CALIFORNIA STATE ATHLETIC COMMISSION
2005 Evergreen Street, Suite 2010
Sacramento, CA 95815
www.dca.ca.gov/csac/
(916) 263-9125 FAX (916) 263-2197

Members of the Commission
Commissioner John Frierson, **Chair**
Commissioner Christopher Giza, **Vice-Chair**
Commissioner Van Lemons, M.D.
Commissioner Steve Alexander
Commissioner DeWayne Zinkin
Commissioner Eugene Hernandez

Action may be taken on any item listed on the agenda except public comment.

MEETING AGENDA

Tuesday, April 20, 2010
9:00 A.M. to Close of Business

Location

Van Nuys State Building
6150 Van Nuys Boulevard
Van Nuys, CA 91401

1. Call to order/Roll call/Pledge of allegiance

2. Swearing in of New Commissioners

3. Approval of Minutes
   a. December 22, 2009
   b. February 22, 2010

4. Executive Officer Report
   a. Status of Office
   b. Personnel Update
   c. Status of Information Technology Projects
   d. Budget Update
   e. MMA Officials Clinic
   f. Muay Thai Update
   g. Legislative Hearing April 26, 2010

5. Public Comment on Items Not on the Agenda

6. Ethics Training – DCA Legal Counsel

7. Discussion on Commission Audits
   a. Department of Consumer Affairs Internal Audit October 2008
   b. Bureau of State Audits Boxer Pension Fund July 2005
   c. Department of Consumer Affairs Internal Audit October 2003

8. Role and Responsibilities of Commission in Regulating Amateur Events
   a. USA Boxing
   b. CAMO

9. Strategic Plan – DCA Representative
   a. Update to Existing Strategic Plan
   b. Discussion on Development of New Strategic Plan

10. 2009 Boxer Pension Plan Update – Beth Harrington, Raymond James – Pension Fund Investments

11. Commission Member Administrative Manual – DCA Representative
    a. Role of Commissioners

12. Applicants for Referee and Judge to Appear Before the Commission (Section 18662 of the Business and Profession Code) - Original Application
    a. Fernando Villarreal – Judge (Boxing)
    b. Eddie Hernandez – Referee (Boxing)
    c. Dan Collings – Referee (Boxing)
    d. Steven Davis – Referee (MMA)

13. Adoption of Changes to Rules – Executive Officer
    a. Amend Section 211
    b. Amend Section 213
    c. Adopt section 213.2
    d. Amend section 293
    e. Amend section 405

14. Pankration Legal Opinion – Waiver of Attorney client privilege

15. License Revocation/Resubmission Request
    a. Jesse Vasquez

16. New Promoters for Approval/Disapproval – Executive Officer
    a. Espinoza Promotions – Frank Espinoza
    b. MCB Inc – Fred McCurry
    c. Standup Promotions – Robin Cohen
    d. Red Scorpion Martial Arts – Gloria Casella
    e. International Muay Thai Federation – Don McDaniels
    f. Thai New Year Festival – Surasak Wongkhaluang

17. DCA Director's Report

18. Agenda Items and Meeting Dates for Future Meetings

19. Adjournment

NOTICE: The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting George Dodd at (916) 263-2195 or email george_dodd@dca.ca.gov or sending a written request to George Dodd at the California State Athletic Commission, 2005 Evergreen Street, Suite 2010, Sacramento, CA 95815. Providing your request at least five (5) days before the meeting will help ensure availability of the requested accommodation. Requests for further information should be directed to George Dodd at the same address and telephone number.

Meetings of the California State Athletic Commission are open to the public except when specifically noticed otherwise in accordance with the Open Meetings Act. The audience will be given appropriate opportunities to comment on any issue presented.

Agenda Item 3

CALIFORNIA STATE ATHLETIC COMMISSION MEETING MINUTES

Monday December 21, 2009
9:00 A.M. – 1:30 P.M.

Junipero Serra State Building | Building Property Management | Carmel Room
320 West 4th Street
Los Angeles, CA 90013

Commissioners Present:
Chairman Mario Rodriguez, Vice-Chairman
June Collison
Dr. Christopher Giza
John Frierson
Dr. Van Lemons

Staff Present:
Dave Thornton, Interim Executive Officer
Che Guevara, Assistant Chief Athletic Inspector
Anita Scuri, DCA Legal
Gil DeLuna, CSAC Manager
Karen Chappelle, Deputy Attorney General
James Maynard, DCA Legal

The minutes reflect the order in which the agenda items were heard.

Agenda Item 1. Call to order and Roll Call

Agenda Item 2. Pledge of Allegiance

Agenda Item 3. Approval of Minutes for August 24, 2009 and October 26, 2009
Chairman Mario Rodriguez would like to correct Item 10 on the minutes to reflect that the committee consists of Commissioner Rodriguez and Commissioner June Collison.
Dave Thornton, interim executive officer, also suggested a change with regard to page two of the minutes on his Executive Officers report about the promoters meeting that was in Long Beach on August 6, 2009 to remove DCA Legal's James Maynard from the list of attendees.
It was motioned, second and carried to approve the minutes as amended.

Agenda Item 4. Executive Officer Report – Dave Thornton
Dave Thornton recommended that Agenda Item 10 be postponed due to the fact that Josh Barnett's lawyer was unable to get a flight out of New York due to weather restrictions.
Status of the Office
Dave Thornton reports that William Douglas and Gil DeLuna have been working with the Department of Consumer Affairs on a web based licensing system for the commission. It should be up and running by May of 2010. This system will include all licensing records, i.e., athletes, promoters, officials, seconds, matchmakers, etc. This information will in turn be accessible by personnel in the field, so it will give them real time access to all licensing records.
Number of Events Sanctioned in the year 2009
Mr. Thornton reports on the number of regulated events in the state of California in the year 2009. The commission supervised a total of 200 events in 2009, an increase from 2008 where the number of regulated events was 181. Of those events, 83 were boxing, 32 were kickboxing and 91 were mixed martial arts, including 9 world title bouts.

Meeting dates

Mr. Thornton puts the dates of the next commission meeting up for discussion. The date that the commission agreed upon from the last commission meeting was February 1, 2010; however that date was set based on a December 8, 2009 meeting. Dave Thornton recommends that the Commission extend the date to either February 22, 2010 or March 1, 2010, given that February 1, 2009 may be too soon. He also suggests that the Commission select a date for the next commission meeting at this current meeting. Commissioners agree on February 22, 2010 for the next commission meeting.

Regulatory Hearing:

Mr. Thornton met with James Maynard, Anita Scuri, and Che Guevara regarding the commission's regulations. He explains that they spent the day going over just about the first half of the regulations looking for those that need to be updated. The normal process is for those changes to be brought forward to the commission for a regulatory hearing. There are going to be a number of changes and Mr. Thornton proposes that the commission delegate the authority to hold the regulatory hearing to the staff, and then the staff will bring the results of the regulatory meeting to the Commission at a future commission meeting. Mr. Thornton refers to Anita Scuri to clarify the process further.

Ms. Scuri explains that sometimes it is difficult to schedule a regulatory process around the commission's regularly scheduled meetings. The commission has already voted to set a regulatory hearing, which has not been held because they cannot quite meet the time frames. There is a specific law that governs the rulemaking processes, that requires a forty-five (45) day comment period plus a ten (10) day publication by the Office of Administrative Law, the control agency. So it equals out to be almost a two (2) month waiting period before it can be heard. So if the commission has not set a date at least two (2) months in advance, it becomes very hard to ever get any changes done to any regulations. Therefore, for the regulations that the commission voted to be set for hearing that were supposed to be heard in August but got delayed, the next step is to allow the staff to have the hearing independent of the regularly scheduled commission meetings and bring back all written comments and a summary of all oral comments so that that the commission can then vote on the regulations at the meeting – unless the commission is willing to set its meetings a year in advance which is what some other boards do.

Chairman Mario Rodriguez asks the commission if they have any comments, none. There was a consensus for the commission to delegate the authority to hold the regulatory meeting.

Personnel Update:

Mr. Thornton spoke about the athletic inspector exam. "A list should be established for athletic inspector in early 2010; however it may be February before that list is established.

The office staff management conducted the interviews for the Assistant Chief Athletic Inspector and Mr. Thornton announced that Che Guevara has been appointed to the position of Assistant Chief Athletic Inspector. Mr. Thornton explains that the position is located in the El Monte office in Southern California but Mr. Guevara will not be relocating to Southern California until a Chief Athletic Inspector has been appointed.

Mr. Thornton also says that they are currently trying to establish a presence in the El Monte office and that they are in the process of hiring an Office Technician who will be located in the El Monte office. This position is one of the three positions that the commission has vacant.

Chairman Mario Rodriguez indicates that he expects the other vacant positions will be filled as soon as possible. He also recommends that the commission hold off of filling any positions until the new Executive Officer comes. There were no objections to his recommendation.

Budget Update:

Mr. Thornton explains that the budget is current as of the end of October. He received the November budget report after the commission meeting folders were made. The commission is on track with regard to exceeded spending with Athletic Inspectors and travel, which are the two main items in the budget that needed control. He explains that with the increasing number of event, the expenses are going to go up because we must have personnel to supervise the events.

He states that there should have been a change a couple of years ago in anticipation of the increase in events.

Mr. Thornton recommends the new Executive Officer submit a budget change proposal when the time comes in spring 2010 so that the commission does not continue to have these problems.
In order to make sure that the budget is corrected for the remaining six (6) months of the fiscal year, the commission has submitted to the Administration, a deficiency letter to augment the current budget by about $275,000 dollars. Mr. Thornton does not believe that the commission will spend all of that money and they have a reserve account which is approximately $965,000.
Mr. Thornton addresses Commissioner June Collison's question from the last meeting about the $93,000 related to C/P SVS expenses, which are the health and medical expenses. He explains that that is for the contract the commission has for steroid testing and drug testing. Mr. Thornton states that the commission is not going to spend all of that money that was budgeted for that section. The account is separated into 2 parts, one account for $49,000 and the other is approximately $46,000.
To help with the budget problem Mr. Thornton explains that the commission has cut back the steroid and drug testing items to $20,000 dollars each by just doing random drug and steroid testing, rather than testing every athlete.
Chairman Mario Rodriguez asked for specifics with regard to the cuts in budget and the random drug and steroid testing. Mr. Thornton elaborated by saying that the only exception to the random drug and steroid testing is for the title bouts, where all are drug and steroid tested.
WBC Award:
Dave Thornton talks about the letter from the new Director of Department of Consumer Affairs, Brian Steiger acknowledging the commission receipt of the Commission of the Year award from the World Boxing Commission. The award was given to the commission at the World Boxing Council's regularly scheduled meeting in South Korea in October 2009.
Mr. Thornton discusses how the commission still has not actually received the award but that he has been notified that it has been awarded to the commission and that it was for Administration and Safety.
Chairman Mario Rodriguez announces that he would like to get that information out to the public, since there have been a lot of hits on the commission. He says that "Any time the commission receives anything positive like this it shows that yes, we take some hits but we are actually doing a really good job."
Mr. Thornton took a moment to commend the office staff, and the Athletic Inspectors who are out in the field.
Chairman Mario Rodriguez agrees with Mr. Thornton in the recognition of the staff, however, he wants the staff to always be mindful of the fact that the commission does have to take a look at the issues and problems because the commission does have some problems in the field, however, staff are doing a great job.
Letter from Richard Gluckman regarding Celebrity Boxing Events
Dr. Gluckman is concerned about whether or not the commission should be overseeing the celebrity boxing. Not including the Police and Fire Games, he is more specifically talking about the Kardashians, which was the recent celebrity boxing event that we supervised. Dave Thornton recommended a sub-committee be formed to evaluate whether those events are entertainment or if they should be considered amateur boxing and to report back to the commission.
Chairman Mario Rodriguez states that this subject needs to be discussed because his understanding is that at the Kardashian fight, someone actually got hurt and had to go to the hospital, and the commission's number one concern is the safety of the athletes. So Chairman Mario Rodriguez would like to discuss the issue and asks legal if this would be an appropriate time to talk about it.
Ms. Scuri indicates the commission should determine whether the issue should be put on the agenda for full discussion.
Mr. Thornton asked Mr. Guevara to speak on the Kardashian fight. Mr. Guevara briefly explained the process for selecting the opponents of the Kardashians. He says that it was a bidding process and that the opponents were told numerous times that the fight was just for show and to take it easy. He says that in hindsight he thinks that the commission should not have been involved.

Roy Englebrecht talks about how the celebrity boxing came about and the shows that Englebrecht Promotions has put on. He says that all precautions were taken and that outside of a cut or a black eye, there were no injuries.
Marty Denkin speaks about the Kardashian fights. He says that the opponent of Robert Kardashian was an amateur fighter and that they told Mr. Guevara about that. He spoke about how upon hearing of what happened, he went to Mr. Taylor and asked him why he got so out of line. Taylor responded by saying that with all of the commotion with the show and all of the commercial aspects of the show, he had to take, from Robert Kardashian, all of the trash talk that you can be given and it carried into the ring.
Chairman Mario Rodriguez appoints a sub-committee consisting of two commissioners to look into the issue of Celebrity boxing and report back to the commission. Commissioner John Frierson and Commissioner Van Lemons volunteer to join the sub-committee.
Bout Approval:
Mr. Thornton mentioned a bout approval that he has been presented with that he needs to bring to the commission. Louie Kid Cola who last fought on May 25, 1935, is now 94 years old and would like a rematch to his opponent if he is still alive. The only stipulation that he requested was that the contract be written for him to be paid more than the $25.00 that he fought for back in 1935. No motion was taken.
Promoters Survey:
Gil DeLuna indicated that the commission has gotten a really good response to the promoter surveys and that he will have a comprehensive report at the next commission meeting. Commissioner John Frierson requests that Mr. DeLuna email the report to all of the commissioners.
Chairman Rodriguez asks about how the phone situation is going in the office in Sacramento and if there is a live person there answering the phones. Mr. Thornton confirms that and explains that the phones are staffed from 8-5 Monday through Thursday and non-furloughed Fridays.
Chairman Rodriguez thanks Mr. Thornton for all of the hard work that he has done during his time as Interim Executive Officer. Mr. Thornton also thanks the commission and the staff.

Agenda Item 5. Public Comment
Roy Englebrecht thanked Mr. DeLuna for the promoter's survey. He also commended the inspectors in the field who have worked his events. He proposes a new position of a bout approval coordinator. He says that the resource that the commission has with former Chief Athletic Inspector Dean Lohuis with the bout approval coordinator could be great.
Brian Dobler from Amateur Muay Thai and Thai Boxing of USA expressed some concerns. He would like to ask the commission to delegate the authority to sanction Amateur Muay Thai. He asks to be put on as an agenda item for the next meeting.
Chairman Mario Rodriguez appoints a sub-committee consisting of Commissioner Giza and Commissioner Frierson.
Joaquin Sahaguin says that it is too expensive for an amateur promoter to put on a show with all of the money that they have to put into it when they are a non-profit organization.
Lou Moret is concerned now that Dean Lohuis has left. He says that fights have been more and more mismatched and that they are all one sided. He says that nobody in the commission staff is capable of approving fights.
Doc Hamilton objects to judges for boxing being assigned to MMA fights and he feels that judging MMA fights is just as challenging as boxing.
Pat Connolly asked how he could get put back into the rotation for professional boxing shows as a judge after a lapse of 12 or 13 years.
Marty Denkin says that there are people who should be able to go back and forth between boxing and MMA because they take the required classes and meet certain qualifications to do so.
Gwen Adair wants to know why she has been on the lower end of the pay scale of shows. She would like the commission to look into the situation and find out why, and get back to her.

Agenda Item 6. CSAC Position on Medical Marijuana
Mr. Thornton announces that agenda items 6, 7, and 8 are more for just informational purposes. The statements will be posted on the website for further viewing of the public.
Mr. Thornton read the statement regarding medical marijuana. No further comments.

Agenda Item 7. CSAC Statement on Charity Boxing Events in California
Mr. Thornton read the statement; there were no further questions or public comment.

Agenda Item 8. Regulation of Pankration Events in California
The events that are called pankration were determined to be full contact even though strikes to the head are not permitted. Mr. Thornton states that it would be in the best interest of the commission to seek a formal legal opinion from counsel on whether or not pankration events in California fall within the commission's jurisdiction.
Chairman Mario Rodriguez elaborates on the topic of pankration and announces that as of January 1, 2010 professional Pankration will be regulated by the California State Athletic Commission and amateur mixed martial arts will be regulated by CAMO.
Chairman Mario Rodriguez recognized CAMO with regard to their first event that he heard went fantastic.

Agenda Item 9. Commission Member Administrative Manual
On behalf of the Director of the Department of Consumer Affairs, Deputy Director Kim Kirchmeyer proposes that with regard to the Administrative Manual, the commission establish an Ad Hoc committee to review the manual draft and make any needed changes.
Chairman Mario Rodriguez appoints a committee consisting of Commissioners Giza, and Lemons.
Break
After the break Chairman Mario Rodriguez recognized all of the CSAC staff, referees, inspectors and everyone involved in CSAC for all of their hard work that led to the receipt of the WBC award.

Agenda Item 11, 12, 13. Clinics for Physicians and Referees Pursuant to B&P Code Section 18731, Suggestions for Changes to Qualification/Requirements for Referees and Judges, Approval Process for New Officials.
Mr. Thornton discusses the scheduled officials training for January 17, 2010. He invited any commissioners interested in coming to attend. Marty Denkin discussed the training of officials that was established previously. He recommends that all new officials that have been licensed attend the clinic that is being held before they are allowed to be scheduled.
Commissioner John Frierson asks who Marty Denkin believes should be the evaluators of the officials.
Mr. Denkin recommends that Mr. Moret, Dr. Jenkin, and Pat Russell be the evaluators.
Ms. Scuri dispels the idea that officials have been appointed illegally. She explains that they were appointed in compliance with rule 371. She explains that under the rule 371 there are two paths that an official may take to be eligible for a license.
Mr. Thornton agrees with Mr. Denkin that the new officials should be required to attend the clinic in January and proposes that in the future the commission appoints a sub-committee to work on rewriting the protocol for the licensing of new officials.
Chairman Mario Rodriguez would like to assign staff to hold a workshop and to bring in and allow referees and judges to give input and the staff will come back at the next scheduled commission meeting and give a report back to the commission.
Roy Englebrecht offers himself and his time to the commission to serve on a sub-committee. He also wants to get the ringside physicians to hold a similar clinic as soon as possible.
Chairman Rodriguez agrees and would like a clinic for the ringside physicians to be put together and held as soon as possible.

