant to the boxer-manager contract between the parties  
17 thereto, may issue an appropriate order.

18           2. The boxer has not met his burden of proving that the manager has  
19 engaged in illegal conduct in violation of the laws and regulations of the Commission  
20 which would establish legal cause for issuance of an order terminating the contract.

21           3. However, the evidence has established that the  
22 personal relationship between the boxer and manager has deteriorated to the point where  
23 an impasse exists has been created which is not good for either party or for boxing in  
24 general.

25           4. A boxer-manager contract by its very nature is a contract for the  
26 performance of personal services and contains an implied covenant and promise by both  
27 parties of good will and mutual cooperation, which in this case has been frustrated. The  
28



1 manager acknowledge that he or she has been provided with a copy of this decision.

2 4. Boxer and any new manager he obtains shall truthfully report to the  
3 Commission the amount of money actually paid to him for each bout wherever it takes  
4 place and the failure to accurately and truthfully report and account for purse monies will  
5 constitute grounds to suspend the license of boxer as well as the license of any future  
6 manager of boxer or any promoter who falsely reports amounts of purse money in any  
7 bout agreement or in any bout in which Boxer participates.

8 This Decision shall become effective on March 1, 2009.

9 DATED: Feb. 26, 2009

10  
11 DEAN LOHUIS, CHIEF INSPECTOR  
12 STATE ATHLETIC COMMISSION  
13 ARBITRATOR

14 

15 KAREN CHAPPELLE  
16 Supervising  
17 Deputy Attorney General  
18 Attorney for Arbitrator  
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**DECLARATION OF SERVICE BY MAIL**

Re: **BOWIE TUPOU**, Boxer and **RICHARD M. WILNER** Manager  
State Athletic Commission Case No. 010809-1

I am over 18 years of age, and not a party to the within cause; my business address is 300 South Spring Street, Suite 1702, Los Angeles, California 90013; I served a true copy of the attached **DECISION OF THE ARBITRATOR**, on each of the following, by placing same in an envelope addressed as follows:

**RICHARD M. WILNER**  
**Wilner & O'Reilly, APLC**  
**17777 Center Court Drive N., Suite 200**  
**Cerritos, CA 90703**

**BOWIE TUPOU**  
**3756 Wynn Rd., Apt. 421**  
**Las Vegas, Nevada 89103**

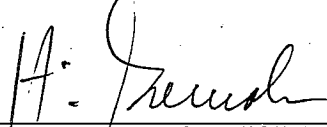
**BILL DOUGLAS**  
**Assistant Executive Officer**  
**State Athletic Commission**  
**2005 Evergreen Street, Suite 2010**  
**Sacramento, CA 95815-3831**

I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Each said envelope was then, on **February 27, 2009**, sealed and deposited in the United States Mail at Los Angeles, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on **February 27, 2009**, at Los Angeles, California.

  
**HENRIETTA E. GAVIOLA**  
Declarant

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Re: **BOWIE TUPOU**, Boxer and **RICHARD M. WILNER** Manager  
State Athletic Commission Case No. 010809-1

I am over 18 years of age, and not a party to the within cause; my business address is 300 South Spring Street, Suite 1702, Los Angeles, California 90013; I served a true copy of the attached **DECISION OF THE ARBITRATOR**, on each of the following, by placing same in an envelope addressed as follows:


**BOWIE TUPOU**  
**5280 Bldg #6 Apt #2023**  
**Las Vegas, Nevada 89118**

I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Each said envelope was then, on **March 3, 2009**, sealed and deposited in the United States Mail at Los Angeles, California, the county in which I am employed, with the postage thereon fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on **March 3, 2009**, at Los Angeles, California.

  
HENRIETTA E. GAVIOLA  
Declarant



1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 State Bar No. 141267  
300 South Spring Street, Room 1702  
4 Los Angeles, California 90013  
Telephone: (213) 897-8944  
5 Facsimile: (213) 897-2804  
Attorneys for Arbitrator  
6

7  
8 **BEFORE AN ARBITRATOR**  
**OF THE STATE ATHLETIC COMMISSION**  
9 **STATE OF CALIFORNIA**

10 **BOWIE TUPOU,**

11  
12 Boxer,

13 and

14 **RICHARD M. WILNER,**

15  
16 Manager.  
17  
18

Case No.: 010809-1

**NOTICE OF ARBITRATION**

Date: **January 8, 2009**

Time: **10:00 A.M.**

Place:

Ronald Reagan State Office Building  
Office of the Attorney General, Suite 1702  
Conference Room No. 10023N  
300 South Spring Street  
Los Angeles, CA 90013

19 **TO: BOWIE TUPOU, Boxer, and RICHARD M. WILNER, Manager:**

20 EACH OF YOU WILL PLEASE TAKE NOTICE that pursuant to paragraph C.4.  
21 of the five (5) year boxer-manager contract entered into on February 8, 2007, which contract has  
22 been approved by and is on file with the State Athletic Commission ("Commission").

23 **BOWIE TUPOU**, "the Boxer" has requested arbitration of disputes concerning  
24 said contract.

