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February 12, 2013

Travis T. Tygart, CEO
United States Anti-Doping Agency
5555 Tech Center Drive/Ste. 200
Colorado Springs, CO 80919

Dear Mr. Tygart:

I understand that USADA is charging boxer Erik Morales with an anti-doping rule violation for the presence of Clenbuterol in urine samples taken on October 3, 2012 and October 10, 2012. USADA proposes a two year suspension.

Please be advised that Boxing is governed under laws enacted by the various states and administered by State Athletic Commissions, which are governmental bodies. Those state commissions are charged by law to regulate the sport and to mete out disciplinary actions, including, but not limited to suspensions. Nowhere in any state statute is that authority delegated to USADA.

Further, Mr. Morales fought in New York on October 20, 2012. The initial positive sample was taken as noted above, on October 3, 17 days before the event. The second sample was October 10, 10 days before the event. However, it is my understanding that USADA did not disclose the positive results to the commission having jurisdiction over the event until either October 18 or 19, and not before a website disclosed the information first. In essence USADA failed to disclose the results to the governmental body having jurisdiction until it was too late for the governmental body to make a reasonable determination whether the event should proceed.

If I did not know better I would conclude that USADA did not know that boxing (and combat sports in general) quite uniquely, are governmentally regulated sports. However, I do know differently as both you and I were invited experts before the Nevada Athletic Commission regarding P.E.D.'s.

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I submit that, with deference, it appears to be hypocritical to withhold crucial information regarding test failures from the Commission having jurisdiction, and now, nearly four months later, seek to impose a suspension.

I am familiar with the standard contract language, referring to USADA, in the contracts of the Promoter which staged the bout in which Mr. Morales participated, though not Mr. Morales' individual contract. There is nothing in the standard language in which a boxer agrees to "abide by the [USADA] Code and Protocol," as asserted in USADA's letter.

In a situation where positive test results were withheld from the Commission, USADA's letter is very troubling. Significantly, the proposed penalty, to wit, a suspension from any "competition organized by or under the auspices of any signatory to the code" is meaningless to a professional boxer. Promoters are not signatories to the Code, nor are Athletic Commissions, nor are ratings organizations.¹ Thus the word "grandstanding" comes to mind.

There comes a time when apparent hypocrisy must be called out. This is such a time.

So that this letter is not uniformly negative in nature I have the following suggestions for changes in which USADA can make a positive difference. It can:

- 1) Pledge to turn over immediately upon receipt test results to Commissions having jurisdiction over an event.
- 2) Turn over to the applicable Commissions any test results from fighters taken in the past, positive or negative. If positive, then the appropriate Commission can deal with the issue.
- 3) Ensure that any contracts to which it is a party or pursuant to which it is testing provide that:
 - a) All test results will immediately be shared with the applicable Commission and both fighters involved as well as with the Promoter.

¹ The Association of Boxing Commissions did adopt the WADA prohibited list last summer and we would agree it is incumbent on a commission to follow up if an athlete tests positive.

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- b) Ensure that no party can abort the process. In this regard we understand that on one or more occasions samples were destroyed and this must never again occur.

Only if this is done will USADA purge itself of the taint which makes its actions suspect in the Sport of Boxing.

Very truly yours,

DINES AND ENGLISH, L.L.C.

BY:



PATRICK C. ENGLISH

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C: Association of Boxing Commissions