Dave Thornton agrees and invites Commissioner Lemons to be a part of the preparation for the physicians clinic.

Agenda Item 14. Process for Assignment of Officials to Events
Mr. Thornton acknowledges the form that Mr. Denkin has put together for the commission outlining each boxing officials scheduling. Mr. Thornton gives his commitment to, for as long as he is with the commission, to ensure that the scheduling is based off of the experience and training of the official.

Agenda Item 15. Boxer's Pension Plan Update
Gil DeLuna reported on the pension fund. He states that since June 2009 the commission has paid out 14 boxers with approximately $182,000. He indicated that the pension fund is very healthy.

Agenda Item 16. License Revocation Hearings
Tony the Tiger Promotions: Deputy Attorney General Karen Chappelle recommends the revocation of this license.

It was motioned, second, and carried to revoke Tony the Tiger Promotions license.

Loving Life Entertainment: Ms. Chappelle recommends the continuation of the suspension until the payment is verified.

Motion and second to continue Loving Life Entertainment's suspension until the payment is verified – Carries 5-0

World Combat Sports Challenge –Ms. Chappelle recommends the revocation of this license.

Motion and second to revoke Mike Espinoza license – Carries 5-0.

Agenda Item 17. New Promoters Approval/Disapproval of License
The commission requests that all new promoters appear in front of the commission to be approved.
Ventura County Deputy Sheriffs Association is present.
Che Guevara briefly speaks on the event that was held by this promoter and recommends that the commission approve the promoter's license for the Ventura County Deputy Sheriffs Association.
Motion and second to approve license – Carries 5-0.

Agenda Item 18. Agenda Items for Future Meetings

1. Report of issue of celebrity boxing events.
2. Amateur Muay Thai
3. Promoter Survey
4. Commission Member Administrative Manual
5. Qualifications for licensure of official.
6. Process of Approval of Officials
7. Schedule clinic for the Ringside Officials
8. Election of Chairman and Vice-Chairman of the Commission
9. Next meeting: February 22, 2010 in Southern California.

Agenda Item 19. Closed Session – Evaluation of Executive Officer Candidates
[Pursuant to Government Code Section 11126(a) (1)]

Agenda Item 20. Adjournment
The meeting was adjourned after the closed session concluded.

California State Athletic Commission
2005 Evergreen Street, Ste. #2010
Sacramento, CA 95815
www.dca.ca.gov/csac/
(916) 263-2195 FAX (916) 263-2197

California State Athletic Commission Meeting

Monday, February 22, 2010

9:00 AM to Close of Business

Junipero Serra State Building
Carmel Room
320 West 4th Street
Los Angeles, CA 90013

Minutes

Commissioners Present:

John Frierson, Chairman

Christopher Giza, Vice-Chairman

Van Lemons, M.D.

Commissioners Absent:
June Collison
Howard Rose

Staff Present:

George Dodd, Executive Officer
Dave Thornton, Interim Executive Officer\
Gil De Luna, CSAC Manager
Anita Scuri, DCA Legal Counsel
Nichole Bowles, Student Assistant

Frank Gonzales Jr., Athletic Inspector
Mo Noor, Athletic Inspector
Richard Novoa, Athletic Inspector

Members of the Audience

Marty Denkin
Roy Engelbrecht
Karen Chappelle, Deputy Attorney General
Zack Young

Oscar Ortiz
Mark Martino
J.T. Steele
Jeremy Lappen

The minutes reflect the order in which the agenda items were heard.

Agenda Item 1: Call to Order/Roll Call/Pledge of Allegiance

Mr. Dodd called the meeting to order at 9:00 AM. Interim Executive Officer Dave Thornton called the roll. A quorum was present.

Pledge of Allegiance was performed.

Agenda Item 2: Election of Officers

Executive Officer George Dodd asks the commissioners to nominate a commissioner for chair. Dr. Lemons and Dr. Giza nominate John Frierson for Chair. A motion was called to approve Mr. Frierson as Chair, all were in favor and the motion was carried. Mr. Dodd then asked the commissioners to nominate a Vice-Chair. Mr. Frierson and Dr. Lemons nominate Christopher Giza for Vice-Chair. A motion was carried to approve Dr. Giza as Vice-Chair, all were in favor and the motion was carried.

Agenda Item 3: Approval of Meeting Minutes

M/S/C to approve the Minutes of October 26, 2009 meeting.

Minutes of December 22, 2009 will be brought to the next meeting.

Agenda Item 4: Executive Officer's Report

Executive Officer George Dodd and Interim Executive Officer Dave Thornton discussed the state of the Commission's day to day operations in the office and the field and reported the following:

- Status of Office:

  New licensing database will be online May 1, 2010.
  Notebooks are being purchased for Event Leads to use out in the field.
  Law books are being updated.

- Personnel Update:

  The application process is closed for Assistant Executive Officer.
  An Office Technician has been approved for the Southern California Office and Mr. Dodd is waiting for her to accept the position.
  Interviews for the Chief Athletic Inspector are still being held. Mr. Thornton is working on getting an exemption for the position so that he can continue looking for a new hire.
  There are two vacancies for Office Technicians in the Sacramento Office.

- Budget Update:

  Information was not available for the packet.

- Boxing Officials Clinic:

  The clinic was very informative and well received. The next clinic will be in July and this training will occur every 6 months.
  Mr. Dodd is looking into a time frame for an MMA clinic.

- Future Commission Meeting Dates:

  The next commission meeting will be held on Tuesday, April 20, 2010 in Los Angeles, California.

Agenda Item 5: Applicants for Referee and Judge to Appear Before the Commission

M/S/C to require an appointment for a judge and or referee license to appear before the Athletic Commission prior to licensure.
Commissioner Lemons would like more than just appearing before the commission to be licensed. He would like to set up a procedure to follow to make sure they are qualified.

Staff was directed to work on Rule 371 & 379

Roy Engelbrecht states that Promoters are passionate about what they do and hopes that the new Executive Officer will also bring passion to his job and that the promoters and the Athletic Commission must be partners to properly regulate each show.

Marty Denken, a licensed referee, is concerned that the 11 new hires (5 from out of state) should not be allowed to work without approved training by the Athletic Commission.

Agenda Item 6: Public Comment on Items not on the Agenda

Agenda Item 7: USA Boxing- Status Update

Mike Martino informs the commission that USA boxing will have a new data base up and running April 1, 2010 to keep better track of their athletes as well as their officials. It is going to cost the $70,000 for this new data system.

Mr. Frierson would like Mr. Martino to keep the commission updated on whether the database is up and running on April 1, 2010 as scheduled.

Agenda Item 8: DCA Directors Report

Agenda Item 9: Promoters Survey

Most of the feedback that has been received has been good. The updated forms will be available online shortly.

Agenda Item 10: Muay Thai Subcommittee Update

Commissioner Giza would like to discuss this agenda item at an upcoming meeting when the commission gets more members.

Agenda Item 11: Appeal of License Denial Re: Joshua Barnett

Joshua Barnett's license was denied for violation of Rule 303 on June 25, 2009. Mr. Barnett's attorneys Howard Jacobs and Michael Di Maggio were present on his behalf but Mr. Barnett was not present.

Karen Chappell objected to proceeding without the applicant being present since there is no ability to cross examine him and requested that the commission up hold denial until Mr. Barnett shows up. Mr. Di_Maggio informed the commission that Mr. Barnett had a previously scheduled fight and could not attend but he does not want a continuance on the issue.

M/S/C table to next meeting at which Josh Barnett can appear.

In response to Mr. Di Maggio's request, Mr. Frierson indicates that the commission will not consider an emergency meeting before the April 20, 2010 meeting.

Agenda Item 12: License Revocation Hearings

Jose Bonicca, Chief Second for Edison Miranda- Request to revoke license because something was found in Vaseline that turned it brown. It was believed to be a coagulant. M/S/C/ to revoke license (Giza,Lemons).

Ray Rodriguez, Fight Quest- Was given the opportunity to hold two events which were highly unsuccessful. M/S/C/ to revoke license.

Agenda Item 13: Newer Promoters for Approval/Disapproval of License

Rebecca Bennion- Absent due to recovery from surgery so Chad Blum speaks on her behalf. M/S/C/ to approve.

Paco Presents- M/S/C to approve.

South Bay Promotions- Roy Engelbrecht mentions the promoter lost $20,000 on his show. M/S/C to approve.

Champion Promotions- Lost about $20,000 Mr. Quinones suggests a flat fee for judges and referee's. He claims it cost him $6,500 for officials and 1 judge. M/S/C/ to approve.

John Pena- M/S/C/ to approve a second temporary license.

Espinosa Promotions- This matter was not heard as staff was unable to locate his application.

Agenda Item 14: Agenda Items for Future Meetings

Pension Fund
Josh Barnett Appeal
Regulations staff is working on
Muay Thai-maybe
Celebrity Boxing

Agenda Item 15: Adjournment

The meeting was adjourned at 11:58 a.m.

Agenda Item 4

California Athletic Commission Personnel Update

Position	Closed Date	Status	Estimated Completion
Assistant Executive Officer	2/15/2010 – 121 Application received	Working with Human Resource for eligibility	6/1/2010
Chief Athletic Inspector	4/3/2010 – 11 Application received	Working with Human Resource for eligibility	6/1/2010
Management Service Technician	3/26/2010 – 21 Applications received	Starting interview on 4/19 and 4/20.	5/1/2010
Office Technician	3/26/2010, 2010	Will starting hiring after completion of MST position	
Inspectors	4/22/10	Still Receiving Applications	

ADMINISTRATIVE AND INFORMATION SERVICES DIVISION
BUDGET OFFICE
1625 North Market Blvd., Suite S-103
Sacramento, CA 95834

MEMORANDUM

DATE April 15, 2010

TO Committee Members and Committee Staff,
California State Athletic Commission

FROM Brian Skewis, Budget Analyst
Department of Consumer Affairs

SUBJECT **CSAC Fiscal Information for FY 2009-10 & FY 2010-11**

BUDGET

This reflects the budget information for FY 2009-10 and FY 2010-11 (as proposed).

	FY 2009-10	FY 2010-11
Support		
Authorized Expenditure Authority	$1,884,000	$1,956,000
Authorized Positions	13.7	13.7

Neuro		
Authorized Expenditure Authority	$109,000	$120,000
Authorized Positions	0.9	0.9

Pension		
Authorized Expenditure Authority	$97,000	$106,000
Authorized Positions	0.5	0.5

Major Changes	**FY 2009-10**	**FY 2010-11**
Furlough Reduction[1]	-$108,000	--
Furlough Reduction - Neuro	-$10,000	--
Furlough Reduction - Pension	-$6,000	--

[1] Per The Budget Act of 2009 (Chapter 1, 3rd Extraordinary Session, and Chapter 1, 4th Extraordinary Session, Statutes Of 2009), Executive Orders S-16-08 and S-13-09, and Budget Letter 09-35.

FY 2009-10 – EXPENDITURE PROJECTIONS

As of January 31, 2010 (Fiscal Month 8)	Authorized	Projected	Reversion
Support	$1,883,954	$1,882,047	$1,907
Neuro	$109,044	$54,143	$54,901
Pension	$97,430	$72,161	$25,269

FUND CONDITIONS – RESERVE FOR ECONOMIC UNCERTAINTIES

The projected balances for the following Funds:

	Projected Fund Balance (June 30, 2010)
Support	
Current Year 2009-10	$1,103,000
Budget Year 2010-11	$1,665,000

Neuro	
Current Year 2009-10	$528,000
Budget Year 2010-11	$547,000

Pension	
Current Year 2009-10	$471,000
Budget Year 2010-11	$504,000

STAFF
BILL GAGE
Chief Consultant
G.V. AYERS
SARAH MASON
ROSIELYN PULMANO
KATHY SULLIVAN
Committee Assistant

MEMBERS
Vice Chair - MARK WYLAND
SAM AANESTAD
ELLEN CORBETT
LOU CORREA
DEAN FLOREZ
JENNY OROPEZA
GLORIA ROMERO
MIMI WALTERS
LELAND YEE

California Legislature

Senate Committee on Business, Professions & Economic Development

Senator
Gloria Negrete McLeod
Chair

March 23, 2010

Mr. George Dodd
Executive Officer
California State Athletic Commission
2005 Evergreen Street, Suite 2010
Sacramento, CA 95815

Dear Mr. Dodd:

The Senate Business, Professions and Economic Development Committee is holding a hearing entitled "*The California State Athletic Commission: Has the Commission Lost Its Punch?*" on Monday, April 26, 2010, at 2:00 pm or upon the adjournment of Session in Room 3191 at the State Capitol.

As my staff discussed with you in February, the hearing will examine operational and structural issues at the Commission. Additionally, the Committee will explore delegation of regulatory authority for amateur boxing and amateur mixed martial arts to non-government, non-profit entities.

I would like for you to participate in the hearing to inform committee members of efforts the Commission is taking to address some of the issues that have arisen in the past three years, including:

- The status of a statutorily mandated report to the Legislature due in 2008 that discusses various issues, including the findings and recommendations of a prior audit

- The solvency of the Boxers' Pension Fund and efforts to get monies to retired California boxers

- The role of Commissioners and problems arising from vacancies and potential Commission member conflicts-of-interest

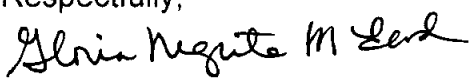
- Combatant safety accusations

- Your vision for the role of USA Boxing and CAMO in regulating amateur contests

My staff will follow up shortly with specific questions to prepare in advance of the hearing.

I look forward to your participation. If you or your staff have any questions or concerns, please do not hesitate to contact Sarah Mason of my staff, at (916) 651-4104.

Respectfully,



GLORIA NEGRETE MCLEOD
Senator, 32nd District

March 22, 2010

Mr. George Dodd
Executive Officer
California State Athletic Commission
2005 Evergreen Street, Suite 2010
Sacramento, CA 95815

Dear Mr. Dodd:

The Senate Business, Professions and Economic Development Committee is holding a hearing entitled "*The California State Athletic Commission: Has the Commission Lost Its Punch?*" on Monday, April 26, 2010, at 2:00 pm or upon the adjournment of Session in Room 3191 at the State Capitol.

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I look forward to your participation. If you or your staff have any questions or concerns, please do not hesitate to contact Sarah Mason of my staff, at (916) 651-4104.

Respectfully,

GLORIA NEGRETE MCLEOD
Senator, 32nd District

Questions for Executive Officer/ DCA Staff

1. Commissioners' acceptance of gift tickets for friends and family from promoters.

2. Lack of standards for hiring, training, evaluation and assignment of field staff (referees, inspectors, physicians, judges)

3. Complaints about matchmaking appear to have been investigated by staff person who does the matchmaking (see draft minutes from June 22 2009 meeting)

4. Strategic plan was due Sept. 30, 2008 but they don't have a plan (B&P 18602.5)

5. Mandatory training for inspectors (B&P 18615) – it appears they have not met the mandate

6. Regulation of amateur bouts – is there proper separation of promoters interest from regulation of amateur bouts?

7. CSAC Overspent $150,000 in FY 2008/09

8. Pension Fund – only 9 applications rec'd from qualifying boxers.

9. Multiple audit findings that have not been addressed:
   - Inadequate practices for cash handling
   - Delayed deposits of funds received from applicants and licensees
   - Lack of standardization leads to inadequate documentation in commission official files
   - Inefficient and inadequate computer system to conduct commission business
   - Lack of standardized procedures

10. Multiple long term management vacancies – the following list of vacancies was provided by the commissioners:
    - Assistant EO was vacant from 2006–2009
    - Commission appointed an interim EO in November 2008, who later resigned
    - A second interim EO was appointed in June 2009
    - Chief athletic inspector has been vacant since April 2009
    - Assistant chief athletic inspector has been vacant since 2006

Agenda Item 6

ETHICAL DECISION MAKING

Handout #2

Questions	Mandatory Disqualification	Need Further Discussion
Have you served as • investigator • prosecutor, or • advocate before or during the adjudicative proceeding?	**Yes**	
Are you biased or prejudiced for or against the person? or Do you have an interest (including a financial interest) in the proceeding?	**Yes** **Yes**	
Have you • engaged in a prohibited ex parte communication before or during adjudicative proceeding (may result in disqualification)? OR • complained to you about investigation currently in progress and said how great he or she is √ "Ex parte" communication: direct or indirect communication with you by one of the parties or its representative without notice and opportunity for all parties to participate in the communication (e.g. applicant or licensee (or someone acting on that person's behalf)		**Yes** **Yes**
Do you or your spouse or a close family member (such as an uncle or cousin) have personal knowledge of disputed evidentiary facts concerning the proceeding?		**Yes**
Do you doubt your capacity to be impartial?		**Yes**
Do you, for any reason, believe that your recusal would further the interests of justice?		**Yes**

BAGLEY-KEENE OPEN MEETING ACT
TOP TEN RULES
(September 2009)

[NOTE: GC § = Government Code Section; AG = Opinions of the California Attorney General.]

1. All meetings are public. (GC §11123.)

2. Meetings must be noticed 10 calendar days in advance—including posting on the Internet. (GC §11125(a).)

3. Agenda required—must include a description of specific items to be discussed (GC §§ 11125 & 11125.1).

   a. No item may be added to the agenda unless it meets criteria for an emergency. (GC §11125(b).)

