



California State Athletic Commission

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CALIFORNIA STATE ATHLETIC COMMISSION

Tuesday, December 4, 2007

9:00 A.M. – 1:30 P.M.

**Junipero Serra State Building
 Carmel Room
 320 West Fourth Street
 Los Angeles, California 90013**

Minutes

Commissioners Present:

June Collison	Howard Rose
Mario Rodriguez	Peter Lopez
Timothy Noonan	Julio Ramirez

Commissioners Absent:

Christopher Giza, M.D.

Staff Present:

Armando Garcia, Executive Officer	Bill Douglas, Associate Governmental Program Analyst
Dean Lohuis, Chief Athletic Inspector	Sid Segovia, Athletic Inspector
Spencer Walker, Legal Counsel, DCA	Mark Relyea, Athletic Inspector
Anita Scuri, Legal Counsel, DCA	Karen Chappelle, Deputy Attorney General

Agenda Item 1. The meeting was called to order at 9:15 a.m. Executive Officer, Armando Garcia, called the roll. Commissioners present and accounted for: Collison, Noonan, Lopez, Rodriguez, and Rose. Commissioner Ramirez arrived at 10:20 a.m. Commissioners absent: Giza

Agenda Item 2. All Commissioners led the attendees in the Pledge of Allegiance.

Agenda Item 3. Appeals of Suspensions and Fines

Sean Sherk

Howard Jacobs, representing Sean Sherk, asked the Commission for the appeal hearing to be postponed until the arrival of Commissioner Julio Ramirez. The matter was set aside in order to wait for the arrival of Commissioner Ramirez.

Kazuhiro Nakamura

Marc Levine and Craig Holiday represented Kazuhiro Nakamura in legal matters. Tadashi Saijo represented Mr. Nakamura and is his Manager.

There was a legal objection by Mr. Levine in regard to the formality or informality of the hearing. The Commission has not adopted any regulations to turn this into an APA hearing. Mr. Walker explained the timeframes in regard to formal hearings which can take up to one year.

Mr. Nakamura's attorneys proposed that Mr. Nakamura would serve the suspension and pay the fine but after that, the action be withdrawn as if it never happened.

Commissioner Collison questioned how the attorneys could question the positive test and make a statement that their client had never used drugs.

A motion was made on the proposal of Mr. Nakamura serving the suspension and paying the fine but withdrawing the violation – no second therefore the motion failed.

Ms. Chappelle discussed the timeline in front of the Commission. Mr. Nakamura's attorneys stated that Mr. Nakamura and his representatives were not fluent in the English language. Executive Officer Garcia pointed out that Mr. Saijo was at the rules meeting in the front row for the event in question and he was also present at the drug test as the interpreter for Mr. Nakamura.

Ms. Chappelle pointed out that the chain of custody paperwork matched the lab test results. Mr. Nakamura's representation then started to question the chain of custody of the sample. Executive Officer Garcia explained the process of acquiring a litigation packet and stated by the time Mr. Nakamura hired legal representation, it was too late to obtain the information before the scheduled hearing.

Ms. Chappelle restated the citation amount for the Commission.

Motion by Commissioner Collison to uphold the 90 day suspension and \$500 fine was seconded by Commissioner Noonan. Unanimous vote to uphold the suspension and fine.

Adam Smith

Mr. Smith failed to appear for his hearing after being properly notified. It was motioned, seconded, and carried to dismiss the appeal.

Suspension and fine are upheld.

Sean Sherk (con't)

Mr. Jacobs stated that he still had not received everything from the Commission staff in regard to paperwork. AGPA Bill Douglas stated that everything that could have possibly been shared with Mr. Jacobs was in fact shared.

Ms. Chappelle advised the Commission of the timeline regarding this appeal. Mr. Jacobs stated the defense in the appeal for Mr. Sherk was 1) strict liability, 2) chain of custody, and 3) affirmative defense of a contaminated substance.

Mr. Sherk was sworn in and then read with his personal statement. Mr. Sherk stated that he knew he would be tested so there was no reason for him to use prohibited substances. Mr. Sherk stated his financial position in order to defend himself against the charges. Mr. Sherk stated that he was willing to do anything to prove his innocence.

Mr. Jacobs gave a PowerPoint presentation in relation to the defense of Mr. Sherk.

Mr. Walker advised Mr. Jacobs that the Commission can take any position on this appeal because the presentation appears that it is geared toward the Commission not having the authority to dismiss the violation when in fact, the Commission could choose that route. Mr. Walker continued that the doping offense has already occurred and Mr. Jacobs is focused on "if a doping offense has occurred." The doping offense already occurred.

Mr. Jacobs requested a complete dismissal of the suspension and fine but indicated that a five month and no longer than six month suspension should be the maximum based on previous appeal cases that have appeared before the California State Athletic Commission. Mr. Jacobs cited the appeals of James Toney and Phil Baroni.

