Written by Charles Jay
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The 43rd Round

I want to bring to your attention a press release, issued a couple of weeks ago:

News Release, February 27, 2003
(A formal announcement will be made at a New York City press conference on March 11th)

F.I.S.T. ANNOUNCES AFFILIATION WITH OPEIU & AFL-CIO
By Joe Sano, F.I.S.T. and Executive Director of OMCE

On February 11, 2003, the F.I.S.T. Board of Directors voted to approve an affiliation between F.I.S.T. and OPEIU, Office and Professional Employees Union, Local 153, AFL-CIO (http://www.bway.net/opeiu-153/
), thus making F.I.S.T. a not-for profit guild-The Boxer's Guild. Guilds throughout time have focused on upholding fair and equitable standards for the profession while providing mutual aid and promotion of its members' common interests.

This is a bold step! Immediate benefits to F.I.S.T.'s members will be:

- F.I.S.T. members will receive all services and benefits of OPEIU, OPEIU #153 and AFL-CIO members including the $3000 death benefit, $225 disability payment as well as all Union Plus benefits, scholarships, Labor Council membership and official eligibility of our members for Consortium for Workers' Education benefits

- Access to a Health Insurance plan NYC Metro area (HMO) includes dental payments, eye care and prescription drugs (through HIP- Health Insurance Plan of New York cost is $255.18/mo individual, Individual & child(ren) $466.03, Individual and Spouse $500.32 and Family $759.99

- Members actively fighting get a FREE review of a boxer/manager contract. Such contracts will be compared to the contract principles drawn up by the Muhammed Ali boxing bill and the model contract of the Attorney Generals' Task Force on Boxing.

- Active boxer members will be able to use the OPEIU counsel for any litigation arising from these contracts at a set rate of $150 per hour.

- As stated in the by-laws of F.I.S.T. a variety of memberships will be offered to active, retired and friends of boxing. Dues will be set to include per capita payments to OPEIU international, Local 153 and to F.I.S.T. as determined by the Board of F.I.S.T. Initial dues are projected at $10 per month.

The OPEIU and the AFL-CIO have dedicated themselves to reaching out and encouraging non-traditional working people engaged as independent contractors to join the labor movement.

F.I.S.T. is proud to be part of OPEIU - one of the leading unions in the AFL-CIO

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Well, the press conference was indeed held on Tuesday, and as promised, it was to announce the formation of what was referred to as a "boxers' guild".

When it comes down to it, this association will have the full force and effect of a union, at least to the extent that it can represent individuals who are independent contractors.

It should be clear that no one is inviting a bunch of fighters to come aboard for a free helping of the benefits of membership in the OPEIU. There are union dues to be paid. There are union rules that no doubt have to be adhered to. Indeed, these kinds of "benefit packages" as was listed in the press release are a key membership recruitment tool; part of an overall strategy for union organizing, as outlined at the following URL: http://63.250.1.227/frames/index.html

According to Article II of the OPEIU Constitution, “The International Union shall be devoted and dedicated to promoting, protecting and championing the legitimate struggles of professional, technical, office and clerical employees toward achieving economic well-being, their general welfare and rights as workers and citizens.”

Yes, this is a de facto union effort. But I don't wish to get into semantics here - I really wouldn't care whether this group called itself a union, a guild, an association, or an exaltation of larks. Let's call it something we can all agree on - a SUPPORT GROUP FOR ACTIVE BOXERS. For purposes of making the points contained herein, I'm more concerned with FUNCTION than anything else.

According to a MaxBoxing article, at the press conference, Gerry Cooney, the founder of F.I.S.T., said, "We respect the fighters' individuality, and the fact that they are independent contractors. We also represent the boxer's right to fair and equitable contracts modeled on the Muhammad Ali boxing bill, and the model contract spelled out by the Attorney General's Task Force on Boxing."

And Joe Sano, the current F.I.S.T. president, said, in referring to active boxers that might join the organization, "That active boxer needs our assistance in reviewing a contract, if there's a problem in litigating that contract. Then we feel that that's the best way to put our efforts at this time. That's where the industry is at."

Sano also indicated to us on Monday that an active fighter with membership in F.I.S.T. would also simultaneously have membership in the OPEIU - a union - and that, in the event a fighter within the membership was victimized by someone in violation of the Ali Act, the union would put itself in a position to offer advice and counsel to that individual, not to mention making the OPEIU union attorneys available (for a fee).