4. Meeting is "gathering" of a majority of the board or a majority of a committee of 3 or more persons where board business will be discussed. Includes telephone & e-mail communications. (GC § 11122.5; Stockton Newspapers Inc. v. Members of the Redevelopoment Agency of the City of Stockton (1985) 171 Cal.App.3d 95.)

5. Law applies to committees, subcommittees, and task forces that consist of 3 or more persons (includes all persons whether or not they are board members). (GC §11121)

6. Public comment must be allowed on agenda items before or during discussion of the items and before a vote, unless: (GC §11125.7.)

   a. The public was provided an opportunity to comment at a previous committee meeting of the board. If the item has been substantially changed, another opportunity for comment must be provided.

   b. The subject matter is appropriate for closed session.

7. Closed sessions (GC §11126.) At least one staff member must be present to record topics discussed and decisions made. (GC § 11126.1).

Closed session allowed:

   a. Discuss and vote on disciplinary matters under the Administrative Procedure Act (APA). (subd. (c)(3).)
   b. Prepare, approve or grade examinations. (subd. (c)(1).)

c. Pending litigation. (subd. (e)(1).)
d. Appointment, employment, or dismissal of executive officer (EO) unless EO requests such action to be held in public. (subd. (a), (b).)

No closed session allowed for:
a. Election of board officers. (68 AG 65.)
b. Discussion of controversial regulations or issues.

8. No secret ballots or votes except mail votes on APA enforcement matters. (68 AG 65; GC §11526.)

9. No proxy votes. (68 AG 65.)

10. Meetings by teleconferencing (GC §11123.)

a. Suitable audio or video must be audible to those present at designated location(s). (subd. (b)(1)(B).)
b. Notice and agenda required. (subd. (b)(1)(A).)
c. Every location open to the public and at least one member of board physically present at the specified location. All members must attend at a public location. (subds. (b)(1) (C), and (F).)
e. Rollcall vote required. (subd. (b)(1)(D).)
f. Emergency meeting closed sessions not allowed. (subd. (b)(1)(E).)

Reference: January 2009 "Public Meetings" Memorandum & Attached Guide to the Bagley-Keene Open Meeting Act
http://www.dca.ca.gov/publications/bagleykeene_meetingact.pdf

ETHICAL DECISION MAKING

Handout #2

Questions	Mandatory Disqualification	Need Further Discussion
Have you served as • investigator • prosecutor, or • advocate before or during the adjudicative proceeding?	**Yes**	
Are you biased or prejudiced for or against the person? or Do you have an interest (including a financial interest) in the proceeding?	**Yes** **Yes**	
Have you • engaged in a prohibited ex parte communication before or during adjudicative proceeding (may result in disqualification)? OR • complained to you about investigation currently in progress and said how great he or she is √ "Ex parte" communication: direct or indirect communication with you by one of the parties or its representative without notice and opportunity for all parties to participate in the communication (e.g. applicant or licensee (or someone acting on that person's behalf)		**Yes** **Yes**
Do you or your spouse or a close family member (such as an uncle or cousin) have personal knowledge of disputed evidentiary facts concerning the proceeding?		**Yes**
Do you doubt your capacity to be impartial?		**Yes**
Do you, for any reason, believe that your recusal would further the interests of justice?		**Yes**

Agenda Item 7

Name of Department: California State Athletic Commission

Date of Report: January 26, 200

Agency Check- Cash Disbursement – Audit No. 2007-103

INTERNAL CONTROL WEAKNESSES

CONTROL WEAKNESSES IDENTIFIED	CORRECTIVE ACTIONS TAKEN	CORRECTIVE ACTIONS TAKEN	DATE OF ACTION/ PLANNED ACTION
FINDING 1 - The commission cashiering manual is too general and does not include SAM requirements or procedures specific to the commission's day to day handling of cash receipts.	Commission intends to update its policies by applying state laws and SAM requirements into the day to day handling of cash receipts.	A current review for this action item is being completed since taking office.	
Find 2 – The commission has inadequate separation of duties over its cash receipt processing and handling function.	The Commission is in the process of hiring full time staff and filling all office vacancies. Once hiring is completed, redistribution of workload will commence with filling of new duty statements in the Office of Human Resource	Ongoing	
Find 3 - A commission employee violated separation of duties and handled the receipt of cash inappropriately in dealing with restitution of dishonored checks	Training is going to be administered to all employees to make them aware of the Commission's cash receipts policy and procedure.	Completed – all hands were trained on handling cash receipts during inspector training in Aug '09. Continued follow up training will be maintained.	

Name of Department: California State Athletic Commission

Date of Report: January 26, 200

Agency Check- Cash Disbursement – Audit No. 2007-103

INTERNAL CONTROL WEAKNESSES

CONTROL WEAKNESSES IDENTIFIED	CORRECTIVE ACTIONS TAKEN	CORRECTIVE ACTIONS TAKEN	DATE OF ACTION/ PLANNED ACTION
Finding 4 – The commission does not appear to be adequately monitoring or taking action to prevent dishonored checks by promoters for event fee and taxes.	The Commission's procedure regarding dishonored checks needs to be formalized in writing for the very first time. Items to include: creating of dishonored check database and disciplinary measures taken after the first dishonored check, review of Promoters who pass dishonored check to the Commission.	Completed – no promoters are allowed to schedule another event unless checks have been cleared. If they are scheduled to have an event and the check is returned the show will be cancelled until payment is received via money order or cashier check.	
Finding 5– the commission does not adequately safeguard state assets and information while conducting state business away from its Sacramento office.	The Commission is assessing its need for remote access and methods of securing records that are needed in the field. It is anticipated that initial review of the security needs will be completed by March 31, 2009.	The Commission is testing a new database that will limit the amount of personnel information that is carried out in the field. The database is expected to go live on 5/1/2010.	
Finding 6 – The commission does not provide for adequate accountability over the cash receipts it collects.	The Commission's procedure regarding accountability over cash receipts needs to be formalized in writing for the very first time.	Still reviewing the process after taking office.	

Name of Department: California State Athletic Commission

Date of Report: January 26, 200

Agency Check- Cash Disbursement – Audit No. 2007-103

CONTROL WEAKNESSES IDENTIFIED	CORRECTIVE ACTIONS TAKEN	CORRECTIVE ACTIONS TAKEN	DATE OF ACTION/ PLANNED ACTION
Finding 7 – The transfer of funds collected in the field is not adequately documented.	The Commission's procedure regarding transfer of funds collected in the field needs to be formalized in writing for the very first time.	Still reviewing the process after taking office.	
Finding 8 – The commission has had large balances in the uncleared collections account for a number of years and has not taken quick and appropriate action to ensure the money is properly allocated.	Budget Change Proposal has been approved for one additional position beginning in July 1, 2009.	Completed.	
Finding 9 – Cash receipts are not deposited in a timely manner.	The current process in place has every packet for Southern California event routing through the Chief Athletic Inspector for his review prior to submitting the "show pack" to the Sacramento Office. The procedure is going to change and be placed in written format for the very first time.	Completed – all checks received in the office are processed within 7 – 10 business days. When not processed they are lock in a safe.	

Agency Check- Cash Disbursement – Audit No. 2007-103

Find 10 – The Commission lacks an adequate computer system to conduct its business and employs an inaccurate and inefficient manual process along with unsecured spreadsheets instead.	The Commission has been working with the Information Technology department to implement a web based license database for office staff and event supervisors.	Currently the Commission is testing the database for the next two weeks. Barring any problems, the system will be online starting May 1, 2010.	5/1/2010

Name of Department: California State Athletic Commission

Date of Report: July 28, 2005

Agency Check- Boxer Pension Plan Benefits – Audit No. 2004-134

INTERNAL CONTROL WEAKNESSES

CONTROL WEAKNESSES IDENTIFIED	CORRECTIVE ACTIONS TAKEN	CORRECTIVE ACTIONS TAKEN	DATE OF ACTION/ PLANNED ACTION
FINDING 1 – If the commission believes the current vesting criteria is excluding professional boxers for which the pension plan was intended, the commission should consider eliminating the break in service requirements and/or reducing from four to three the number of calendar years that a boxer must fight.	The change is not recommended. If the requirement of the four years of activity were decreased to three, an additional three boxers would enter the plan.	No corrective action.	
Find 2 – Raise the ticket assessment to meet the targeted pension contributions from its bank account to the boxer's pension fund.	The Commission will work with the Employee Benefits Attorney to conduct an analysis of the impact of maintaining or raising the contributions.	The Commission is looking to update the current regulations. The boxer pension fund remains healthy and raising the ticket assessment could cause a financial impact to promoters.	
Find 3 – Implement the corrective action proposed by the acting executive officer to the Department of Consumer Affairs related to ensuring timely deposit of checks.	An MOU between the Commission and the Department of Consumer Affairs has been let to have an employee come in to the Sacramento office to work on cashiering. Cashier training for Commission staff is planned for the very near future.	Completed	

Name of Department: California State Athletic Commission

Date of Report: July 28, 2005

Agency Check- Boxer Pension Plan Benefits – Audit No. 2004-134

INTERNAL CONTROL WEAKNESSES

CONTROL WEAKNESSES IDENTIFIED	CORRECTIVE ACTIONS TAKEN	CORRECTIVE ACTIONS TAKEN	DATE OF ACTION/ PLANNED ACTION
Finding 4 - Require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposit of checks and subsequent remittances to the boxer's pension fund are not delayed.	A letter to all promoters is being drafted to inform them of the new procedures and to confirm existing ones. The letter will go out by August 1, 2005 and will include this requirement.	Completed – although stated completed. A review must be conducted to ensure this process in being conducted.	
Finding 5 – To ensure boxer's information concerning eligibility status and pension account balances are accurate, the commission should retain all official documents, work with pension plan administrator to correct errors related to boxers' eligibility status and account balance, and periodically sample a few newly vested and pending boxers and review their eligibility status and pension account balances.	This is currently now being done. A monitoring of the progress has also been established.	Completed – Staff member ensure that all boxers stats are correct and working with the account manager to ensure timely payment are made to eligible individuals. This is an ongoing process and will be maintained.	

Internal Control Audit of the

California State Athletic Commission Cash Receipt Cycle

October 2008

Audit No. 2007-103

STATE OF CALIFORNIA

dca

DEPARTMENT OF CONSUMER AFFAIRS

Internal Audit Office

INTERNAL AUDIT OFFICE
1625 North Market Blvd., Ste. S-202, Sacramento, CA 95834
(916) 574-8190 (916) 574-8609 www.dca.ca.gov

January 26, 2009

William Douglas, Assistant Executive Officer
California State Athletic Commission
2005 Evergreen St., Suite 2010
Sacramento, CA 95815

Subject: Final Audit Report – Internal Control Audit of the California Athletic Commission Cash Receipt Cycle (2007-103)

Enclosed is the Internal Control Audit Report of the California Athletic Commission's (commission) cash receipt handling practices. We performed this audit to assist the commission in complying with the Financial Integrity and State Manager's Accountability Act of 1983, which requires an assessment of the adequacy of internal controls.

Our audit identified many reportable conditions for which controls could be improved. If left uncorrected, these conditions increase the risk that material errors or irregularities could occur and remain undetected. We have included our specific findings and recommendations in the attached report. As outlined in the response, the commission concurs with our audit findings and plans to take corrective actions to improve its operations. We plan to follow-up on the commission's progress in implementing its corrective actions at 180- and 360-days from the audit report date. The commission's 180- and 360-day responses are due July 27, 2009 and January 26, 2010, respectively.

We would like to inform you of recent changes to the Government Code that added additional reporting requirements for state agencies that do not fully implement its corrective actions. The commission will be required to submit a plan and schedule for correcting the identified internal control weaknesses to the Director of the Department of Finance every six months until all deficiencies are corrected. The Internal Audit Office coordinates this submission and will contact the commission prior to the submission deadlines. Depending on the circumstances, we may also report our follow-up results to the Secretary of State and Consumer Services Agency pursuant to the passage of Chapter 452, Statutes of 2006 (SB 1452).

We would like to thank you and your staff for your cooperation during the audit. If you need further information, please contact our office at 574-8190.

Sincerely,

Original signed by Cathleen Sahlman
Cathleen Sahlman
Audit Chief

Attachment

cc: Scott Reid, Chief Deputy Director
Spencer Walker, Senior Advisor to the Director
Audit Committee Members

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Attachment I – The Commission's Response to the Draft Report

PREFACE

The California State Athletic Commission (commission) regulates professional boxing, professional and amateur kickboxing, and professional mixed martial arts throughout the state by licensing all participants and supervising the events. The commission protects consumers by ensuring bouts are fair and competitive while protecting the health and safety of participants.

The commission became a bureau directly under the Department of Consumer Affairs (department), effective July 1, 2006, but was reestablished as a commission, effective January 1, 2007.

BACKGROUND

This audit report addresses the commission's cash receipt process.

This audit included a review of two prior audit reports of the commission, including one performed by the Bureau of State Audits (BSA) dated July 28, 2005 which focused on the Boxers' Pension Plan, and another that was the last department Internal Audit Office (IAO) operational audit report, dated November 14, 2003. We noted several issues affecting the cash receipts process, which, although previously reported, had never been fully addressed or corrected through several administrations and commission Executive Officer changes.

For example, the BSA report on the Boxer's Pension Plan identified the issue of slow check depositing. BSA also found issues with the completeness of documentation maintained for boxing contests. Our audit also identifies the issue of slow deposits, incomplete documentation, and an inefficient and inadequate computer system to conduct its business.

The prior IAO operational audit identified issues with inefficient operations and inadequate accounting practices, cash handling, lack of standardized procedures, and manually driven processes. Once again the audit showed that these issues still exist, and are described in the Findings and Recommendations section of this report.

Each finding includes a recommendation for improvement. Many possible solutions are identified in the recommendations, including new and improved cash handling policies, better separation of duties, altering the distribution of workload, increased staffing, and generally improved cash handling procedures.

In order to establish and maintain adequate internal control in accordance with the State Administrative Manual (SAM), the commission and the Executive Officer should consider the underlying causes for the described deficiencies, and take appropriate action to resolve these issues.

California State Athletic Commission
October 2008

The department Internal Audit Office completed an accounting and administrative control audit of the California State Athletic Commission (commission), as required by Section 20000 of the SAM. The purpose of the audit was to assist the commission in complying with the Financial Integrity and State Manager's Accountability Act (FISMA) of 1983, which requires an assessment of the adequacy of internal controls. Specifically, we reviewed the commission's cash receipts cycle to determine whether adequate internal controls were in place to ensure compliance with state requirements and incorporated sound management practices.

In evaluating the commission's cash receipt handling operations, we interviewed pertinent personnel and reviewed relevant documentation and processes. We performed compliance testing of key functions and compared actual operations to applicable laws, regulations, and guidelines. The audit test period was fiscal year 2007/2008; however, we expanded the test period in certain instances when it was deemed appropriate. The audit was performed in accordance with the *International Standards for the Professional Practice of Internal Auditing.* The last day of audit fieldwork was October 15, 2008.

The audit identified reportable conditions for which controls could be improved. If left uncorrected, these conditions increase the risk that material errors or irregularities could occur and remain undetected. We met with the commission on January 5, 2009 to communicate our audit results. The internal control weaknesses below are addressed in greater detail under the Findings and Recommendations section of this report:

- The commission's cashiering manual is too general and does not include many SAM requirements or procedures specific to the commission's day to day handling of cash receipts.
- The commission has inadequate separation of duties over its cash receipt processing and handling function.
- A commission employee violated separation of duties and handled the receipt of cash inappropriately in dealing with restitution of dishonored checks.
- The commission does not appear to be adequately monitoring or taking action to prevent dishonored checks by promoters for event fees and taxes.
- The commission does not adequately safeguard state assets and information while conducting state business away from its Sacramento office.
- The commission does not provide for adequate accountability over the cash receipts it collects.
- The transfer of funds collected in the field is not adequately documented.
- The commission has had large balances in the uncleared collections account for a number of years and has not taken quick and appropriate action to ensure the money is properly allocated.
- Cash receipts are not deposited in a timely manner.
- The commission lacks an adequate computer system to conduct its business and employs an inaccurate and inefficient manual process using unsecured spreadsheets instead.

We have completed an audit of the accounting and administrative control of the California State Athletic Commission's (commission) cash receipts cycle in effect as of October 15, 2008. Our audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors, and included audit tests we considered necessary in determining that accounting and administrative controls over the cash receipts cycle are in place and operative.

The commission's management is responsible for establishing and maintaining adequate internal control. This responsibility, in accordance with Government Code (GC) Sections 13402 et seq., includes documenting internal control, communicating requirements to employees, and assuring that internal control is functioning as prescribed. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of accounting and administrative control are to provide management with reasonable, but not absolute, assurance that:

- Assets are safeguarded against loss from unauthorized use or disposition.
- Transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of reliable financial statements.
- Financial operations are conducted in accordance with policies and procedures established in the State Administrative Manual.

Our responsibility is to express an opinion on the adequacy of the commission's internal control over its cash receipt handling activities, based on our audit. Accordingly, our audit included obtaining an understanding of internal control over the cash receipts function; testing and evaluating the design and operating effectiveness of internal control related to this area; and performing such audit procedures as we considered necessary under the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Because of inherent limitations in any internal control structure, misstatements due to error or fraud may occur and not be detected. Also, projection of any evaluation of the internal control over the cash receipts process to future periods is subject to the risk that the internal control may be adversely affected by changes in conditions that render it inadequate, or that the degree of compliance with the policies and procedures may deteriorate.

Our audit identified several internal control weaknesses relating to the commission's cash receipt handling activities. The following reportable conditions were noted:

- The commission's cashiering manual is too general and does not include many SAM requirements or procedures specific to the commission's day to day handling of cash receipts.
- The commission has inadequate separation of duties over its cash receipt processing and handling function.
- A commission employee violated separation of duties and handled the receipt of cash inappropriately in dealing with restitution of dishonored checks.
- The commission does not appear to be adequately monitoring or taking action to prevent dishonored checks by promoters for event fees and taxes.
- The commission does not adequately safeguard state assets and information while conducting state business away from its Sacramento office.

