

THE LANDMARK RULING YOU DIDN'T KNOW ABOUT

Written by Charles Jay
Sunday, 17 August 2003 18:00

The 89th Round

I was involved recently as an expert consultant/witness in a rather contentious court case between super middleweight contender Antwun Echols and Arthur Pelullo of Banner Promotions - a case that, as I've mentioned previously, will be explored in its fascinating entirety as part of a future "Special Report" on the TotalAction.com website, as well as a future book.

To give you a quick background, Echols was attempting to get out of promotional contract (which he eventually succeeded in doing) with Banner on two grounds - that the contract contained "indefinite terms", and that Pelullo had concealed the substance of a fee arrangement put forward by German promoter Wilfred Sauerland, by which Echols would step aside and waive his right, as a #2 contender, to fight Marcus Beyer for the WBC's "interim" 168-pound title, which was in "in play" after champion Eric Lucas had pulled out of a scheduled December 7 mandatory defense against Beyer, citing a thyroid gland problem.

The Germans preferred that for this interim title, Beyer fight the #3 challenger, Britain's David Starie, because that would bring more international television interest. Hence, the "step-aside" process became operational.

To make a long story short, the claim on the part of Echols was that even though he accepted a figure offered by Pelullo for this step-aside fee, it was based on a figure Pelullo represented as the entire fee he collected from the Germans, which was \$30,000. Echols later learned, incontrovertibly and not through Pelullo, that the real step-aside fee was \$40,000, which would have meant that not only had Pelullo lied about the disclosure he made to Echols, but that he had pocketed an extra \$10,000 on the side. Echols also questioned whether Pelullo was entitled to any portion of the step-aside fee at all, based on the terms of the promotional contract.

Echols alleged a violation of the Muhammad Ali Act in one of his claims, citing this paragraph in the Act:

"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."

On June 3, Judge Clarence C. Newcomer (U.S. District Court, Eastern District of Pennsylvania)

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issued a ruling in which he denied the Ali Act claim, on the grounds that the step-aside fee was not in connection with a professional boxing match in the United States. Indeed, the prospective Beyer-Echols fight from which Echols was stepping aside was something that would have taken place in Germany.

However, at the same time, the judge indicated that had the event been slated for the U.S., the Ali Act could certainly apply, because, in effect, the money Pelullo collected from the promoters was subject to disclosure regulations:

"II. THE MUHAMMAD ALI ACT DOES PERTAIN TO STEP-ASIDE AGREEMENTS

Defendant's first contention, that the Muhammad Ali Act does not pertain to step-aside agreements, is incorrect. Plaintiff bases his Ali Act claim on § 6307e(b)(1) which states, "*(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.....*"

. With no caselaw to assist this Court in interpreting § 6307e(b)(1), the Court must base its findings solely on its interpretations of the language used by Congress. In doing so, the Court focuses on the pivotal language of the provision which reads, "*directly or indirectly in connection with a boxing match.*"

The use of the terms "indirectly" and "connection" connote a meaning less restrictive than that suggested by Defendants. Through use of these terms, Congress indicates that the provision itself applies to compensation from more than simply a boxing match itself. Any other interpretation would run contrary to the intent behind the legislation. Allowing promoters not to report compensation earned as a result of side deals surrounding a boxing match while requiring them to disclose compensation earned directly from the match agreement itself makes little sense.

Given the above interpretation, it is clear that Congress intended to include step-aside agreements in those activities regulated by the Act. After all, step-aside agreements constitute little more than side deals to a boxing match. In essence, a step-aside agreement is formed in order to postpone a match. Therefore, Defendants' contention that the disclosure requirements under the Muhammad Ali Act does not apply to step-aside agreements is incorrect. Step-aside agreements are clearly covered by the Act."

The judge's ruling is somewhat self-explanatory, but there are a couple of passages I'd like to expand upon.

"ALLOWING PROMOTERS NOT TO REPORT COMPENSATION EARNED AS A RESULT OF SIDE DEALS SURROUNDING A BOXING MATCH WHILE REQUIRING THEM TO DISCLOSE COMPENSATION EARNED DIRECTLY FROM THE MATCH AGREEMENT ITSELF MAKES LITTLE SENSE." Clearly the judge understands that side deals provide the avenue by which promoters earn compensation from fights, in many cases. And if simply constructing a deal by which money was paid to the promoter on the side, with no disclosure to the fighter, was justifiable and immune from coverage under the Ali Act, it would facilitate a lot more

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concealment.

"AFTER ALL, STEP-ASIDE AGREEMENTS CONSTITUTE LITTLE MORE THAN SIDE DEALS TO A BOXING MATCH". The judge is perceptive enough to recognize that side money is side money, and will not make a technical distinction by separating step-asides from the general classification of side deals. He is correct in this approach.

"WITH NO CASELAW TO ASSIST THIS COURT IN INTERPRETING § 6307E(B)(1), THE COURT MUST BASE ITS FINDINGS SOLELY ON ITS INTERPRETATIONS OF THE LANGUAGE USED BY CONGRESS". Apparently this was the first time anyone ever made a ruling on this clause in the Ali Act.

This judge seems to make it loud and clear that side deals are to be subject to disclosure as they are laid out in the Ali Act, whether it's a situation where the promoter collects side fees on a step-aside that would normally go to the fighter; or where a promoter accepts a "promotional fee" when assigning rights to, or "subbing out" a fighter to another promoter for a given fight; or those instances where a network pays a promoter for the services of a fighter or for delivering a specific bout with that fighter in it. The money a promoter makes as a result of these transactions is obviously the kind of "compensation" the judge is referring to in his opinion.

The ruling by no means establishes legal precedent. But it is a landmark, in that it appears to be the first decision made about *"disclosure by promoters"*, and as such provides persuasive authority for cases of this type that may be contested in the future.

Which could, over the course of time, change the landscape of boxing.

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