So while there is not necessarily a collective bargaining component involved, there would appear to be little doubt that the OPEIU, by definition, represents itself as an entity that would support the rights of individual fighters, if requested, in certain dealings with their so-called "employers", e.g., promoters, where there was a grievance or a certain issue of principle at stake.

I think it's important for that foundation to be established.

Not that there's anything wrong with any of that. In fact, it would appear to be a good thing indeed that fighters might have access to benefits they wouldn't have otherwise.

As far as I can tell, F.I.S.T. is a good, worthwhile organization, with the very best of intentions. Steve Farhood, one of the founders along with Cooney, is a high-quality individual who has worked hard on F.I.S.T. fund-raisers in the past.

But I wonder if any of these guys fully realize what they've potentially gotten themselves into.

The problematic aspect of this "association" starts with the F.I.S.T. Board of Directors. It includes, among others, Jay Larkin, executive producer of Showtime's sports and event programming; Ross Greenberg, president of HBO Sports; Kery Davis, vice-president of HBO, also in the "boxing department"; Bobby Czyz and Farhood, both employees of Showtime; and Lou DiBella, a promoter. Maybe I'm just guessing, but I would imagine all of these people have given financial support to F.I.S.T., or have lent their names to an effort to raise funds. And ALL of them, as indicated on the F.I.S.T. press release, had an opportunity to vote on F.I.S.T.'s association with the union.

What do these people have in common? Well, they could all, at one time or another, find themselves on the opposite side of the table in any given instance where a fighter who has signed up with F.I.S.T. - and becomes a member of the OPEIU, affiliated with the AFL-CIO - might be looking for someone to "support" his/her rights in a grievance. Obviously we're talking about grievances that involve those principle which represent something any active boxers' support group would - and should - be standing squarely behind.

Considering some of the composition of the F.I.S.T. board, this could easily represent a very clear conflict of interest, although I'm sure this must have been something unforeseen by the F.I.S.T. administrators.

But let's put it this way - if I were an operative of a "support" group for active fighters, especially one that is associated with a union, one of the most important issues on my slate would involve the principle of financial disclosure. I'd be wanting to know how much network money there was on the table for any fight involving one of my members, not only because that provides that particular fighter/member with optimum bargaining power, but because it's at least implied in the Muhammad Ali Boxing Reform Act.

Let me show you:

"SEC. 13. REQUIRED DISCLOSURES FOR PROMOTERS.

`(b) DISCLOSURES TO THE BOXER- A promoter shall not be entitled to receive any compensation directly or indirectly in connection with a boxing match until it provides to the boxer it promotes--

`(1) the amounts of any compensation or consideration that a promoter has contracted to receive from such match"

Now, there may be differing opinions on this, but if I am involved with a boxers' support group, and I am doing the right thing by my members, my position is going to be that this includes ALL compensation or consideration, including money that comes from television networks. Sure, it's never enforced, but my posture, and an inflexible one at that, would be to do everything possible to make sure it is, wouldn't it? In fact, I would be shucking my responsibility if I didn't.

And we're not even talking about all those states which tax promoters on the television revenue they receive (the amounts vary). Those agreements obviously have to be registered with the commission to ensure that they would know how much tax to assess, and as such they should be public record. In some states, however, like Nevada, they curiously are not.

Read this, from the Nevada Statutes, and take particular note of Paragraph #4:

"NRS 467.137 PROMOTER AND NETWORK TO FILE COPY OF CONTRACTS FOR TELEVISION RIGHTS; RECORDS OF ACCOUNTS AND OTHER DOCUMENTS; ASSESSMENT OF FEE FOR LICENSE; CONFIDENTIALITY OF CONTRACT.

1. A promoter and a broadcasting network for television shall each, at least 72 hours before a contest or exhibition of unarmed combat, or combination of those events is to be held, file with the commission’s executive director a copy of all contracts entered into for the sale, lease or other exploitation of television rights for the contest or exhibition.

2. The promoter shall keep detailed records of the accounts and other documents related to his receipts from the sale, lease or other exploitation on the television rights for a contest or exhibition. The commission, at any time, may inspect these accounts and documents to determine the amount of the total gross receipts received by the promoter from the television rights.