OBJECTIVES, SCOPE AND METHODOLOGY

The audit was performed in accordance with the *International Standards for the Professional Practice of Internal Auditing*. The audit objectives were to determine whether:

- Assets are safeguarded against loss from unauthorized use or disposition.
- Transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of reliable financial statements.
- Financial operations are conducted in accordance with policies and procedures established in the State Administrative Manual.

The audit methodology included interviewing pertinent personnel, reviewing selected documentation related to the commission's policies and processes, and performing compliance testing, on a sample basis, as deemed necessary. The audit test period was fiscal year 2007/2008; however, we expanded the test period during our review of the commission's cash handling practices because it was deemed appropriate. The last day of audit fieldwork was October 15, 2008.

- The commission does not provide for adequate accountability over the cash receipts it collects.
- The transfer of funds collected in the field is not adequately documented.
- The commission has had large balances in the uncleared collections account for a number of years and has not taken quick and appropriate action to ensure the money is properly allocated.
- Cash receipts are not deposited in a timely manner.
- The commission lacks an adequate computer system to conduct its business and employs an inaccurate and inefficient manual process using unsecured spreadsheets instead.

Based on the cumulative effects of the weaknesses described in the preceding paragraphs, the commission does not maintain an effective system of internal control over its cash receipts functions as of October 15, 2008, based on the requirements of GC section 13400 et seq.

This report is intended for the information and use of the commission and the department and should not be used for any other purpose. However, the report is a matter of public record and its distribution is not limited.

Original signed by Cathleen Sahlman

Cathleen Sahlman, Audit Chief
Department of Consumer Affairs
Internal Audit Office

October 15, 2008

FINDINGS AND RECOMMENDATIONS

FINDING 1

The commission's cashiering manual is too general and does not include many SAM requirements or procedures specific to the commission's day to day handling of cash receipts.

Condition

The commission utilizes a cashiering training manual established by the department's' Centralized Cashiering Unit (CCU) as a training guide for its clients in 2007. However, the manual is not all inclusive and lacks procedures and policies related to many cash receipt related SAM requirements, such as separation of duties, verification of reports of collections, localized accountability, and safeguarding cash receipts. Further, the manual does not include procedures specific to the commission's day to day handling of its cash receipts.

Effect

As a result, the commission does not have a set of written policies and procedures adequate to provide standardized guidance to its staff, which is essential in providing reference to current staff on an as needed basis and a training tool for new employees with cash handling responsibility.

Criteria

Government Code 13403 (a) : "The elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: (4): "An established system of practices to be followed in performance of duties and functions in each of the state agencies."

SAM section 20050 states that entity heads are responsible for, "...the establishment and maintenance of internal accounting and administrative controls. Each system an entity maintains to regulate and guide operations should be documented through flowcharts, narratives, desk procedures, and organizational charts. The ultimate responsibility for good internal control rests with management."

Recommendation

The commission should update its policies to reflect current commission day to day cash receipt handling practices and include the applicable state laws and SAM requirements as they apply to the handling of cash receipts.

FINDING 2

The commission has inadequate separation of duties over its cash receipt processing and handling function.

Condition

The commission has one staff member that has the ability to receive cash receipts, input the receipt information, prepare the manual report of collections, and monitor the status of the report of collections being deposited by the department's cashiering unit. This staff member also has access to the key to the courier bag in which the cash receipts are locked after the supervisory review and approval of the report of collections. This bag is then sent to the department for deposit, creating an opportunity for the staff member to modify the documents after review, and conceal this effort.

Further, almost every commission employee, including its 55 temporary employees, may be asked to handle money at an event and in the field. Commission employees receive money, receipt the money in a receipt book that is controlled by the employee and never reviewed or reconciled by the commission, record the receipts on a "show payment balance sheet" (payment sheet); and safeguard the receipts until the money and payment sheet is provided to the commission cashier for processing at a later date. Further, some of these employees also have access to update or change the licensing spreadsheets used to track the license statuses. At the time of an event, these spreadsheets are used to determine which fighters and other people in need of a license (i.e. seconds, managers, etc.) are already licensed.

In addition, the Chief Athletic Inspector violates separation of duties requirements, because in addition to performing many of the tasks associated with the athletic inspectors as previously described, this position is also charged with the task of reconciling the information, money and fees calculated and collected, even for the events he is in charge of.

Effect

As a result, a risk exists that errors or misappropriation of assets could occur and remain undetected. For example, someone could accept cash at an event, change the license status to "clear" in the spreadsheet and pocket the money. Because the receipt books are not collected and reconciled, the employee could even write a receipt for the cash and the misappropriation of funds could still go completely unnoticed.

Criteria

Government Code section 13403(a)(1): The elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following: A plan of organization that provides segregation of duties

appropriate for proper safeguarding of state agency assets.

State Administrative Manual (SAM), Section 8080.1, states that agencies with automated accounting systems should ensure appropriate separation of duties by not assigning staff to perform more than one of the following duties:

- Receive and deposit remittances (included in SAM Section 8080)
- Input receipt information
- Reconcile input to output

SAM, Section 8080.2 states that agencies with combined automated and manual processes should use sections 8080 and 8080.1 in combination to obtain adequate separation of duties.

Recommendation

The commission should review the cashiering functions and its other administrative responsibilities and separate incompatible duties where possible. They should implement mitigating measures sufficient to address the risk of misappropriation of funds due to fraud or undetected errors for areas in which the duties cannot be feasibly separated. As part of this review, the commission should consider redistributing its workload to shift its resources to adequately cover these responsibilities in order of priority. If the commission feels that it will require additional staffing resources to effectively accomplish the administrative operation of the commission, it should take steps to submit a request through the Budget Change Proposal process.

FINDING 3

A commission employee violated separation of duties and handled the receipt of cash inappropriately in dealing with restitution of dishonored checks.

Condition

At least two promoters and one other entity wrote checks to the California State Athletic Commission which were dishonored by the bank. A commission employee then accepted cash payment from the promoter and others in lieu of these previously dishonored checks. The commission employee then purchased certified checks made payable to the commission on behalf of the parties owing money under a private bank account. The amount of the checks purchased were the appropriate amounts owed to the commission. The commission did not provide receipts for the cash received from the promoter and others as required by SAM. It is not appropriate, nor is it a prudent business practice, for a commission employee to purchase a negotiable instrument on behalf of promoters or individuals owing the commission money. Further, the commission employee's responsibilities include reconciling the event information, including promoter fees and taxes due, which some of the dishonored checks were attributable to. The commission employee violated both the cash receipt requirements under SAM 8020, and separation of duties requirements under SAM 8080.

Effect

As a result, there is an increased risk that fraudulent activity could occur and remain undetected. This type of transaction creates an inappropriate perception of the employee and the commission with regard to its relationships with certain promoters and/or individuals.

Criteria

Government Code Section 13403 states that the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(1) A plan of organization that provides segregation of duties appropriate for proper safeguarding of state agency assets.
(2) A plan that limits access to state agency assets to authorize personnel who require these assets in the performance of their assigned duties.
(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.
(4) An established system of practices to be followed in performance of duties and functions in each of the state agencies.
(5) Personnel of a quality commensurate with their responsibilities.
(6) An effective system of internal review.

FINDING 4

The commission does not appear to be adequately monitoring or taking action to prevent dishonored checks by promoters for event fees and taxes.

Condition

The commission's cashier tracks dishonored checks through an Excel spreadsheet, which includes the payee's name, the check amount, date, and disposition/status. At least three promoters that continue to promote in this state continue to submit checks for payment that are dishonored. It does not appear that the commission management is taking steps to address the issue and prevent repeat offenses. This issue is exacerbated given the commission's practice of turning over cash collected by the commission to the promoters on the night of events and allowing them to include the cash amounts in checks made payable to the commission at the end of the event. The purpose of this practice is to alleviate cash handling duties for the commission while at the event. However, if the checks do not clear and the promoter does not pay the amounts back, the commission loses both the cash collected for the events and the fees and taxes due from the promoter.

Effect

As a result, there is an increased risk of the unnecessary loss of revenue.

Criteria

Government Code Section 13403 states that the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.
(4) An established system of practices to be followed in performance of duties and functions in each of the state agencies.
(6) An effective system of internal review.

Business and Professions Code Section:
18827. If a promoter fails to pay any tax ascertained to be due under this chapter, in addition to the costs of the examination under Section 18826, if any, within 30 days after receipt of notice by the executive officer, the commission may without hearing revoke or suspend the promoter's license and authorize the Attorney General to bring an action in superior court to collect the amount due, any fines authorized by this chapter, and attorney's fees. The action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction or other matters to which special precedence has been given by law.

18836. In case of default in the payment of any tax due under

State Administrative Manual (SAM), Section:
8080.1, states that agencies with automated accounting systems should ensure appropriate separation of duties by not assigning staff to perform more than one of the following duties:

- Receive and deposit remittances (included in SAM Section 8080)
- Reconcile input to output

8080.2, states that agencies with combined automated and manual processes should use sections 8080 and 8080.1 in combination to obtain adequate separation of duties.

8020
State Agencies will prepare receipts for the following transactions:

a. All collections, unless specifically exempted in writing by the Department of Finance, Fiscal Systems and Consulting Unit, of coin or currency received in person from payers who are not given press-numbered documents of fixed value (such as guest meal tickets) at the time of payment.

Additional Criteria: It is not a prudent business practice to introduce personal or unrelated bank accounts in any way into a business transaction between a client and a state entity such as the commission, even if it is merely purchasing a money order or cashier's check on the client's behalf.

Recommendation

The commission should ensure that all employees are aware of the proper procedures regarding the handling of cash receipts and require that all dishonored check payments be directed to the headquarters office and not handled in the field. The commission employee should have instructed the promoters or individuals in these cases to purchase the money orders or certified checks themselves and mail them directly to the commission.

this chapter, the commission may refuse to issue a permit to any person so defaulting regardless of whether the application for the permit is made solely in the name of the person, or together with others.

Recommendation

The commission should:

- Closely monitor the dishonored check spreadsheet and consider requiring alternative methods of payment by the promoters after their first dishonored check.
- Formally review the risk of allowing repeat offenders to continue promoting in California and consider exercising its rights under the law to disallow further activities in the state.
- Discontinue the practice of turning over the cash at an event for inclusion in the check written by the promoter for taxes and fees, if the promoter has had previous dishonored checks.
- Institute alternative procedures of handling collected cash or requiring only non-cash forms of payment for those particular events.

FINDING 5

The commission does not adequately safeguard state assets and information while conducting state business away from its Sacramento office.

Condition

The commission oversees boxing, mixed martial arts, and kickboxing events at various locations throughout the state. During these events and the associated weigh-ins the commission collects money and personal information (including home addresses, social security numbers, and medical information) in the field and its employees carry the information and assets with them until they arrive back at the Sacramento office or can provide the information and assets to the Chief Athletic Inspector in Southern California.

During an event and weigh-in observation, the auditor observed the folder containing personal and confidential information, the cash receipt book and the collected cash receipts left unattended on numerous occasions. The auditor also observed an ESPN employee with a laptop at the table, who, on numerous occasions, looked through the papers spread out on the table while the table was unattended by commission staff. Additionally, during the event, there was confusion as to the location of the cash collected at the end of the night. The lockable bags used to carry information to and from the events do not seem to be locked during the weigh-ins and events.

Effect

As a result, a risk exists that errors or misappropriation of assets could occur and remain undetected and that personal and confidential information could be lost, misplaced, or stolen.

Criteria

Government Code section13403 states that the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(1) A plan of organization that provides segregation of duties appropriate for proper safeguarding of state agency assets.
(2) A plan that limits access to state agency assets to authorize personnel who require these assets in the performance of their assigned duties.
(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.
(4) An established system of practices to be followed in performance of duties and functions in each of the state agencies.

Business and Professions Code Section 18602.1 states: Protection of the public shall be the highest priority for the State Athletic Commission in exercising its licensing, regulatory, and

disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Department of Consumer Affairs Policy and Procedures:

EXEC 03-05 (issued July 11, 2003): The attached "Privacy Policy Statement" includes the following statement: We take reasonable precautions to protect the personal information on individuals collected or maintained by the Department against loss, unauthorized access, and illegal use or disclosure.

ISO 06-01 (issued December 1, 2006): The memo states in part: DCA information shall be protected according to its sensitivity, criticality, and value—from the time it is created until the time it is destroyed or transferred. All DCA information assets will be classified by the owner as to the level of protection required and must be protected in a manner that is consistent with its classification.

The owner of the information is responsible for defining special security precautions that must be followed to ensure the integrity, security, and appropriate level of confidentiality of sensitive and personal information as defined below:

2. Personal Information—information that identifies or describes an individual as defined below. This information must be protected from inappropriate access, use, or disclosure and must be made accessible to data subjects upon request.

a. Notice-triggering Personal Information—specific items or personal information (name plus Social Security number, California driver's license/identification card number, or financial account number) that may trigger a requirement to notify individuals if it is acquired by an unauthorized person.

b. Protected Health Information—individually identifiable information created, received, or maintained by such organizations as health care payers, health care providers, health plans, and contractors to these entities, in electronic or physical form. State law requires special precautions to protect such information from unauthorized use, access, or disclosure.

Physical Security: Access to every office, computer room, and work area containing confidential or sensitive information must be physically restricted to prevent unauthorized access. Confidential information in paper form shall be appropriately secured when left unattended or during non-working hours.

Recommendation

The commission should review its methodology for accepting and protecting state assets and personal/confidential information and institute controls over the processes to conform to the mandates set forth in state law and departmental policy.

FINDING 6

The commission does not provide for adequate accountability over the cash receipts it collects.

Condition

The commission does not have an adequate system of localizing the accountability of the cash receipts it collects. Specifically, the receipt books are kept by various athletic inspectors across the state. The commission does not track the number sequences of the pre-numbered cash receipts it provides to athletic inspectors nor does it require the athletic inspectors to return the used receipt books so that they can be reconciled. While the commission does use logs showing payment, they are not reconciled to the receipt books to ensure that no receipt was overlooked. This negates any benefit derived from utilizing pre-numbered receipts, as the numbering is not inventory controlled.

Additionally, because the receipt books are not collected by the commission and it is not usually clear who wrote a receipt without having a copy of it, we were unable to determine in many cases whether the commission was even meeting the SAM requirement of using receipts for all cash collected.

Effect

These conditions could result in late detection of errors or theft of cash receipts, difficulty determining if all fees were collected for all licenses issued, as well as difficulty determining who handled receipts for a given event.

Criteria

Government Code section13403 states that the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(2) A plan that limits access to state agency assets to authorize personnel who require these assets in the performance of their assigned duties.

(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

SAM Section:8020 states that State Agencies will prepare receipts for the following transactions:

a. All collections, unless specifically exempted in writing by the Department of Finance, Fiscal Systems and Consulting Unit, of coin or currency received in person from payers who are not given press-numbered documents of fixed value (such as guest meal tickets) at the time of payment.

b. All collections from payers who request receipts.

c. All collections where a receipt is needed by the payer as a temporary permit pending issuance of a license.

All receipts, except transfer receipts, will be press-numbered. See SAM Section 8021. The amount received will be written on receipts in figures only. An inventory control will be kept for press-numbered receipts. All copies of receipts and licenses, except the originals, will show the following printed statement "Copy—Not a valid receipt" or "Copy—Not a valid license".

Recommendation

The commission should:

- Institute procedures to localize accountability for money received in the field,
- Control and monitor the use of receipt books and consider reconciling the receipts issued to payments deposited on an ongoing basis.

FINDING 7

The transfer of funds collected in the field is not adequately documented.

Condition

The commission does not currently document the transfer of money collected in the field. While SAM does not specifically require transfer receipts for cash receipts transferred between employees, the lack of controls ensuring localized accountability and safeguarding of the cash receipts in the field as noted in Finding 5 and in Finding 6 highlights the need for increased controls in this area. During an event observation conducted by the auditor, it was noted that cash and checks collected by the commission passed through several hands before being taken by the Executive Officer.

Furthermore, the commission does not require the promoter to sign for cash received when it is transferred to them making it difficult to prove that any money was transferred.

In addition, the commission does not have a procedure to prelist or use transfer receipts when it receives cash receipts not made payable to it, as required by SAM.

Effect

As a result, a risk exists that errors or misappropriation of assets could occur and remain undetected.

Criteria

Government Code section 13403 states that, the elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(2) A plan that limits access to state agency assets to authorize personnel who require these assets in the performance of their assigned duties.

(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

SAM Section:
8020.1 states all incoming mail receipts consisting of cash and negotiable instruments, not payable to the State agency, will be prelisted by the person opening the mail to localize accountability of these assets.

8021 requires a separate series of transfer receipts be used to localize accountability for cash or negotiable instruments to a specific employee from the time of its receipt to its deposit. This series of receipts need not be press numbered. A receipt will be signed by the receiving employee whenever cash or checks not payable to the State agency are transferred between employees. State agencies will retain copies of these receipts.

Recommendation

The commission should:

- Create prelistings and transfer receipts for cash receipts not made payable to the commission,
- Consider using transfer receipts of some sort when transferring cash in the field and to the headquarters staff and promoters,
- Institute procedures to localize accountability for money received in the field.

FINDING 8

The commission has had large balances in the uncleared collections account for a number of years and has not taken quick and appropriate action to ensure the money is properly allocated.

Condition

The commission began accumulating large amounts of revenue in the uncleared collections account in FY 04/05 due to staffing issues that complicated the effective cashiering of the commission's cash receipts. As seen in the diagram below, the balance in the account was nearly $900,000 by the end of FY 04/05 and over $120,000 of these funds still remains in the account as of the end of FY 07/08. Money placed in an uncleared collections account should be allocated to the proper accounts as soon as possible as the money does not accumulate interest, nor can it be claimed as revenue for the applicable entity until it is credited to the appropriate accounts.