25 The arbitration hearing in the above entitled matter will be held before Assistant  
26 Executive Officer Bill Douglas, on **January 8, 2009 at 10:00 a.m.** or as soon thereafter as the  
27 matter may be heard at:  
28

1 **Ronald Reagan State Office Building**  
2 **Office of the Attorney General, Suite 1702**  
3 **Conference Room No. 10023N**  
4 **300 South Spring Street**  
5 **Los Angeles, CA 90013**

6 You may, but need not be, represented by counsel.

7 **EACH OF YOU IS FURTHER NOTIFIED THAT** among the issues to be  
8 determined at the arbitration are whether legal cause exists to terminate or otherwise adjust the  
9 contract, whether relations between the parties have deteriorated to the point where the contract  
10 should be terminated or otherwise adjusted, and/or whether any party thereto should be  
11 compensated in a reasonable amount for the termination of the unexpired portion of the contract  
12 after adjustment for any outstanding purses, advances, loans, sums due and owing to trainers, and  
13 all other pertinent financial transactions and adjustments between the parties relating to the  
14 boxer-manager relationship.

15 **EACH OF YOU IS FURTHER NOTIFIED THAT** you are required to be  
16 personally present, if you do not appear at the time and place designated without having obtained,  
17 prior to the hearing, a continuance from the arbitrator by showing good cause therefor, you will  
18 be in default and the arbitration will be held without you; if there are any witnesses you believe  
19 are necessary to produce evidence on your behalf, then it is your responsibility to see that they are  
20 at hearing; and, if you have any documents or records, or true copies thereof, which you believe  
21 are relevant to this dispute, you must bring them to the hearing. If you wish to submit a brief,  
22 please deliver it no later than seventy-two (72) hours prior to the hearing to:

23 **KAREN B. CHAPPELLE**  
24 **Supervising Deputy Attorney General**  
25 **Office of the Attorney General**  
26 **300 South Spring Street, Suite 1702**  
27 **Los Angeles, CA 90013.**

28 Please bring your copy of the contract to the hearing.

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Any request for a continuance, for additional issues to be considered, or questions concerning this matter, must be delivered to the arbitrator's attorney, Supervising Deputy Attorney General **KAREN B. CHAPPELLE** at the address and telephone number on the first page of this notice.

DATED: December 8, 2008.

BILL DOUGLAS  
State Athletic Commission  
Assistant Executive Officer

By   
KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
Attorney for Arbitrator



**DECLARATION OF SERVICE**

(Certified Mail)

Case Name:

Bowie Tupou (Boxer) and Richard M. Wilner (Manager)

Case No. 010809-1

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 So. Spring St., Los Angeles, CA 90013

I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On December 10, 2008, I served the attached **NOTICE OF ARBITRATION** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, in the internal mail collection system at the Office of the Attorney General, addressed as follows:

**RICHARD M. WILNER**  
**Wilner & O'Reilly, APLC**  
**17777 Center Court Drive N., Suite 200**  
**Cerritos, CA 90703**

Certified Mail No. 7001 0360 0003 6742 1538

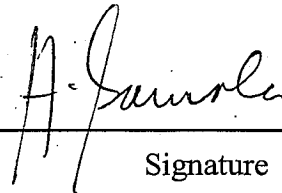
**BOWIE TUPOU**  
**3756 Wynn Rd., Apt. 421**  
**Las Vegas, Nevada 89103**

Certified Mail No. 7001 0360 0003 6742 1545

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 10, 2008, at Los Angeles, California.

Henrietta Gaviola

\_\_\_\_\_  
Typed Name



\_\_\_\_\_  
Signature

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**RICHARD M. WILNER**  
**Wilner & O'Reilly, APLC**  
**17777 Center Court Drive N., Suite 200**  
**Cerritos, CA 90703**

2. Article Number (Copy from service label)

7001 0360 0003 6742 1538

**COMPLETE THIS SECTION ON DELIVERY**

- A. Received by (Please Print Clearly) **CLARISSA LACHICA** B. Date of Delivery **12-11**
- C. Signature **[Signature]**  Agent  
 Addressee
- D. Is delivery address different from item 1?  Yes  
 No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

(Endorsement Required) Here

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$

**RICHARD M. WILNER**  
**Wilner & O'Reilly, APLC**  
**17777 Center Court Drive N., Suite 200**  
**Cerritos, CA 90703**

PS Form 3800, January 2001

See Reverse for Instructions

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

**OFFICIAL USE**

Postage \$

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**BOWIE TUPOU**  
**3756 Wynn Rd., Apt. 421**  
**Las Vegas, Nevada 89103**

2. Article Number (Copy from service label)

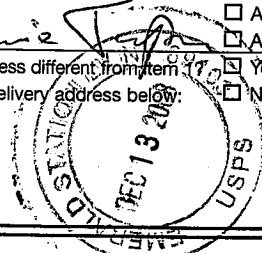
7001 0360 0003 6742 1545

**COMPLETE THIS SECTION ON DELIVERY**

- A. Received by (Please Print Clearly) **B. Tupou** B. Date of Delivery **12-11**
- C. Signature **[Signature]**  Agent  
 Addressee
- D. Is delivery address different from item 1?  Yes  
 No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

(/9) 331 S11