3. If a promoter or a network fails to comply with the requirements of this section, the commission may determine the amount of the total gross receipts from the sale, lease or other exploitation of television rights for the contest or exhibition and assess the appropriate license fee pursuant to paragraph (b) of subsection 1 of NRS 467.107.

4. Each contract filed with the commission pursuant to this section is confidential and is not a public record."

As a support group, presumably interested in the welfare of active fighters, I would be

campaigning for ALL that information to be available to my members, particularly if one of them came to me for some help.

But would I be campaigning so hard IF I were, at the same time, beholden to ANY board members who were boxing promoters, or boxing-related executives at television networks (sometimes referred to as the REAL promoters)? And just as importantly, if I were one of those board members who had very clear interests in this regard, would I be promoting that brand of "support" among any of the F.I.S.T. membership or administration?

The answers to those questions, my friends, are: absolutely not, and absolutely not. In fact, recent history demonstrates that networks fight as hard as they can AGAINST that kind of disclosure.

Let's take the case of Bones Adams, the former World Boxing Association junior featherweight champion who a couple of years ago filed a lawsuit against the WBA for stripping him of his title. The WBA's contention was that taking Adams' title did not necessarily diminish his ability to earn. To illustrate that, the WBA attempted to compel a third-party witness to testify. That third-party witness, coincidentally (or perhaps not) was Kery Davis, vice-president of HBO, and a member of the board of directors of F.I.S.T.

It was the WBA's claim that HBO did not necessarily pay Top Rank (Adams' promoter) any less money for the rights fee for the Adams-Paulie Ayala fight, just because Adams did not hold the WBA title. But HBO did not want Davis to testify. According to the court documents, "HBO resists this disclosure on the grounds that the information is confidential and proprietary and that its disclosure would place it at a competitive disadvantage."

HBO won that battle - primarily because Adams' attorneys did not advance the claim that, just because he didn't hold a title, he was prejudiced financially with regard to the fight with Ayala. But it was clear that HBO was not desirous of revealing that information in any manner in which it might become public, under any circumstances.

Adams tells us that despite the fact that Top Rank was his co-plaintiff in this action, he still does not know how much the promoter was paid by HBO.

It is no secret that the networks are offering strong resistance to Senator Harry Reid's contention that they be subject to licensing and regulation, and all that comes with it. They simply do not want to grant fighters access to rights fee information, and naturally, neither do promoters. In that sense, they are very much on the same page. That page just happens to be very different than that of the fighters, or anyone who would propose to advocate for them.

So, in order words, if we assume that it would be in the best interests of a fighter, for negotiation purposes, for such disclosure to be made, and networks and/or promoters feel that it would be against THEIR best interests to make those disclosures, the interests of the two parties are, by definition, in CONFLICT.

If those network executives and/or boxing promoters are board members of a "support" group

for active fighters, whose interests do you think will be served in the end? It certainly wouldn't be any shock if fighters came in second place, once again. I think you'll agree that the last thing they need is to fall victim to another conflict of interest in boxing. And it would defeat the purpose of what F.I.S.T. is purporting to do.

Let me put it in plain English - if you're a fighter who is a member, whether it's as an associate or otherwise, in a union - promoters and networks are the potential ADVERSARY. And those closely involved with a union - or whatever designation it wants to use - can't be sitting on both sides of the table at the same time.

To dismiss this as being no conflict at all is tantamount to ignoring what would be a very legitimate concern for fighters. Period.

In fact, the very act of allowing the people in question to VOTE on an association with a union represents a conflict of interest, in and of itself. The proper thing, if F.I.S.T. is going to become involved on this level, might be to ask all those board members with connections to network boxing or boxing promotions to step down.

DiBella understands this, and would act accordingly if the need arose.

"Let me be clear that I am absolutely not against the unionization of fighters. That has the potential of being good for the game," he said. "But if it (F.I.S.T.) turned into something that was a de facto union, I would resign, citing a conflict of interest."

Perhaps the most appropriate thing F.I.S.T., now working on behalf of active fighters, could have done at that press conference would be to respectfully request, in the interests of boxing - and boxers, both now and in the future - that its board members take the lead in the area of financial disclosure to the constituency it represents.

How likely would that be?

In the way of conclusion, I'd also caution other groups who would propose to offer anything in the way of support for the active professional boxer to look before leaping - consider all circumstances and contemplate all associations before you jump into those philanthropic waters. Even if it's by accident, you may find yourselves potentially hurting the very people you intend to help.

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