Fiscal Year	Year-end Balance
04/05	$898,081.12
05/06	$309,112.41
06/07	$278,211.81
07/08	$120,560.27

Effect

As a result, there is over $120,000 in revenue attributable to FY 04/05 that cannot be used by the commission.

Criteria

SAM section:
10452 defines the Uncleared Collections account as an account whose cash collections must be reviewed to determine if they are to be accepted for a fund in the State Treasury or are to be refunded to payers. This account also contains fees which are not earned until a permit, license or other document is actually issued.

7826 defines the subsidiary account – Uncleared Collection File – as receipts for cash, application forms, remittance advices and other documents supporting cash receipts, the disposition of which can not be identified or which can not for any reason be cleared as revenue, reimbursements, etc., are placed in this file. They are removed and disposition noted thereon as the items are cleared and applied or are refunded.

10508 states that the items in the Uncleared Collections account should be cleared as revenue at least once each quarter.

Business and Professions Code 18800, states that all moneys received by the commission, except for those belonging to the

Boxer's Pension Fund, be remitted to the State Treasurer and deposited into the Athletic Commission Fund.

Recommendation

The commission should move quickly to determine the appropriate accounts for which the remaining $120,000 in the uncleared collections account should be allocated, in order to use the money for the appropriate purposes in the fulfillment of the commissions stated missions. If the commission lacks the personnel or expertise to accomplish this task, it should pursue the appropriate personnel through administrative action or the Budget Change Proposal process.

FINDING 9 — Cash receipts are not deposited in a timely manner.

Condition

A review of commission report of collections and individual cash receipts revealed that the commission is not consistently processing its cash receipts within the 10 business days required by SAM 8032.1. Specifically, 18% of the report of collections tested exceeded this requirement. To determine how extensive the problem is, 13 of the largest cash receipts deposited as part of reports of collections that were not taken exception to in the high level test described were sampled to determine how long they were held from receipt to deposit. This test revealed that 12 of the 13, or 92% were held longer than 10 business days before deposit.

Also, many of the commission transfers in the period tested exceeded the $10,000 accumulation limit required by SAM 8032.1. At least one transfer in question was more than $120,000.

Effect

As a result, the commission is unnecessarily delaying the posting of revenue to its accounts, and not properly maximizing its interest earnings.

Criteria

State Administrative Manual (SAM) Section:
8030 states it is imperative that agencies report deposits in a timely and accurate manner in order to expedite the reconciliation of their agency accounts and to maximize interest earnings.

8032.1 states accumulated receipts of any amount will not remain undeposited for more than ten working days. An agency may deposit more often than once a day at its discretion and when it is economical or practical to do so because of the size of its receipts.

Agencies that do not have a safe, vault, or money chest that is adequate to safeguard cash will accumulate collections until they amount to $250 in cash or $10,000 in cash, checks, money orders, and warrants (excluding state warrants and state checks), whichever occurs first. When such funds are not in use, they will be locked in a desk, file cabinet, or other mechanism providing comparable safekeeping.

Recommendation

The commission should ensure that it processes the cash receipts received as quickly as possible, in accordance with the SAM requirements.

FINDING 10

The commission lacks an adequate computer system to conduct its business and employs an inaccurate and inefficient manual process along with unsecured spreadsheets instead.

Condition

The commission tracks all of its information, including licensee and medical information on unsecured and unprotected Excel spreadsheets. These documents can be easily manipulated, even unintentionally, and there are no controls to ensure that accurate information is entered or that all pertinent fields are captured. The information is not linked and useful reports cannot be run. Additionally, the commission does not even have the capability to print licenses for its licensees.

Further, our review of the event documents and related applications, revealed that the information contained within the spreadsheets is not always accurate. The current system of checking event information manually and utilizing a series of handwritten documents, which are very often hard to read, is inefficient and can lead to mistakes.

Effect

Without accurate information regarding the licensees and the commission's overall operations, the health and safety of the commission's licensees and the state's assets cannot be guaranteed.

Criteria

Government Code section:
13402. State agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting and administrative control within their agencies. This responsibility includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions.

13403. ...The elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(2) A plan that limits access to state agency assets to authorize personnel who require these assets in the performance of their assigned duties.
(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

Recommendation

The commission should resume its abandoned efforts to procure a computer system that will meet its needs. In the interim, the commission should work with the department's

Office of Information Systems (OIS) to obtain use of the department's Applicant Tracking System (ATS) and the Consumer Affairs System (CAS). These systems are limited in their capabilities but could provide better controls over the commission's information and assets than it currently has if utilized properly. Additionally, the commission should consider utilizing laptops and blackberries to provide accurate, updated, and consistently legible information in the field.

ATTACHMENT I

Commission's Response to the Draft Report

Action: Training is going to be administered to all employees to make them aware of the Commission's cash receipts policy and procedure. Dishonored checks are going to be directed to the Sacramento office. It is anticipated that this directive will be administered by June 30, 2009 after proper training is conducted with all Commission staff at the next "all hands meeting."

Finding 4

The commission does not appear to be adequately monitoring or taking action to prevent dishonored checks by promoters for event fees and taxes.

Response: Agree

Action: The Commission's procedure regarding dishonored checks needs to be formalized in writing for the very first time. Items to include in the written procedure are: creation of a dishonored check database and disciplinary measures taken after the first dishonored check, formal review of Promoters who pass dishonored checks to the Commission to determine whether their license should be revoked, overhaul of the cash handling procedures at a live event, and collection of non-cash forms of payment. It is anticipated that this procedure will be implemented by June 30, 2009.

Finding 5

The commission does not adequately safeguard state assets and information while conducting state business away from its Sacramento office.

Response: Agree

Action: The Commission is assessing its need for remote access to records (mandatory) and methods of securing records that are needed in the field (locking mechanisms placed on travel gear). It is anticipated that initial review of the security needs will be completed by March 31, 2009 with full implementation by July 1, 2009. Any business items related to the Office of Information Services could require a budget change proposal or Feasibility Study which could extend completion of this requirement into another fiscal year.

Finding 6

The commission does not provide for adequate accountability over the cash receipts it collects.

Response: Agree

Action: The Commission's procedure regarding accountability over cash receipts needs to be formalized in writing for the very first time. Items to include in the written procedure are: Localizing the receipt of money as much as possible in the Sacramento office and instituting strict use of receipt books and deposit items. It is anticipated that this procedure will be implemented by June 30, 2009.

Finding 7

The transfer of funds collected in the field is not adequately documented.

Response: Agree

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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January 23, 2009

Cathleen Sahlman, Audit Chief
Internal Audit Office
1625 North Market Blvd., Suite S-202
Sacramento, CA 95834

Dear Ms. Sahlman,

Thank you for the feedback provided by your staff during the internal audit of the California State Athletic Commission's cash receipt cycle. Listed below are my responses to the findings from the report.

Finding 1
The commission's cashiering manual is too general and does not include many SAM requirements or procedures specific to the commission's day to day handling of cash receipts.

Response: Agree

Action: The Commission intends to update its policies by applying state laws and SAM requirements into the day to day handling of cash receipts by restructuring the entire cash receipt process. It is anticipated that the cash receipt process will be restructured and in place by December 31, 2009.

Finding 2
The commission has inadequate separation of duties over its cash receipt processing and handling function.

Response: Agree

Action: The Commission is in the process of hiring full time permanent staff and filling all office vacancies. Additionally, the Commission has received approval for one additional position beginning on July 1, 2009. The position was obtained through the Budget Change Proposal process. Once hiring is completed, the redistribution of workload will commence with filing of new duty statements in the Office of Human Resources. This measure is being taken to insure there is no misappropriation of funds. It is anticipated that the separation of duties will be completed by December 31, 2009.

Finding 3
A commission employee violated separation of duties and handled the receipt of cash inappropriately in dealing with restitution of dishonored checks.

Response: Agree

Action: The Commission's procedure regarding transfer of funds collected in the field needs to be formalized in writing for the very first time. Items to include in the written procedure are: Procedures for transfer receipts for cash receipts not payable to the Commission, procedures for transfer receipts when transferring cash in the field and to the Sacramento office, and localizing the receipt of money as much as possible in the Sacramento office. It is anticipated that this procedure will be implemented by June 30, 2009.

Finding 8

The commission has had large balances in the uncleared collections account for a number of years and has not taken quick and appropriate action to ensure the money is properly allocated.

Response: Agree

Action: The Budget Change Proposal has already been approved for one additional position beginning July 1, 2009. Recruitment is underway to fill three office vacancies that currently exist and once staffing is fully completed (anticipated completion of February 28, 2009), efforts will be made to locate the source of the remaining funds in the uncleared collections account. It is anticipated that these funds will be cleared out by September 30, 2009.

Finding 9

Cash receipts are not deposited in a timely manner.

Response: Agree

Action: The current process in place has every event packet for Southern California events routing through the Chief Athletic Inspector for his review prior to submitting the "show pack" to the Sacramento office. The procedure is going to change and be placed in written format for the very first time. It is anticipated that this procedure will be implemented by February 28, 2009.

Finding 10

The commission lacks an adequate computer system to conduct its business and employs an inaccurate and inefficient manual process along with unsecured spreadsheets instead.

Response: Agree

Action: The current process in place is beyond prehistoric. Efforts will be made to restart the process for a Feasibility Study on a new database. Additionally, options regarding DCA's Applicant Tracking System (ATS) and Consumer Affairs System (CAS) will be explored. Options for remote activity in the field (laptops, blackberries) are already being explored. It is anticipated that this process could stretch over the next two fiscal years depending on which option is selected.

California State Auditor

State Athletic Commission:

The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered

July 2005
2004-134

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CALIFORNIA STATE AUDITOR

ELAINE M. HOWLE
STATE AUDITOR

STEVEN M. HENDRICKSON
CHIEF DEPUTY STATE AUDITOR

July 28, 2005

2004-134

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee (audit committee), the Bureau of State Audits presents its audit report concerning the State Athletic Commission's (commission) operations of the boxers' pension plan. Specifically, the audit committee was interested in the condition of the boxers' pension plan in its current form, whether the statutory requirements for pension contributions are being met, how much is being spent on administrative costs, and the best course of action to ensure its long-term viability.

This report concludes that only a small percentage of boxers who fight in California will ever receive a pension and those who do will only receive a small benefit. Since the pension plan was modified in 1996, on average four boxers per year have vested. While the 18 vested boxers with account balances currently at age 50-54 would have received a defined benefit averaging $98 per month at age 55 under the original plan, we estimate the average account balance is large enough for the average boxer to receive approximately $170 per month for 10 years under the current plan when they reach age 55. Finally, the commission has many problems with its day-to-day administration of the pension plan, including failure to raise the 88-cent-per-ticket assessment (pension contributions) to meet the statutory funding requirements, untimely remittances of pension contributions to the state treasurer, and errors in determining boxers' eligibility.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

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SUMMARY

Audit Highlights . . .

Our review of the State Athletic Commission (commission) and the boxers' pension plan revealed that:

- ☑ *Under the current plan only four boxers per year are vesting.*
- ☑ *The current plan will likely give an average 55-year-old vested boxer a pension benefit of $170 per month, while the original plan would have paid $98 per month.*
- ☑ *During the four-year period from 2001 through 2004, payments for pension plan administration costs were six times greater than the amount of benefits paid to boxers.*
- ☑ *Since the inception of the current plan, the commission met the minimum funding requirement in only one out of nine years.*
- ☑ *Poor administration of the pension plan resulted in untimely recording of pension contributions, inaccurate reporting of boxers' eligibility status, and incorrect account balances.*

RESULTS IN BRIEF

To provide a small amount of financial security for professional boxers, the Legislature authorized the creation of a boxers' pension plan and gave the State Athletic Commission (commission) exclusive control of all funds in the plan. In 1982 the commission established a defined benefit plan (original plan), which promised participants a specific monthly benefit at retirement. Boxers, managers, and promoters were required to make contributions to this plan. The original plan was changed to a defined contribution plan (current plan) on May 1, 1996. Under the current plan, no specific benefits are promised. Rather, benefits depend on the size of an individual boxer's account, which is partially determined by total ticket sales during the years in which the boxer fights. On December 31, 2003, the boxers' individual pension accounts totaled $3.39 million.

Only a small percentage of participating boxers will ever receive a pension. Under the original plan, an average of 37 boxers a year vested, which means they will be eligible for benefits upon retirement. The current plan requires four years of participation before qualifying for benefits rather than the three required by the original plan; this contributed to lowering the average of new boxers vesting to four per year. We considered the impact of eliminating the requirement that boxers must fight at least 10 scheduled rounds during any 36 consecutive months (break in service) while keeping the requirement of 75 rounds regardless of the number of years it took to fight them. This liberalizing of the vesting criteria would only increase the average annual number of boxers vesting from four to 10.

While the original plan guaranteed a specified small pension, the current plan may allow a larger pension benefit. Under the original plan's age 55 benefit rate of 80 cents per month per round fought, boxers currently at age 50 to 54 would have qualified for a pension benefit averaging $98 per month. Based on the size of these boxers' accounts, the current plan will likely give them a benefit rate of $1.39 per month per round fought, or $170 per month.

During the four-year period from 2001 through 2004, benefits distributed to boxers totaled $36,000 while payments for administrative costs totaled $227,000, six times the amount of benefit payments to boxers. It is also unlikely that benefit payments will exceed administrative costs on a consistent basis in the near future.

The commission has many problems with its day-to-day administration of the boxers' pension plan. For example, it has not adjusted its 88-cent-per-ticket pension contribution assessment in order to meet the minimum funding level for the current plan as required by law. According to a March 1996 memo from the Department of Consumers Affairs (Consumer Affairs) legal office to the then executive officer of the commission, the base amount to fund the current plan would be $95,000 beginning in 1996, and it would increase annually thereafter based on the consumer price index applicable to California. The commission only met the target in one of nine years and to date has undercollected by a total of $300,000.

Additionally, the commission is both slow and inaccurate in performing its administrative duties related to the boxers' pension plan. Problems include untimely depositing of incoming checks to the Consumer Affairs bank account, untimely remittance of pension contributions to the State Treasurer's Office, and missing support documents. Lastly, the commission's lack of monitoring may have contributed to the pension plan administrator's errors in determining boxers' eligibility going undetected.

RECOMMENDATIONS

The Legislature may want to reconsider the need for a pension plan for retired professional boxers since so few boxers annually meet the current criteria of a professional boxer.

If the Legislature decides to continue the boxers' pension plan, we recommend the following steps:

- If the commission believes the current vesting criteria exclude professional boxers for which the pension plan was intended, the commission should consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.

- To maximize pension fund assets, the commission should do the following:
  - Raise the ticket assessment to meet targeted pension contributions as required by the law.
  - Promptly remit pension contributions from Consumer Affairs bank account to the boxers' pension fund.
- To ensure receipts are deposited in a timely manner, the commission should implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks.
- To ensure boxers' information concerning eligibility status and pension account balances are accurate, the commission should do the following:
  - Retain all official documents from each boxing contest.
  - Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.
  - Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.

AGENCY COMMENTS

The commission agrees with the findings and conclusions. In addition, the commission agrees with the recommendations and plans to address them promptly. ■

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INTRODUCTION

BACKGROUND

The State Athletic Commission (commission) is one of the 39 regulatory commissions, boards, committees, and bureaus within the Department of Consumer Affairs (Consumer Affairs). Generally, these entities regulate and license professional and vocational occupations to protect the health, safety, and welfare of the people of California. The commission consists of seven members and positions for eight staff—the executive officer, four inspectors, and three analysts and technicians—who handle the day-to-day operations. The responsibilities of the commission include setting standards for amateur and professional boxing, kickboxing, and martial arts; conducting examinations and regulatory inspections of these sports; and issuing licenses to entities such as promoters, managers, referees, trainers, and fighters.

The Legislature Authorized the Commission to Establish a Pension Plan for Professional Boxers Who Engage in Boxing Contests in California

To provide a small amount of financial security for professional boxers, the Legislature authorized the creation of a boxers' retirement plan and gave the commission exclusive control of all funds in the plan. In 1982 the commission established a defined benefit plan (original plan). A defined benefit plan promises participants a specific monthly benefit at retirement. Boxers, managers, and promoters were required to make contributions to the original plan. This plan was changed to a defined contribution plan (current plan) on May 1, 1996. According to the prior executive officer, "In an effort to reduce the actuarial risk inherent with a 'defined benefit' plan, the commission's pension [consultant] recommended changing the plan to one that is a 'defined contribution' also known as profit sharing or cash balance plans." Under the current plan, no specific benefits are promised. Rather, benefits depend on the size of an individual boxer's account.

Boxers' accounts receive allocations from three sources: pension contribution assessment (contributions), forfeitures from unvested boxers (forfeitures), and investment earnings minus administrative costs. First, the commission collects an

88-cent-per-ticket pension contribution, up to a maximum of $4,600 per show, from contests in which boxers participate; the only exceptions are contests held on Native American tribal land (tribal land) and contests in which no tickets were sold (private contests). The contributions cannot be directly attributed to any one boxer fighting in the show since a show may include many contests. Thus, at the end of the year, the pension plan administrator allocates contributions to boxers who participated during the year based on the proportion of each participant's total eligible rounds and total rewards received for the fights (purse) relative to the total eligible rounds and purse of all participants for the year. For the purpose of determining pension eligibility, eligible rounds and purse exclude those relating to private contests and contests that are held on tribal land. Such contests generate no contributions and thus, those respective rounds and purse should not be used to meet vesting requirements nor included in any allocation.

Second, when boxers fight less than 10 scheduled rounds during any 36-consecutive months, they incur a break in service; in which unvested boxers must give up their respective account balances (forfeitures). At the end of the year, the pension plan administrator allocates one-half the forfeitures to boxers who fought during the year based on the proportion of each participating boxer's eligible rounds and purse relative to total eligible rounds and purses during the year and one-half the forfeitures based on the proportion of each boxer's account balance relative to the total balance in the current plan.

