Public Minutes

**Date: Thursday, January 12, 2023**

**Time: 2:00 PM – 4:00 PM**

 **1000 Washington Street, Boston MA, 02118 Conference Room 1D**

The meeting was called to order at 2:11 PM

1. Roll Call

Commissioners:

Bryan Lambert

Oded Carmi

Brett Miller

Brian O’Connell

John Navien (joined through teleconference)

Staff:

Greer Spatz – Executive Director

Peter Kelley - Board Counsel

Kristina Gasson – Deputy General Counsel

Paige Brenner – Program Coordinator I

Members of the Public:

Michael Polvere – Cage Titans

Edgar Bellenas – Ringside Physician

Kip Digs – State Representative

Thomas Pelkey – Aid to the Representative

1. **Review/ Vote** MSAC minutes for December 14, 2022

Commissioner Oded Carmi made a **Motion** to approve the meeting minutes for December 14, 2022. Commissioner Brian O’Connell **Seconded** the motion. A **Roll Call** vote was taken where Chairman Bryan Lambert voted **YES**, Commissioner Oded Carmi voted **YES**, Commissioner John Navien voted **YES**, Commissioner Brett Miller voted **YES**, and Commissioner Brian O’Connell voted **YES**. The motion **PASSED** unanimously.

1. Board Counsel Report

Board Counsel Peter Kelley opened his report with an update that he would not be serving as board counsel for future MSAC meetings, however he will have continued involvement with MSAC in training the new board counsel to take over his responsibilities as well as handling concerns related to the CORI policy the Commission has been working on, and the Regulation Review process.

He next informed the Commission that Deputy General Counsel Kristina Gasson attended the meeting to address any concerns related to a later item on the agenda, the procedures following breach of a bout agreement.

1. Procedures following breach of bout agreement (Agenda item 11)

This item was taken out of order to accommodate the schedules of those in attendance. Commissioner Oded Carmi inquired first about the state’s ability to access the bonds that Promoters are required to take out as a condition of obtaining their license. He indicated that other states allow the fighters to access the promoter’s bond in the event of a breach of contract. He further indicated that current bond language would allow the fighters this same access in the Commonwealth but for the MGL language that indicates the specific uses of the bond. He stated his concerns that Massachusetts was an outlier in this practice and would like to carve out a course of action that could allow fighters who have not received their payment from a promoter to access the promoter’s bond.

Deputy General Counsel Kristina Gasson explained that as non-payment from a contract is a dispute that is traditionally handled by civil court, and that the Massachusetts General Law prohibits the bond being accessed for any other purpose other than those enumerated in the MGL, it would not be something that the Commission could not change without having the law revisited and adjusted. Chair Bryan Lambert and Commissioner Oded Carmi reiterated that they are looking out for the constituents’, licensed unarmed combatants, best interests and hope to exemplify this by creating the ability to access the bond should the promoter not pay their fighters.

The conversation then switched to the concern of what the proper procedure is that should be followed with regards to a bout agreement being breached by a combatant, citing a specific instance where a fighter’s payment was withheld by a single Commissioner due his perception that the fighter had breached his bout contract by not participating in good faith. Board Counsel Peter Kelley informed the Commission that the withholding of a purse would only be permissible if a majority of the Commission, in consultation with the judges and referee, approved it to be withheld at an event as per the relevant statute, G. L. c. 147, § 36. Commissioner Oded Carmi inquired how this could be carried out by Commission members, as a majority of the Commission acting in consultation could violate the open meeting law and whether this would be a practical process. Commissioner Brett Miller agreed with this concern and indicated he believed it would be impractical to stop an event for such a consultation. There was discussion on the practicality of stopping an event to consult on the matter and if there were any alternatives that meet with the law’s requirements. Board Counsel reiterated that as G. L. c. 147, § 36 states this is a requirement to withhold payment to a fighter, the law must be followed as it is written. For an alternative method to be allowed, the statute would have to be changed by the legislative process. He also stated that to attempt to create any other procedure would be in direct conflict with the Massachusetts General Law. Commissioner Oded Carmi pointed to the bout agreement and stated that he believed the language in the bout agreement gave a single Commissioner the right to withhold payment if the Commissioner believed a fighter had breached his contract by not fighting in good faith. Mr. Kelley stated that the bout agreement, a private contract between the parties, could not form the basis to disregard the law and follow the procedure laid out in § 36.

Commissioner Oded Carmi then made a **Motion** to follow the procedure as outlined in the current bout agreement, cited as:

“(8) **Agreements in the event of a Breach.** The parties agree that if the Commission determines that the possibility of a breach of this agreement exists, as set forth in section 7 of this agreement, the Commission or appointed representative, in their discretion, may order that the Promoter or any person holding the Compensation, to pay the Compensation directly to the Commission in accordance with 523 CMR 9.10. The parties hereby waive any right or claim to a hearing on this matter. The Commission shall thereupon, in its sole discretion, make such a disposition of the Compensation as it deems to be in the best interest of unarmed combat, subject to the provisions of 523 CMR 21.00. The parties agree and understand that if the Commission or its appointed representative determines that the possibility of a breach exists, as set forth in section 7 of this agreement, that no part of the Compensation shall be distributed unless so ordered by the Commission after a hearing held in accordance with 523 CMR 21.00.”

Commissioner John Navien **Seconded** the motion. Executive Director Greer Spatz offered a friendly amendment to note that the motion was in opposition to Board Counsel’s advice, however Commissioner Oded Carmi declined to amend the motion as such.

A **Roll Call** vote was taken where Bryan Lambert voted **YES**, Oded Carmi voted **YES**, John Navien voted **YES**, Brett Miller voted **YES**, and Brian O’Connell voted **NO**. The motion **PASSED** 4 to 1.