Commissioner Noonan asked for Dr. Barry Sample's position on the carryover issues. Dr. Sample stated that he was going to respond to each page that Mr. Jacobs pointed out in his PowerPoint presentation. Dr. Sample refuted Mr. Jacobs' defense.

A motion was made and seconded to uphold the suspension and fine. Motion failed: 2 to uphold (Collison, Rodriguez), 4 opposed (Lopez, Noonan, Ramirez, Rose).

A motion was made to modify the suspension to six months and uphold the fine. Motion failed: 3 to modify (Lopez, Ramirez, Rose), 3 opposed (Collison, Noonan, Rodriguez).

After further discussion between the Commissioners, a motion was made to modify the suspension to six months and uphold the fine. The motion carried: 4 to modify (Lopez, Noonan, Ramirez, Rose), 2 opposed (Collison, Rodriguez).

Mr. Sherk's suspension is modified to six months and his fine is upheld at \$2,500.

The following agenda items were taken out of order to accommodate a departing Commissioner:

Agenda Item 5. Appointment of Officials for Championship and televised bouts

A motion was made by Commissioner Noonan to move this item to the April Commission meeting in Los Angeles, California. Unanimous vote to move Agenda Item 5 to the April meeting.

Agenda Item 9. Agenda items for future meetings

Pension update
Proposal for arbitration and appeal procedures
Elections of Chair and Vice-Chair

Agenda Item 10. Future meeting dates

Future meeting dates:
February 5, 2008 – Commission Meeting (10:00 am) in Sacramento, California
February 6, 2008 – Board Member/Commissioner Training in Sacramento, California (mandatory training session)
April 22, 2008 – Commission Meeting (9:30 am) in Los Angeles, California

Agenda Item 11. Closed session

A motion was made by Commissioner Noonan to move this item to the February Commission meeting in Sacramento, California. Unanimous vote to move Agenda Item 11 to the February meeting.

Commissioner Noonan left the meeting.

Agenda Item 4. Executive Officer's Report

Executive Officer Garcia stated the Executive Officer's Report is available in their packets for their review.

Agenda Item 6. Officials' training and selection of new officials

Marty Denkin spoke about why officials in Southern California do not get mixed martial arts assignments. Mr. Denkin also discussed television positions in regard to assignments.

Commissioner Ramirez asked Chief Athletic Inspector Dean Lohuis if the document that Mr. Denkin supplied to the Commission is correct. Mr. Lohuis states that it is fairly accurate. Executive Officer Garcia states only the Southern California officials are represented on Mr. Denkin's handout.

Mr. Denkin discussed money earned in regard to assignments. Commissioner Rodriguez noted that Mr. Denkin's assignments are right at the top with every other official. Mr. Denkin questioned why he had not been assigned to world title fights and only received regional title fights.

Executive Officer Garcia clarified the assignment of officials with Mr. Lohuis in front of the Commission.

Executive Officer Garcia stated that evaluations have not been conducted in over ten years within the Commission.

Executive Officer Garcia stated that he has held informational meetings in regard to training and the only topic of discussion that came up was television assignments and money earned for the event.

Commissioner Rodriguez commented on fair opportunities for all officials.

Pat Russell commented on the fact that referees and judges in California are the best in the world. Mr. Russell made reference to a packet of documents for review by the Commission.

Ray Armendariz asked for fairness in the selection process of new officials as compared to the selection process of the past.

Zack Young asked for the selection process to be transparent in the criteria as compared to the criteria of the past.

Agenda Item 7. Anti-doping disciplinary guidelines

Executive Officer Garcia discussed his recommendations for guidelines. This agenda item was tabled for a future meeting.

Agenda Item 8. Public Comment on matters not on the agenda

Ray Corona

Mr. Corona discussed exposure on television in regard to assignments. Mr. Corona stated that he did not want to become a victim of guilt by association with his relationship with Marty Denkin as it could affect his assignments.

Jerry Cantu

Mr. Cantu discussed his wearing of sunglasses at an event in September 2007. Mr. Cantu did not appreciate the fight that he was working being stopped by a physician.

Executive Officer Garcia stated that physicians and referees both have the right to stop a fight under our current regulations.

Mr. Cantu stated that Executive Officer Garcia demanded the doctor stop the fight.

Executive Officer Garcia denied the allegation by Mr. Cantu.

Jesse Rodriguez

Mr. Rodriguez discussed a problem regarding a contract with a boxer and the timelines for arbitration. Mr. Rodriguez attempted to discuss a protest of a decision in regard to another boxer.

Executive Officer Garcia advised Mr. Rodriguez that he would be receiving a letter in regard to the protest of the decision.

Lou Moret

Mr. Moret advised the Commission that when they evaluate Executive Officer Garcia to look at the fairness and favoritism of assignments and how they are distributed. Mr. Moret stated the complaints are about the opportunity being taken away to display their skills for the world to see. Mr. Moret stated that California gives Nevada officials more opportunities in California than Nevada gives to California officials.

Agenda Item 12. Adjournment

The meeting was adjourned at 1:12 p.m.