Third, the current plan's assets increase in value due to investment gains and interest earnings on its investments (collectively referred to as investment earnings). At the end of each year, the pension plan administrator offsets administrative costs with investment earnings and allocates the remainder to all participants based on the proportion of each individual boxer's account balance relative to the total balance in the current plan. On December 31, 2003, the boxers' pension accounts totaled $3.39 million.

Vested boxers are those eligible to receive benefits under either the original plan or the current plan. The majority of these boxers vested under the original plan and a few vested under the current plan. The original plan required boxers to fight three calendar years (not consecutive) with at least 10 rounds per year and have a total of at least 75 eligible rounds without a break in service. The current plan requires boxers to fight four calendar

years (not consecutive) with at least 10 rounds per year and have a total of at least 75 eligible rounds, also without a break in service. The definition of break in service given above applies to both the original and the current plan. Under the current plan, vested boxers can receive benefits at age 55 (normal retirement); upon the death of a vested boxer, the commission may distribute his or her benefit to a beneficiary. Vested boxers can also request to receive a medical early retirement benefit or a vocational early retirement benefit at age 36 if they wish to convert their pension benefits to a vocational education benefit for vocational training.

Vested boxers' account balances will grow over time even if they no longer fight because net investment earnings and one-half of the total forfeitures are allocated to all participants based on the proportion of an individual boxer's account balance to the total balance in the plan.

Pending boxers are those who have been fighting without a break in service but have not satisfied the vesting requirements. These boxers' accounts receive allocations of net investment earnings, forfeitures, and pension contributions for as long as they do not incur a break in service. When a break in service does occur, they forfeit the entire account balance up to the date of the break. If that happens, they must start over again.

Intermittent boxers are those who have been fighting off and on, resulting in a break in service, or those coming back from a break in service and having to start over again. These boxers also forfeit their account balance when a break occurs. Most intermittent boxers will probably never vest because they are unlikely to fight enough eligible rounds to avoid a break. According to the pension plan administrator's records, pending boxers and intermittent boxers forfeited more than $1 million from 1996 through 2003.

In addition to the commission, at least four other entities are involved in the administration of the current plan.[1] Consumer Affairs provides the commission cashiering services for pension contributions and accounting purposes. These services include receiving and depositing pension contributions forwarded by the commission. The commission's pension consultant

[1] The commission may be eliminated in the near future. Existing law sunsets both the commission and its executive officer on July 1, 2006, and permits Consumer Affairs to assume its regulatory responsibilities as of that date unless legislation is enacted by January 1, 2007, to extend the date.

provides legal services and subcontracts with a pension plan administrator who acquires from the commission eligible round and purse information for each licensed boxer participating in the current plan and allocates pension contributions, forfeitures, and net investment earnings on a calendar year basis. The pension plan administrator also determines whether boxers meet eligibility requirements, prepares an annual report for the boxers' pension plan, and prepares individual boxers' annual pension account statements for distribution by the commission. Cash balances that the commission maintains for short-term needs are invested in the pooled money investment account program in the State Treasurer's Office. Lastly, the pension plan's long-term investments are managed by Wachovia Securities. Figure 1 summarizes the responsibilities of each entity involved.

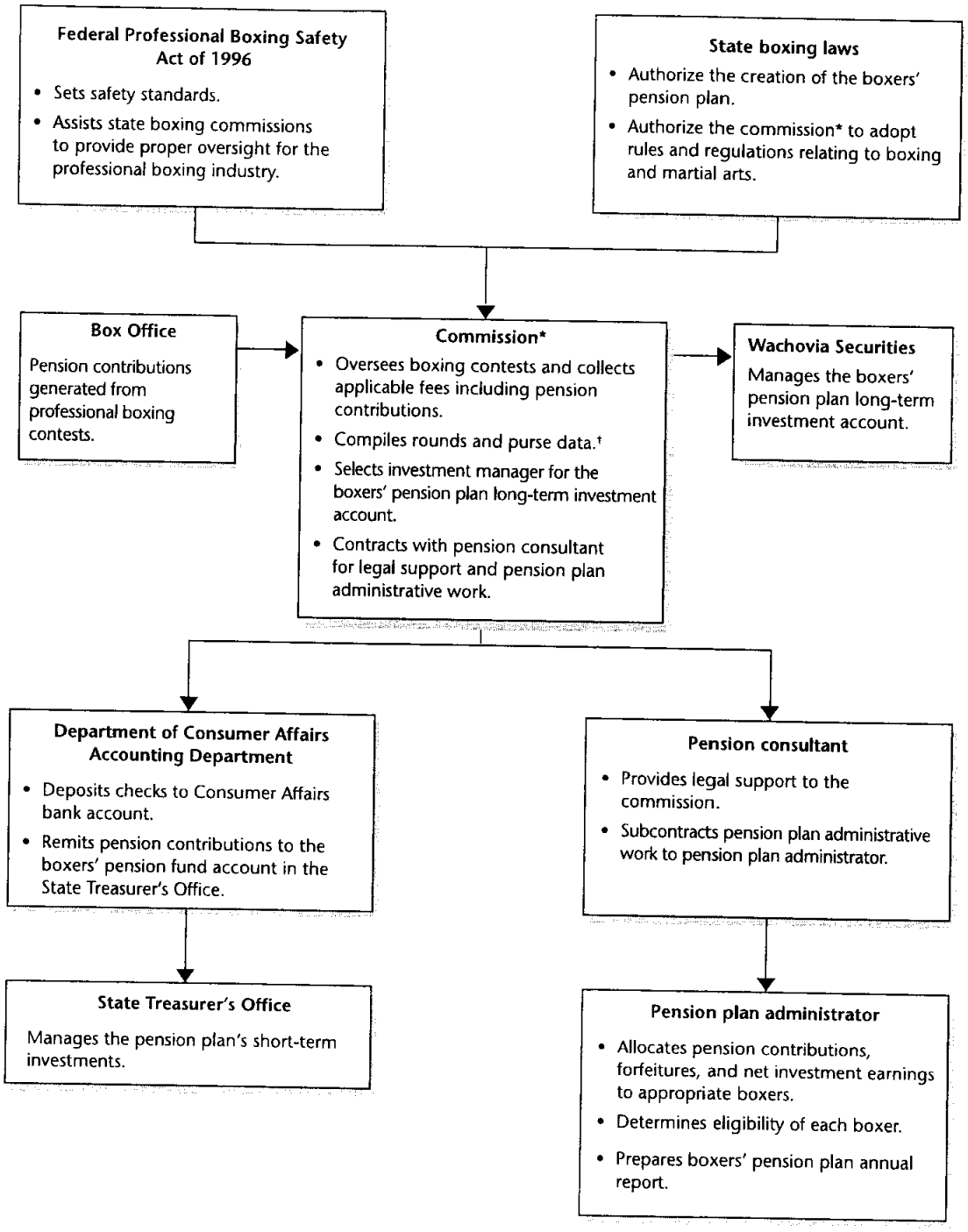
The Commission Does Not Collect Pension Contributions From Boxing Contests Held on Tribal Land Because of a Federal District Court Ruling

The establishment of Indian gaming casinos on tribal land within California has had a significant impact on the contributions originally projected for the new plan. In 1996, the federal Professional Boxing Safety Act of 1996 (act) went into effect and specifically authorized tribal organizations to regulate boxing events on tribal lands. Also in 1996, a federal district court, in *Twenty-Nine Palms Band of Mission Indians v. Wilson,* found that the State of California did not have authority to enforce civil boxing laws on tribal land. In its conclusion the court stated, "Therefore, California's boxing laws are civil/regulatory and not applicable to boxing contests staged on Indian reservations." During 2004, 18 percent, or 23 of the 126 professional boxing shows were held on tribal land.

In January 2004, the executive director of the Center for Public Interest Law, who was the chair of the commission in the late 1970s and instrumental in crafting pension plan rules and legislation, provided testimony to the Joint Legislative Sunset Review Committee that in his opinion the act does not prohibit the commission's collection of pension contributions from contests held on tribal land. However, a legal counsel to the commission from the Office of the Attorney General believes that because boxing contests on tribal land are not subject to state civil laws, the commission cannot collect such pension contributions. Consequently, the commission does not currently collect pension contributions from those contests, which means it also does not count the rounds in these contests toward

FIGURE 1

The Applicable Laws and Administrative Process of the Boxers' Pension Plan



Source: The State Athletic Commission.

* The State Athletic Commission.

† The commission enters into an electronic spreadsheet the number of eligible rounds fought and rewards (purse) received by boxers who fought during the year.

pension eligibility. The fact that a number of boxing contests are held on tribal land significantly impacts the amounts that are contributed to the current plan and the number of rounds that otherwise would count toward vesting eligibility.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the commission's pension plan operations. Specifically, the audit committee was interested in the condition of the current plan, the best course of action to ensure its long-term viability, how much is being spent on administrative expenses, and whether the statutory requirements for pension contributions and benefit distributions are being met.

To obtain an understanding of the commission's pension plan operations, we reviewed applicable laws and regulations. We also interviewed commission staff and the pension plan administrator to identify the commission's processes for collecting and depositing pension contributions, determining pension plan eligibility, allocating pension earnings, and disbursing pension benefits. In addition, we interviewed the commission's pension consultant and legal counsel at the Office of the Attorney General to determine whether the commission is meeting the statutory requirements for funding the current plan and the legal constraints to charging the 88-cent-per-ticket pension contribution for the boxing shows held on tribal land. Lastly, we reviewed the commission's records to determine the number of professional boxing contests held in California during 2004.

To determine the current condition of the pension fund, we analyzed reasons for changes in the balance of the fund and found that the changes were caused almost exclusively by changes in the value of the fund's long-term investment account. We also determined the number of vested boxers and the size of their accounts by their age group. In addition, we determined that total boxer account balances at December 31, 2003, agreed with assets in a brokerage account or the State Treasurer's Office.

To assess the long-term viability of the plan, we estimated the size of benefits the plan would likely pay in the future to boxers approaching retirement age and the rapidly decreasing number of vested boxers that will likely qualify for benefits in the future.

To determine the amount spent on administrative expenses, we reviewed the pension plan administrator's annual reports as well as Consumer Affairs' accounting reports that it reconciled to the cash-basis records maintained by the State Controller's Office.

To determine whether its processes for collecting and depositing pension contributions are appropriate and in accordance with laws and regulations, we reviewed the commission's and Consumer Affairs' records to determine whether the commission collected the correct amount of pension contributions per show and deposited the pension contributions it collected during 2004 into the pension fund account in the State Treasurer's Office.

To determine whether the pension plan administrator correctly determines boxer eligibility status and correctly allocates amounts to boxers' accounts, we obtained and analyzed the electronic file used to determine boxer eligibility status and to allocate contributions, forfeitures, and investment earnings.

To determine if eligible round and purse data forwarded to the pension plan administrator was correct, we intended to review ring records for 10 boxers each from 2001 to 2004, totaling 40 boxers. However, as recently as May 2005, the commission was not able to provide a summary of boxer account balances for 2004; therefore, we limited our review to the ring records of 30 boxers from the prior three years.

To determine whether the commission disburses benefits in accordance with applicable laws and regulations, we reviewed its records for eight of 16 benefit disbursements during 2001 to 2003. Although we found and reported numerous errors in both manual and electronic records, we believe the data was sufficiently reliable for the purposes of our report. ■

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AUDIT RESULTS

ALTHOUGH POTENTIALLY MORE GENEROUS THAN THE ORIGINAL PLAN, THE CURRENT PENSION PLAN BENEFITS EVEN FEWER BOXERS

Combining both the defined benefit plan (original plan) and the defined contribution plan (current plan), only 14 percent of licensed boxers have vested as of December 31, 2003, and account balances for most vested boxers are small. Under the current plan, which began in May 1996, even fewer boxers have vested than under the original plan. Although vested boxers currently approaching retirement age are likely to receive more benefits than the original plan guaranteed, pension amounts will still be minimal. From 2001 to 2004, benefit payments to boxers totaled $36,000 while the payments to administer the plan were six times higher.

A Small Percentage of Licensed Boxers Are Vested in the Pension Plan

A small percentage of boxers who participate in the pension plan have a possibility of benefiting from it upon retirement. Table 1 on the following page summarizes how many boxers are eligible to receive benefits, how many are pending, and how many are intermittent. As shown in Table 1, only 14 percent, or 448 participating boxers, are currently eligible to receive pension benefits. Taking into account the pension plan administrator's two errors in eligibility determination, as discussed later on page 24, that number is even less. Of the 436 actually eligible boxers, 403 were vested under the original plan. Vested boxers have earned the right to receive benefits. Even if they stop fighting immediately after they become eligible, they will not forfeit their pension balances unless the benefits remain unclaimed for three years after they turn 55. However, if a claim is later made by the participating boxer or beneficiary for the forfeited benefit, the State Athletic Commission (commission) reinstates the amount of the vested account balance, unadjusted by any gains or losses.

TABLE 1

A Small Percent of Boxers Will Benefit From the Pension Plan

Eligibility Status	Active in 2003	Active in 2001 or 2002	Inactive	Totals	Percent
Vested*	36	29	383	448†	14%
Pending‡	473	384	—	857	27
Subtotals	**509**	**413**	**383**	**1,305**	**41**
Intermittent§	—	—	1,919	1,919	59
Totals	**509**	**413**	**2,302**	**3,224**	**100%**

Source: The plan administrator's pension plan records.

* Vested boxers have completed both four years of fighting in California with at least 10 rounds each year and had a total of 75 eligible rounds without a break in service.

† The correct number of vested boxers should be 436 because 18 boxers out of the 448 should not have been vested and another six should have been vested.

‡ Pending boxers have not yet completed either four years of fighting without a break in service or 75 eligible rounds.

§ Intermittent boxers have not consistently fought enough eligible rounds each year to maintain a pending status.

Very Few Boxers Have Vested Under the Current Plan

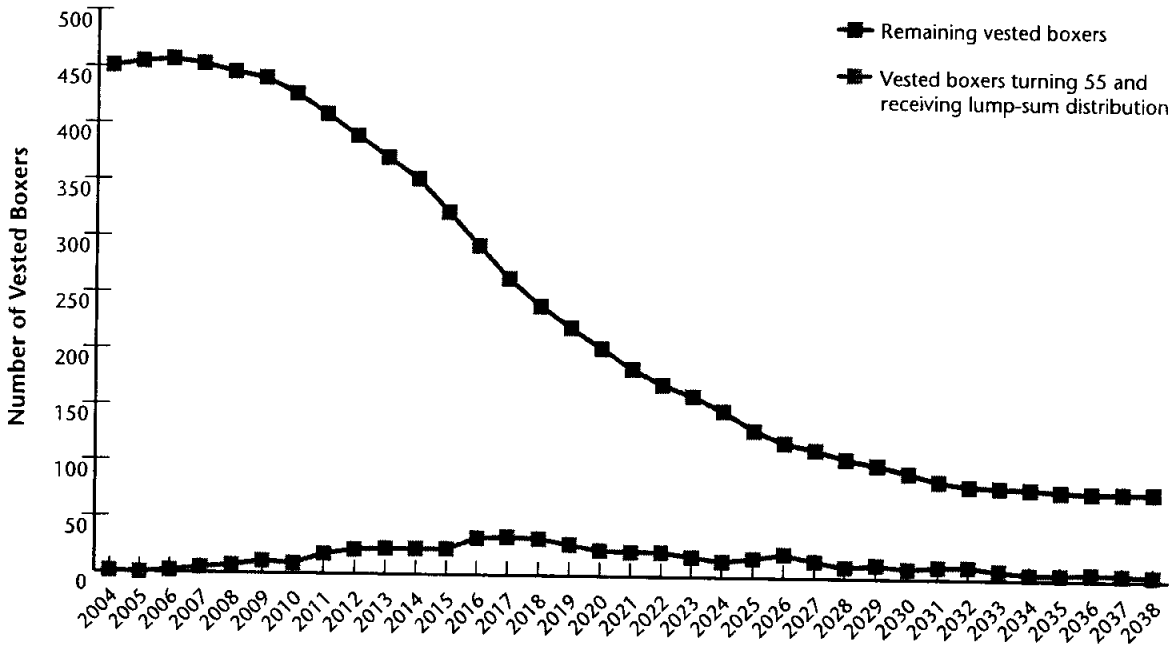
According to the chair of the commission in the late 1970s, who was instrumental in crafting the pension plan rules and legislation, "The [pension] plan does not cover those who box briefly or for several years, but the 10–20 percent of boxers who spend substantial time training and boxing professionally in California and who often do not have alternative pension plans (many do not even have substantial social security contributions). For every champion enjoying a large purse, ten or more contenders—after investing from five to twenty years in the sport—fail to achieve substantial purse revenue. This is the limited group of boxers intended for coverage."

Although it was recognized from the beginning that the group benefiting from this pension plan would be small, even fewer boxers have vested since 1996 partly because eligibility criteria under the current plan are more stringent than those in the original plan. The original plan, which began in 1982, had a three-year boxing requirement. Assuming that the first boxers vested in 1985 and taking into account that 403 boxers were vested by May 1, 1996, when the current plan started, an average of 37 boxers per year vested under the original plan. However, under the current plan,

an average of only four boxers vest each year. As Figure 2 shows, if this trend continues, the remaining number of vested boxers will plateau at below 80 in 2036.

FIGURE 2

The Projected Number of Vested Boxers Will Plateau Below 80 by 2036



Source: Auditor's projection based on vesting trend from 1996 through 2003.

In addition, the number of vested boxers reaching the retirement age of 55 will peak at 34 in the year 2017 and will plateau at four in the year 2038. We also considered the effect of eliminating the break in service requirement while keeping the total of 75 rounds regardless of the number of years that it took to fight them. Even liberalizing the vesting criteria to this degree only increased the annual average number of boxers vesting from four to 10.

Of the 279 boxers who first fought in 1997, 11 (4 percent) were vested by the end of 2003, 12 (4 percent) were pending, and 256 (92 percent) had a break in service and had their account balances forfeited. Thus, of the boxers who started fighting in 1997, between 4 percent and 8 percent are likely to vest.