At the conclusion of the vote, Board Counsel Peter Kelly noted that the language as set forth in the motion and the bout agreement mirrored the language of the MGL, requiring ‘the Commission’ to determine that a fighter was not competing in good faith so that the motion just passed would not allow a single Commissioner to make a determination to withhold the purse. Commissioner Oded Carmi disagreed and stated that the bout agreement allowed for a “representative of the commission” to withhold the purse. It was pointed out based on the contract language the initial decision still needed to be made by the Commission, not a singular Commissioner. No consensus was reached between the Executive Director, Board Counsel, and the Commissioners as to what the vote accomplished.  Neither Commissioner Oded Carmi nor Chairman Bryan Lambert agreed with Board Counsel’s view of the bout agreement language. They re-asserted that the passed motion would allow a single Commissioner or a representative of the commission to determine the possibility of breach, and that the compensation would subsequently be held pending a hearing of the commission at which the disposition of the compensation would be determined. Board Counsel asserted that in the instance of a conflict, the language of M.G.L. c. 147 § 36 would control.”

At this point in the meeting, Commissioner John Navien left the teleconference, and did not participate in any further votes for this meeting.

1. Executive Director Report

Executive Director Greer Spatz informed the board that the Boxer’s Fund has a current total of ~$180,000, and as the minutes containing the Boxer’s Fund application approvals and amounts located within the draft December 14, 2022, minutes were just approved, the amount would change in coming weeks reflecting those approved amounts being distributed to the appropriate parties.

1. **Review/Discuss** MSAC Financials (Agenda Item 8)

This item was taken out of order to accommodate the schedules of those in attendance. Chairman Bryan Lambert requested that in relation to the annual report generated by the Division of Occupational Licensure (DOL), all monetary figures related to MSAC’s revenue in the previous year should be brought to the Commissions for review at the next meeting. Executive Director Greer Spatz informed Chairman Bryan Lambert that as the annual report from DOL was not generated yet, there is not a guarantee that Accounting can provide a document with those figures for the next meeting.

1. Applications
	1. Review of Boxing Judge’s Application for Kevin Kelly

After a review of Mr. Kelly’s application and history with Boxing, Commissioner Oded Carmi made a **Motion** to approve the boxing judge application for Kevin Kelly. Commissioner Brett Miller **Seconded** the motion. A **Roll Call** vote was taken where Chairman Bryan Lambert voted **YES**, Commissioner Oded Carmi voted **YES**, Commissioner Brett Miller voted **YES**, and Commissioner Brian O’Connell voted **YES**. The motion **PASSED** unanimously.

* 1. Review of Matchmaker’s Application for Charles Bosecker

After a review of Mr. Bosecker’s application and history with Boxing, Commissioner Oded Carmi made a **Motion** to approve the boxing matchmaker application for Charles Bosecker. Commissioner Brett Miller **Seconded** the motion. A **Roll Call** vote was taken where Chairman Bryan Lambert voted **YES**, Commissioner Oded Carmi voted **YES**, Commissioner Brett Miller voted **YES**, and Commissioner Brian O’Connell voted **YES**. The motion **PASSED** unanimously.

* 1. Review of Ringside Physician’s Application for Joseph Leary

This application was tabled for a future meeting.

1. **Review/ Vote** CombatFC Variance Request

The Commission discussed what the potential staffing issues an event could have should a certain number of bouts above the maximum set forth in Section 10.06 be granted. The Commission concluded that while some additional bouts could be granted as a variance, too many additional bouts may cause undue stress on staff and scheduling for the event. Commissioner Brett Miller made a **Motion** to approve the Section 10.06 variance for CombatFC by granting a maximum of 34 licensed fighters. Commissioner Brian O’Connell **Seconded** the motion. A **Roll Call** vote was taken where Chairman Bryan Lambert voted **YES**, Commissioner Oded Carmi voted **YES**, Commissioner Brett Miller voted **YES**, and Commissioner Brian O’Connell voted **YES**. The motion **PASSED** unanimously.

1. **Review/Discuss** Second’s Application Update

Commissioner Brett Miller presented his proposed updates to the Second’s and Trainer’s applications. He suggested asking more in depth and education related questions, citing a need for the Commission to ask for more detailed information on what an individual’s experience with the sport and qualifications are to make them a good candidate for a trainer or a second. After the presentation the Chair asked Commissioner Miller to provide a draft Trainer’s and Second’s application with the proposed changes for review at a future meeting.

1. **Review/Discuss** Annual Report to General Court

This item was tabled for a future meeting. No action was taken on the item.

1. **Review/Discuss** Proposed Officials compensation changes

This item was tabled for a future meeting. No action was taken on the item. Requested review of other states’ compensation structure, NE states and other comparable jurisdictions.

1. **Review/Discuss** Training Program for Deputy Commissioners Update

This item was tabled for a future meeting. No action was taken on the item.

1. Open Session for Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of Meeting

No matters were brought to the attention of the Chair that were not anticipated within 48 hours of the meeting.

Commissioner Oded Carmi made a **Motion** to adjourn the meeting. Commissioner Brett Miller **Seconded** the motion. A **Roll Call** vote was taken where Chairman Bryan Lambert voted **YES**, Commissioner Oded Carmi voted **YES**, Commissioner Brett Miller voted **YES**, and Commissioner Brian O’Connell voted **YES**. The motion **PASSED** unanimously.

The meeting adjourned at 5:12 PM.

*Documents Used During Meeting*

Draft December 14, 2022, Meeting Minutes

Boxing Judge’s Application for Kevin Kelly

Matchmaker’s Application for Charles Bosecker

CombatFC Variance Request

Second’s Application Presentation