Those Few Who Qualify Only Receive a Small Benefit

The pension account balances of the 14 percent of licensed boxers who qualify to receive benefits are very small. Table 2 shows different ranges of vested boxers' account balances by age group and by the number of vested boxers within each range. Of the 19 vested boxers age 50 or older, 16 have account balances between $5,000 and $15,000. As discussed in the Introduction, the growth of an individual account depends on the allocated amount of pension contributions, forfeitures, and net investment earnings. Contributions are allocated annually to boxers based on the proportion of each boxer's total eligible rounds and purses relative to the total eligible rounds and purses for the year. When a vested boxer stops fighting, these contributions end, and additional account growth depends on forfeitures and net investment earnings.

TABLE 2

Vested Boxers Have Small Account Balances in Their Individual Pension Accounts

	Vested Boxers' Age as of December 31, 2003							
Vested Boxers' Account Balances	20–24	25–29	30–34	35–39	40–44	45–49	50–54	Total Number of Vested Boxers
$0	0	0	0	3	0	4	1*	8
$1–$100	0	0	0	0	0	0	0	0
$101–$1,000	0	0	0	0	1	0	0	1
$1,001–$5,000	4	24	46	60	33	3	0	170
$5,001–$10,000	0	2	8	39	85	55	11	200
$10,001–$15,000	0	1	2	4	21	21	5	54
$15,001–$20,000	0	0	0	0	3	7	1	11
$20,001+	0	0	1	1	1	0	1	4
Totals	4 (4)	27 (22)	57 (15)	107 (2)	144 (1)	90 (1)	19	448†

Source: The plan administrator's pension plan records.

Note: Number in parentheses represents the number of boxers vested under the current plan (since May 1996).

* This boxer is deceased and a death benefit was paid.

† The correct number of vested boxers should be 436 because 18 boxers out of the 448 should not have been vested and another six should have been vested.

Benefits From the Current Plan May Exceed the Promised Benefits From the Original Plan

Business and Professions Code, Section 18880, states that the intent of establishing a pension plan was to "insure a modicum (small or moderate) amount of financial security for professional boxers." Although the original plan guaranteed a specified small pension, the current plan bases the amount of each vested boxer's pension on the boxer's individual account. The original plan provided for a defined benefit of $2 per month per round fought at age 65. It also provided for a reduced benefit for an early retirement that would have amounted to 80 cents per month per round fought beginning at age 55, the age that boxers collect their retirement under the current plan. Under the original plan and at 80 cents per month per round fought, boxers currently at age 50 to 54 would have qualified for a pension benefit of $98 per month or $1,176 per year, as shown in Table 3.

TABLE 3

Vested Boxers Between Age 50 and 54 in December 2003 Will Likely Receive a Greater Benefit Under the Current Plan

	Average Monthly Benefit Payment	Average Annual Benefit Payment	Average Dollars Per Round
Original plan	$ 98	$1,176	$0.80
Current plan	170	2,040	1.39

Source: Auditor's projection based on boxers' total rounds fought by the end of 2003.

For the 18 vested boxers between the ages of 50 and 54 with account balances shown in Table 2, the current plan records indicate they fought 123 rounds on average and at the end of plan year 2003 had an average account balance of $11,006. To determine if they are likely to be able to receive the same pension benefit under the current plan as they would have under the original one, we assumed that each of the boxers' accounts would continue to grow at a 10 percent annual rate due to a combination of net investment earnings and forfeitures until the boxer is age 55. This is the average rate their accounts have grown since the inception of the current plan. For example, the account for one boxer within this group increased from $5,186 in 1996 to $11,142 in 2003, a compounded rate of increase of 10 percent. The increase comprised $4,016 in

net investment earnings and $1,939 in forfeitures. Assuming a 5 percent return on an annuity after retirement, the current plan would give the average 55-year-old vested boxer a pension benefit of $170 per month for 10 years, or $1.39 per month per round fought, which exceeds the 80-cent rate of the original plan as shown in Table 3.

Our assumption of a 10-year life after retirement is conservative based on a March 1994 memo from a former executive officer of the commission to its actuary, which states that the United States Abstract Publication (1991 Edition) mortality table that projects life expectancy for an individual's birth year shows an individual born in 1970 will live 61.3 years.[2]

Boxers' Account Balances Primarily Depend on Investment Gains to Grow

From the inception of the current plan on May 1, 1996, to December 31, 2003, the long-term investment account balance grew by $1.52 million in total, a compound growth rate of 8 percent. These investment gains were supplemented by other gains including interest from deposits in the state treasurer's pooled money investment program and $51,000 in pension contributions the pension plan administrator did not allocate to boxers who fought during the year as pension contributions should have been allocated. However, as shown in Table 4, administrative costs reduced the amount of these earnings allocable to boxers to $1.48 million.

According to the plan administrator's reports, the total administration cost between 1996 and 2003 was $432,000. The investment earnings net of administrative costs are allocated to all boxers with account balances. Pension contributions totaling $480,000 were allocated during this same time period to boxers who fought during the year. Thus, pension contributions represent only one-fourth of the increases posted to the account balances of all boxers. In addition, individual account balances were reduced by $550,000 for distributions to boxers for refunds of amounts related to the original plan and other purposes authorized for the current plan.

[2] According to a former executive officer, this statistic is for Blacks and other ethnic groups, the ethnicities of most California boxers.

TABLE 4

Net Investment Earnings Were Primarily Responsible for Boxers' Account Increases From 1996 Through 2003

Description	Amount
Boxer account balances on 05/01/1996	$1,980,000*
Net investment earnings allocated to boxers' accounts (investment earnings less administrative costs)	1,480,000
Pension contributions allocated to active boxers' accounts	480,000
Distributions made from boxer accounts	(550,000)
Boxer account balances on 12/31/2003	$3,390,000

Source: The plan administrator's pension plan records.

* Amount includes balance of the refund account, which represents contributions to the original plan by boxers who had not vested when that plan was changed. The plan administrator's records show that two-thirds of the funds in this account were refunded to unvested boxers and the remaining one-third were forfeited and allocated to boxers' accounts in three equal installments from 1999 through 2001.

Payments for Administrative Costs Far Exceed Benefit Payments to Boxers

During the four-year period from 2001 through 2004, payments for administrative costs were six times higher than the benefit payments to boxers. Table 5 on the following page provides the total payments for administrative costs and benefits from 2001 through 2004. Over this time period payments for administrative costs totaled $227,000 and payments for benefits distributed to boxers totaled $36,000. The pension plan administrative costs included payments related to a contract with a pension consultant for about $30,000 a year and the commission's share of administrative costs.

It is also unlikely that boxers will receive more in benefits than payments to administer the pension plan on a consistent basis in the near future. If all of the 18 vested boxers with an account balance (shown in Table 2) currently between the ages of 50 and 54 are paid a lump-sum distribution of their estimated account balances at age 55, we anticipate the benefit distributions will not exceed $14,000 for 2004, $17,000 for 2005, $58,000 for 2006, $113,000 for 2007, and $81,000 for 2008.

TABLE 5

Payments for the Pension Plan Administrative Costs Far Exceeds Benefits Paid to Boxers

Year	Administrative Cost Payments	Benefits Payments
2001	$ 66,843	$ 4,279
2002	63,311	17,690
2003	75,155	13,861
2004	21,640	0
Totals	$226,949	$35,830*

Source: Department of Consumer Affairs' accounting records.

* According to the plan administrator's records, there were no normal retirement benefits paid during this period and most of the payments were related to vocational education early retirement.

However, benefit payments are unlikely to reach these annual amounts for a number of reasons. First, while the anticipated benefit distributions were $14,000 for 2004, the actual benefit distributions were zero, as shown in Table 5. Second, six of the 436 actually vested boxers have a date of death recorded in the pension plan administrator's record, and their beneficiaries have not yet claimed a death benefit to which they are currently entitled; thus, it is uncertain if beneficiaries will claim these accounts or the accounts will be forfeited to other boxers. Third, according the commission's assistant chief inspector, he only sends annual statements to boxers licensed within the last two years. Since none of the 18 boxers has fought since 1996, it is possible they have not received a statement in a number of years, may not claim their retirement benefits, and may not be locatable since the commission does not know if it has a current address for them. According to Title 4, Section 405 (d) of the California Code of Regulations (regulations), if a vested boxer has not made a claim for his or her pension by age 58, the account balance is reallocated to other boxers.

The boxers' account balances of $3.39 million could have been higher had the commission fully exercised its legal authority to maximize contributions to the current plan.

THE COMMISSION HAS MANY PROBLEMS WITH ITS DAY-TO-DAY ADMINISTRATION OF THE BOXERS' PENSION PLAN

The boxers' account balances of $3.39 million could have been higher had the commission fully exercised its legal authority to maximize contributions to the current plan, promptly deposited receipts from boxing contests, and remitted pension

contributions to the pension fund account within the State Treasury in a timely manner. Moreover, the commission needs to periodically review boxers' eligibility status and account balances to ensure that the pension plan administrator correctly determines boxers' eligibility and account balances.

The Commission Has Not Followed Applicable Laws to Maximize Pension Plan Assets

The commission has not met the minimum funding level for the boxers' pension plan as required by law. Existing law requires it to collect contributions in an amount sufficient to finance the boxers' pension plan. The law further provides that sufficient means "no less than the average level of annual aggregate pension plan contributions from all sources for the period from July 1, 1981, through December 31, 1994, and adjusted thereafter to reflect changes in the Consumer Price Index applicable to California as set forth by the Bureau of Labor Statistics." According to the former chair of the commission who was also instrumental in crafting the pension plan rules and legislation, "[statutes] includes a typographical error, stating that the period is from July 1, 1981. The agreement upon enactment of AB 2560 (1996) was to take the three fiscal year period prior to 1994 as the benchmark (July 1, 1991 to June 30 1992), and the next two such fiscal years, with the total for fiscal year 1993–94 as calculated by December 1994." Based on a March 1996 memo from the Department of Consumer Affairs (Consumer Affairs) legal office to the then executive officer of the commission documenting an agreement reached between a boxing industry representative and the former chair of the commission, the agreed-upon base amount would be $95,000. However, according to the current acting executive officer, the pension consultant informed the commission through numerous presentations that the minimum contribution base was established at $92,000 per calendar year. However, we believe the March 1996 legal office memo is the more reliable source for the intended minimum contribution in 1996. Although the commission increased the ticket assessment to 88 cents per ticket in July 1999, it only met the target in one of nine years and has undercollected by a total of $300,000, as shown in Table 6 on the following page.

A March 1996 memo from the Consumer Affairs legal office to the then executive officer of the commission stated the agreed-upon base amount to fund the current plan would be $95,000 per year.

If the commission had been able to collect pension contributions from fights on tribal land, the undercollection would have been less. Nothing in the law precludes the commission from adjusting the ticket assessment to raise pension contributions.

The commission could have raised the ticket assessment from 88 cents per ticket to an amount that would yield the desired result, but it did not. If the commission would have collected an additional $300,000 from either boxing shows on tribal land or from a higher ticket assessment, the average monthly benefit for each retired boxer of $170 per month would have increased to $185 per month.

TABLE 6

The Commission Met the Minimum Funding Requirement in Only One Out of Nine Years

Year	Target Contributions	Contributions Reported*	Variance	Percent of Variance
1996†‡	$ 63,333	$ 43,954	$ (19,379)	(31%)
1997	97,291	48,620	(48,671)	(50)
1998	99,099	46,021	(53,078)	(54)
1999	101,812	37,858	(63,954)	(63)
2000	105,368	71,038	(34,330)	(33)
2001	109,226	79,318	(29,908)	(27)
2002	111,336	74,047	(37,289)	(33)
2003	113,687	127,397	13,710	12
2004	116,339	89,051	(27,288)	(23)
Totals	**$917,489**	**$617,304**	**$(300,185)**	**(33%)**

Source: U.S. Bureau of Labor Statistics and State Athletic Commission pension plan annual reports.

* Contributions reported by the boxers' pension fund differ from contributions reported on boxing inspector reports due to beginning and end of year timing differences.

† The base amount for 1996 is $95,000. For 1997 and each year thereafter, we adjusted the target contributions using the U.S. Bureau of Labor Statistics Consumer Price Index for the west urban region.

‡ 1996 was a partial year because the current pension plan was established on May 1, 1996 ($95,000 times 8/12 = $63,333).

Administrative Shortcomings Resulted in Untimely Recording of Pension Contributions, Inaccurate Reporting of Boxers' Eligibility Status, and Incorrect Account Balances

The commission performs its administrative duties related to the boxers' pension fund slowly and inaccurately. We found problems with untimely depositing of incoming checks to the Consumer Affairs bank account, remittances of pension contributions to the boxers' pension fund, and production of

accurate eligible round and purse information; missing boxing contest documents needed to support contribution allocations to boxers; and various errors in determining boxers' eligibility and allocation of amounts to boxers' accounts.

The commission was very slow to deposit checks it received from boxing contests into the Consumer Affairs bank account. The State Administrative Manual, Section 8032.1, requires state entities to deposit receipts within 10 working days. Four checks the commission received from boxing contests in November and December 2004 were not deposited until March 2005, based on our review. The four checks included pension contributions of $8,413 collected in 2004 but not allocable to boxers' accounts until 2005 because of the delay. Consumer Affairs also shares our concern with these delays. In early March 2005, its accounting staff found 256 checks in the commission's office totaling $354,351. In a March 27, 2005, response to address Consumer Affairs' concerns, the acting executive officer proposed new procedures to deposit checks on a weekly basis. Further, according to the acting executive officer, he requested that Consumer Affairs provide temporary assistance in preparing deposits. Consumer Affairs agreed to this effective May 23, 2005, according to the assistant chief inspector.

As of December 31, 2004, the boxers' pension fund still had not received $31,116 of the $95,178 pension contributions reported on the 2004 boxing inspector's reports.

Not only is the commission slow to deposit checks into the Consumer Affairs bank account, it is also slow to remit the pension contributions from the Consumer Affairs bank account to the boxers' pension fund in the State Treasurer's Office. As of December 31, 2004, the boxers' pension fund still had not received $31,116 of the $95,178 pension contributions reported on the 2004 boxing inspector's reports. The timely identification and remittance of pension contributions is complicated by pension contributions being included along with other fees paid by the promoters in a single check related to the boxing show. Business and Professions Code, Section 18882 (b), requires that all pension contributions be deposited and then remitted to the State Treasurer's Office to the credit of the boxers' pension fund. The pension fund earns interest from the money as soon as it is remitted to the State Treasurer's Office but no interest is earned while it sits in the Consumer Affairs bank account. Additionally, because the boxers' pension fund had not received $31,116 by December 31, 2004, its pension plan administrator did not allocate these contributions to boxers' accounts, which ultimately resulted in lower individual account balances for 2004.

The commission also has difficulty keeping current in entering accurate boxers' eligible rounds and purse data into the electronic spreadsheet it provides to its pension plan administrator at the end of each calendar year for the allocation of pension contributions, forfeitures, and net investment earnings to boxers. As of May 2005, the commission had not yet provided the 2004 spreadsheet to its pension administrator because errors identified by the acting executive officer had not been corrected. Without the eligible rounds and purse data, the pension plan administrator cannot perform the allocation for 2004, update eligibility status, or prepare the pension plan annual report, which is why we are unable to report on boxers' eligibility status and pension account balances for 2004.

In addition, the commission does not always maintain adequate supporting documents for boxing contests. It could not provide the supervisor's report and payoff sheet for four of 40 boxing contests that we sampled. The supervisor's report includes the boxers' names, California license numbers, and number of rounds fought. The payoff sheet records purse amounts paid to each boxer. Without these reports, the commission cannot ensure that rounds and purse data from the four boxing contests are correctly posted to the electronic spreadsheets.

Lastly, the pension plan administrator does not always correctly determine a boxer's eligibility status and therefore does not always correctly allocate pension contributions, forfeitures, and net investment earnings to the appropriate boxers. For example, the pension plan administrator erroneously determined 18 boxers were eligible for vesting even though they had not yet fought at least 75 rounds as required by Section 405 (a) of the regulations. On the other hand, the plan administrator failed to take into account pre-May 1996 eligible rounds, as required by the regulations, Section 405 (e), and erroneously determined six boxers were not vested. We also found the commission gave credit to at least eight boxers for ineligible rounds and purses related to private contests or contests on tribal land for which it collected no pension contributions. As a result, allocations were incorrect by an indeterminable amount. In addition, the pension plan administrator did not record in the boxer's account one of the eight distributions we tested. As a result, the boxer's account, which should have a balance of zero, instead has a balance of $1,118. Had the commission periodically reviewed boxers' eligibility status and account balances, these errors might have been detected.

The pension plan administrator erroneously determined 18 boxers were eligible for vesting even though they had not yet fought at least 75 rounds.

RECOMMENDATIONS

The Legislature may want to reconsider the need for a pension plan for retired professional boxers since so few boxers annually meet the current criteria of a professional boxer.

If the Legislature decides to continue the boxers' pension plan, we recommend the following steps:

- If the commission believes the current vesting criteria is excluding professional boxers for which the pension plan was intended, the commission could consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.

- To increase the likelihood that vested boxers are locatable for benefit distribution after they turn age 55, the commission should mail an annual pension statement to all vested boxers.

- To maximize pension fund assets, the commission should do the following:

  - Raise the ticket assessment to meet targeted pension contributions as required by law.

  - Promptly remit pension contributions from Consumer Affairs bank account to the boxers' pension fund.

- To ensure receipts are deposited in a timely manner, the commission should do the following:

  - Implement the corrective action proposed by the acting executive officer to Consumer Affairs related to ensuring timely deposit of checks.

  - Require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposits of checks and subsequent remittances to the boxers' pension fund are not delayed.

- To ensure boxers' information concerning eligibility status and pension account balances are accurate, the commission should do the following:

  - Retain all official documents from each boxing contest.

- Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.

- Periodically review a sample of newly vested and pending boxers, and verify their eligibility status and pension account balances.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Date: July 28, 2005

Staff: Philip Jelicich, CPA, Deputy State Auditor
Sheryl Liu-Philo, CPA
Jenner Holden
Katrina Williams

Agency's comments provided as text only.

State and Consumer Services Agency
Office of the Secretary
915 Capitol Mall, Suite 200
Sacramento, CA 95814

July 12, 2005

Elaine Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

We are forwarding the response prepared by the California State Athletic Commission to the Bureau of State Audits' Report No. 2004-134 entitled, *State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and Is Poorly Administered.* The California State Athletic Commission is an independent commission within the Department of Consumer Affairs. A copy of the response is also included on the enclosed diskette.

If you have any questions or need additional information, please contact me at (916) 653-4090.

Sincerely,

(Signed by: Fred Aguiar)

Fred Aguiar, Secretary

Enclosures

* California State Auditor's comment appears on page 31.

Agency's comments provided as text only.

California State Athletic Commission
1424 Howe Avenue, Suite 33
Sacramento, CA 95825-3217

July 11, 2005

Elaine M. Howle, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mrs. Howle,

Enclosed you will find our Commission's response to your report, titled "State Athletic Commission: The Current Boxers' Pension Plan Benefits Only a Few and is Poorly Administered".

Please feel free to contact me at anytime.

Sincerely,

(Signed by: Armando Garcia)

ARMANDO GARCIA
Executive Officer

Enclosures

RESPONSE TO RECOMMENDATIONS

The Legislature may want to reconsider the need for a pension plan for retired professional boxers since so few boxers annually meet the current criteria of a professional boxer.

1. **If the Legislature decides to continue the boxer's pension plan, we recommend the following steps:**

If the commission believes the current vesting criteria is excluding professional boxers for which the pension plan was intended, the commission should consider eliminating the break in service requirement and/or reducing from four to three the number of calendar years that a boxer must fight.

An analysis was conducted through our Employee Benefits Attorney (See attached). The analysis revealed the following:

If the break in service requirement were eliminated, an additional 2,014 boxers would enter the pending category. This means that the funds available to all boxers who are eligible for disbursement would greatly decrease.

This change is not recommended.

If the requirement of four (4) years of activity were decreased to three (3) years, an additional three (3) boxers would enter the plan.

I recommend that that we change the activity requirement from four (4) years to (3) three years.

Moving forward, I will work with the Commission and the Department of Consumer Affairs to review the present eligibility disbursement requirements. The effort's goal is to establish a clearer criteria and give consideration to a boxer's ring age, i.e. actual age, number of years boxing, total actual number of rounds fought, number of times knocked out, number of times suspended, etc.

2. **To maximize the pension fund assets, the commission should do the following:**

Raise the ticket assessment to meet the targeted pension contributions from its bank account to the boxer's pension fund.

The Commission will work with the Employee Benefits Attorney to conduct an analysis of the impact of maintaining or raising the contribution.

Promptly remit pension contributions from its bank account to the boxer's pension fund.

A strong effort, that includes a monitoring of progress, is being made to accomplish this.

1

3. **To ensure receipts are deposited in a timely manner, the commission should do the following:**

Implement the corrective action proposed by the acting executive officer to the Department of Consumer Affairs related to ensuring timely deposit of checks.

An MOU between the Commission and the Department of Consumer Affairs has been let to have an employee come in to the Sacramento office for four (4) hours on a weekly basis to work on cashiering.

Additionally, cashiering training for the Commission staff is planned for the very near future.

4. **Require promoters to remit pension fund contributions on checks separate from other boxing show fees so that deposit of checks and subsequent remittances to the boxer's pension fund are not delayed.**

A letter to all promoters is being drafted to inform them of new procedures and to confirm existing ones. The letter will go out by August 1, 2005 and will include this requirement.

5. **To ensure boxer's information concerning eligibility status and pension account balances are accurate, the commission should do the following:**

Retain all official documents of each boxing contest.

This is currently now being done. A monitoring of the progress has also been established.

Immediately work with the pension plan administrator to correct errors related to boxers' eligibility status and account balances.

This is currently now being done. A monitoring of the progress has also been established.

Periodically sample a few newly vested and pending boxers and review their eligibility status and pension account balances.

This will also be done and monitored.

Cal State Athletic Commission Boxers pension plan
This is a summary of the status changes given two separate changes to the pension plan: Changing the eligibility for Covered status from 4-years to 3-years, and eliminating the BIS completely.

Status	Existing	3-year requirement	No BIS
C/B covered with break	397	400	0
C covered	43	49	454
B break	1973	1970	0
P pending	757	751	2771

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COMMENT

California State Auditor's Comment on the Response From the California State Athletic Commission

To provide clarity and perspective, we are commenting on the State Athletic Commission's (commission) response to our audit. The number below corresponds to the number we have placed in its response.

● We agree that increasing the number of vested boxers will decrease the amount of assets available to each vested boxer's account balance. If the commission believes that all boxers for which the pension plan was intended are currently vesting, it need not change the vesting criteria. However, if the commission believes any of the vesting criteria are excluding boxers for which the pension plan was intended, it should modify the overly restrictive criterion. When evaluating the break in service requirement, the commission should consider our analysis on page 15, which shows that since the defined contribution plan was established, 10 boxers per year would have vested, if both the break in service and the minimum number of years requirements were eliminated. The commission's statement that 2,014 boxers would enter the pending category is not critical to a decision regarding vesting criteria since so few pending boxers ever vest. For example, the plan administrator's record shows only 58 of the 2,014 boxers fought during 2003. Thus, very few pending boxers are making progress toward meeting any type of professional boxer vesting criteria.

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press

Operational Audit of

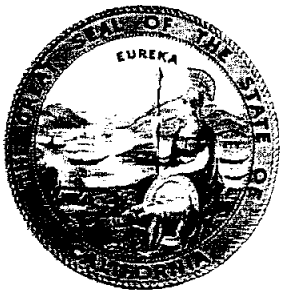
The California State Athletic Commission

October 2003

Audit No. 2002-107

Consumer
Affairs

Internal Audit Office



Consumer Affairs

Internal Audit Office
400 R Street, Suite 2000
Sacramento CA 95814 (916) 322-6340

November 14, 2003

Denise Brown, Chief Deputy Director
Department of Consumer Affairs
400 R Street, Suite 3000
Sacramento, CA 95814

Subject: Operational Audit Report – California State Athletic Commission

Transmitted herewith is an audit report of the California State Athletic Commission (commission). The audit examined the commission's strategic planning process and its core business operations, with the focus relating to the oversight of professional boxing. We also reviewed selected financial and statistical data detailed in the commission's draft August 2003 Report to the Joint Legislative Sunset Review Committee.

Our audit revealed that the commission is experiencing many operational deficiencies, which are hindering its ability to comply with all applicable laws and regulations. Recent budget cuts have also contributed to the ineffectiveness of several operational activities. We also noted that selected statistical data in the commission's draft August 2003 Report to the JLSRC was inaccurate or unsupported due to insufficient documentation. The commission has taken steps to improve its funding condition by requesting a Budget Change Proposal to convert to a Special Fund Program. If the BCP is approved, the commission believes it will have the ability to increase revenues to an adequate level to fulfill its regulatory responsibilities.

We have included our specific findings, recommendations and other pertinent information in the report. As outlined in its response, the commission agreed to comply with our recommendations. However, it questioned the accuracy of several audit conclusions in the draft report. To provide further clarity from an audit perspective, we have provided our comments to the commission's response to our draft audit report. We plan to follow up on the implementation of the audit recommendations at 180- and 360- days from the report date.

Subsequent to issuing the draft audit report, we became aware of the required confidentiality for BCPs. As a result, we amended the final report and the commission's response to eliminate any specific information relating to the BCP.

We would like to thank the commission's management and staff for their cooperation during the audit. If you need further information, please call me at 327-6443.

Sincerely,

Steve Castillo, Chief
Internal Audit Office

Enclosure

cc: Rob Lynch, Executive Officer, California State Athletic Commission
Kristy Wiese, Deputy Director, Legislative & Regulatory Review Division, DCA

INTERNAL AUDIT OFFICE
400 R STREET, SUITE 3040
SACRAMENTO, CA 95814-6200
(916) 322-6340, (916) 327-0433 (fax)

August 24, 2005

Sherry Mehl, Chief Deputy Director
Executive Office
Department of Consumer Affairs
400 R Street, Suite 3000
Sacramento, California 95814

Subject: 360-day Follow-up – California State Athletic Commission (Audit No. 2002-107)

Dear Ms. Mehl:

As part of the audit process, the Internal Audit Office completed a 360-day follow-up to our operational audit of the California State Athletic Commission (commission) dated November 14, 2003. The purpose of our follow-up was to determine the status of the commission's corrective actions related to the audit recommendations contained in our report. We evaluated the status of the commission's corrective actions as of August 1, 2005. In conducting our follow-up, we interviewed appropriate staff, observed operational processes, and reviewed selected documentation.

We concluded the commission has made very little progress with its corrective actions and continues to experience operational deficiencies similar to the ones identified in our original audit report. As you were aware, our follow-up was delayed on many occasions because the commission was experiencing staffing shortages. The commission staff stated these shortages have contributed to the continued operational problems. While staffing shortages may be a reason for continued problems, we believe the commission has not attempted to implement many of our recommendations. Our opinion is that the commission's current operations have not materially changed since our evaluation during fiscal year 2002-03. Attachment I details our follow-up analysis for each of the audit findings.

We would like to thank the commission and its staff for their assistance during our follow-up. If you have any questions or need additional information, please call me at 322-6340.

Sincerely,

Original signed by Steve Castillo
Steve Castillo
Audit Chief

Attachment

cc: Charlene Zettel, Director
Armando Garcia, Executive Officer, State Athletic Commission
Kristen Triepke, Deputy Director, Legislative & Regulatory Review Division

CALIFORNIA STATE ATHLETIC COMMISSION
OPERATIONAL AUDIT (AUDIT NO. 2002-107)
360-DAY FOLLOW-UP

Finding 1: The commission lacks a sound strategic planning process for measuring the effectiveness of its operations.

We recommended the commission work with the department's E-Government and Special Programs Division to revise its Strategic Plan (Plan) and, once finalized the commissioners should approve it. In addition, the commission needed to adopt a monitoring process to assess its success in achieving Plan objectives and update the Plan. accordingly.

Board's Action: Partial action taken.

The commission had modified its Plan, but failed to implement several of the missing elements identified in the original audit report. The Plan still does not contain strategic objectives or a resource assumption section. While the performance measures have changed slightly, its still unclear how the commission will measure progress for achieving strategic goals. The Plan still lacks many target dates for specific actions. In reviewing the Plan, Goal 8 had no performance measures and targeted dates. For Goal 9 Mixed Martial Arts, the plan has no goals, objectives, performance measures or targeted dates.

The commission still lacks a monitoring process to measure the success of its strategic planning process. Given these issues, we believe the Plan's usefulness as a management tool has been diminished or non-existent all together.

Finding 2: The commission has a process in place to regulate professional boxing events, but needs to do more to improve many aspects of its operations.

We recommended the commission take the following actions:

- Provide adequate training to its inspectors to ensure they understand their regulatory responsibilities;
- Utilize electronic spreadsheets that include predefined calculations to determine the amounts due. In addition, the spreadsheets should provide a mechanism to reconcile the Show Payment Balance Sheet to the Box Office Report and a mechanism to reconcile the amounts collected for each event to the actual payments made by the promoters;
- Take steps to ensure the promoters pay all applicable payments within 72 hours after the events; and
- Implement a quality control process to ensure all official documentation is appropriately completed and maintained in event files. In addition, a formal process for communicating suspensions and retaining confirmation of the suspension notifications should be established.

Board's Action: No action taken.

In its response dated October 6, 2004, the commission stated it performed several corrective actions to address the audit deficiencies. The stated actions included reviewing all organizational

procedures, reorganizing staff, and performing checks and recalculations to ensure all documents are audited and maintained. To validate these statements, we met with commission staff, reviewed several show packages, and performed other procedures related to the commission's cashiering activities. The results of our follow-up procedures revealed that many of the deficiencies noted in the original audit still exist. We noted the following:

Inadequate Accounting and Cashiering Practices

- The commission did not take any action to start collecting the fee for complimentary tickets. The commission is still not applying the correct calculation for pension assessment. According to the past interim Executive Officer, the commission voted to change the way these fees and assessments are collected, but the changes were never incorporated in the applicable laws and regulations.
- As of June 30, 2005, the commission has over $901,000 in collected revenues that have not been properly deposited in the correct funds. As a result, its financial statements have been misstated. As of August 1, 2005, we confirmed the commission continues to improperly code its collected revenues.
- Previous cash handling procedures did not conform to state regulations. On March 23, 2005, the department's Director wrote a letter to Chairman Christopher Mears addressing problems with untimely deposits, inadequate safeguarding of checks, and lack of auditing payments. Subsequently, the commission entered into a Memorandum of Understanding with the department to perform routine deposits of its collected revenues. Commission staff has also audited many of its show packages.

Show Package File Documentation Deficiencies

We reviewed six boxing shows to determine whether revenues were calculated properly and we noted the following problems:

- Lack of ticket manifests in files or if one was present, it was difficult to reconcile the tickets sold, deadwood and exempt passes to the commission's calculated revenues.
- Amounts payable (per Box Office Report) did not agree with amounts collected. One show had a difference of $500. However, the correct amount was collected.
- Illegible handwriting making it difficult to recalculate figures.
- No use of Excel spreadsheets to ensure accurate calculations.
- One show had an incorrect calculation resulting in an underpayment of $1,378.26.

We also confirmed, through an interview with the prior interim Executive Officer, the commission was unable to support several statements made in its response dated October 6, 2005. The commission did not review organization procedures nor did it reorganize staff to ensure all documents received are properly audited. In addition, the commission was unable to provide us evidence that it developed a post show results checklist, maintained a binder for fax confirmations, or created a letter to inform promoters of their payment responsibilities.

Finding 3: The commission's outdated information technology contributes to many of its inefficient operations.

We recommended the commission work with the department's OIS staff to determine whether AthCom's licensing information can be loaded on laptops prior to events and develop the queries and report formats necessary to extract data from AthCom. The commission should also continue the development of spreadsheets to calculate Box Office Report figures, account for and reconcile all the funds due at events, and reduce duplication of information.

Board's Action: Partial action taken.

In its response, the commission reported it has attempted to address several of the problems with its current system. Staff met with OIS and Medical Board IT staff to discuss the problems and tried to identify solutions. The Assistant Chief Inspector informed us that they have been unsuccessful in fixing many system problems.

Finding 4: The commission's licensing process could benefit from several improvements.

We recommended the commission take the following actions:

- Establish written procedures to guide staff with licensing activities;
- Develop checklists for applicant files to ensure all official documentation is properly completed and retained in the files, and establish quality control reviews;
- Adequately train inspectors to ensure they understand all licensing requirements;
- Explore funding options to ensure referee clinics and competency exams are being administered; and
- Work with the DOJ to determine an "acceptable" time to submit No Longer Interested in Subsequent Arrest Notification Forms.

Board's Action: No action taken.

In its response dated October 6, 2004, the commission stated it implemented corrective actions for several licensing activities. Changes to the approval process as well as maintaining a deficiency binder were among the stated actions taken. Other actions included staff training and two mini-clinics held for referees and judges. However, the commission made no mention of actions taken to implement our recommendations for written procedures, inspector training, competency exams, and DOJ CORI requirements (no longer interested forms).

To validate the actions taken, we requested certain licensing information, and planned to test sampled boxer licensing files to determine whether all licensing requirements were met prior to licensure. After several repeated requests, the commission was unable to provide us with the requested licensing documentation necessary for verify whether the stated actions were actually taken. Absent this information, we have concluded the commission has not provided sufficient evidence to substantiate corrective actions was taken. Consequently, we believe the commission will still continue to experience licensing deficiencies similar to the ones noted in our original audit report.

Finding 5: The commission needs to enhance its complaint handling processes.

We recommended the commission establish written procedures to guide staff to consistently follow proper procedures and effectively monitor all complaints received to ensure proper documentation, accurate reporting, and timely resolution. Quality control reviews should be implemented to ensure complaints are handled properly and consistently.

Board's Action: No action taken.

The commission stated complaints are funneled through one staff, logged into a compliant binder and complaint-handling procedures had been written. However, when we requested documentation to substantiate these actions, the commission was unable to provide us with any documentation. We made repeated requests but no information was provided

Finding 6: The commission needs to explore ways to augment funding for its regulatory activities.

We recommended the commission take the following actions:

- Continue with its BCP to convert to a special fund for its support activities;
- Work with the department's Legislative and Regulatory Review Division regarding the possibility of extending the sunset date of December 31, 2005, included in BPC section 18824;
- Seek a legal opinion regarding the possibility of requiring promoters to pay their fair share of taxes and assessments for events held on tribal lands;
- Work with the department's Legislative and Regulatory Review Division on amending BPC Section 18711 to enable the Neuro Fund to be used to cover expenses associated with the mandated referee and physician training clinics. Given that a key purpose of these clinics is to enhance the recognition of serious life-threatening and neurological injuries, the amendment could be considered to align with the original "intent of the law"; and
- Work with the combative sports industry, particularly boxing, to identify ways to attract more "big-draw" venues to California.

Board's Action: Partial action taken.

In its response, the commission stated it is now a Special Fund Agency, and the Governor signed Senate Bill 1549, extending the sunset date from July 1, 2005, to July 1, 2006. The bill also clarified the commission has the authority to regulate mixed martial arts.

We verified the commission converted to a Special Fund Agency and SB 1549 extended the sunset date. The bill also allowed the commission to regulate mixed martial arts, which should attract more "big draw" events to California. However, we also verified the commission has not taken any action to address the taxation of events held on tribal lands, nor amend the BPC for Neuro Fund.