

# WORLD BOXING ASSOCIATION

GILBERTO MENDOZA

President

## **Resolution No. 201412031712** **WBA Championships Committee** *Heavyweight Division* *December 3, 2014*

### **I. BACKGROUND**

On June 3, 2014, the WBA Championship Committee issued Resolution No. 201406031712 directing the leading available contenders in the division to participate in a box-off to determine the champion of the Division and official contender for the Super Champion, Wladimir Klitschko (“Klitschko”). The two highest rated boxers in the division, Ruslan Chagaev (“Chagaev”) and Fres Oquendo (“Oquendo”), were directed to begin negotiations for a bout to fill the vacant heavyweight title. Chagaev and Oquendo agreed to terms with Promoter Terek Boxing Event (“Promoter”) and the bout was eventually scheduled for July 6, 2014 in Grozny, Russia.

Oquendo’s Bout Agreement with Promoter, that was submitted to the WBA no later than June 28, 2014, and dated May 28, 2014, provided that:

19.

(a) BOXER agrees to submit a urinalysis examination at PROMOTER’s expense immediately after the BOUT (the “**POSTFIGHT-TEST**”). The urinalyses shall only test for substances appearing on the Prohibited List maintained by the World Anti-Doping Agency (“**WADA**”) (website: [www.wada-ama.org](http://www.wada-ama.org)) (a copy of which list will be provided to BOXER through the BOXER’s representative). Prior to the testing, BOXER shall disclose any medications he has taken or any condition that he believes might affect the result of his urinalysis.

(b) The specimens should be taken in a plastic bottle or container, then promptly divided into two parts (Bottle #1 and Bottle #2), sealed and marked by both the Collection Agent and BOXER.

(c) Bottle #1 shall be immediately tested after the fight. Should Bottle #1 test positive for any substance appearing on the WADA Prohibited List, then in such case, Bottle #2 shall be tested, or upon written request of BOXER, which request must be delivered to PROMOTER within three (3) days of BOXER’s receipt of notification of the positive test, Bottle #2 may be tested at a facility mutually

agreed to by BOXER and the local boxing commission in charge; provided that such facility has been approved by WADA and the National Olympic Committee of the nation in which the facility is located.

On or about June 27, 2014, Promoter, Chagaev, and Oquendo signed the WBA's Bout Sanction Application confirming that "applicants and boxers certify their agreement to be bound by WBA rules and procedures ..."

On July 6, 2014, Chagaev won a closely fought majority decision over Oquendo. After the bout, the boxers submitted to testing for prohibited substances with the Russian Anti-Doping Agency ("RUSADA") (the Russian Commission's approved agency). Thereafter, RUSADA advised the WBA that Oquendo tested positive for prohibited substances, tamoxifen and anastrozole. Both substances are used in conjunction with estrogen and other steroid use to either counter side effects or as a masking agent.

On multiple occasions thereafter, Oquendo and his representatives were made aware of said positive test and given the opportunity to test the second sample pursuant to the Bout Agreement and WBA's rules and policies. Oquendo and his representatives declined claiming that RUSADA could not be trusted, thus the whole process was tainted. Oquendo's claims are primarily based on the allegation that Oquendo's test results were leaked to Vlad Hunrov and based on Oquendo's promoters' prior experiences with RUSADA.

On or about August 6, 2014, Hitz Boxing/Hitz Entertainment Corp. wrote to the WBA as Oquendo's "exclusive" promoter (along with Square Ring, Inc.) protesting the bout decision of July 6, 2014 claiming that: (1) Oquendo was not paid the remainder of his \$1 million bout contract; (2) that Oquendo participated in the bout when he was not mentally or physically fit; (3) Oquendo only participated based upon the Promoter's agreement for the rematch within 120 days if Chagaev won; (4) that Chagaev's corner and government officials approached the ring apron to encourage Chagaev which affected the Judges' impartiality; (5) there were inadequate inspectors/security; and (6) that the fight ended 10 seconds early when Oquendo was having one of his best rounds.

On October 31, 2014, WBA's counsel wrote to Oquendo and his representatives advising that Oquendo's request to protest his loss to Chagaev was untimely. The first communication challenging the decision was dated August 6, 2014 from Hitz Boxing. The required fee was not paid at that time or since. The August 6, 2014 communication was thirty (30) days after the bout; therefore, not within the applicable ten (10) day timeframe to file a protest under WBA Rule C.26. Consequently, the protest was untimely and the WBA elected not to revisit the decision of the judges (after conferring with the WBA Supervisor that none of Oquendo's alleged irregularities were reported to him at or after the bout). Indeed, the WBA Supervisor reported that all parties attended a post bout reception with government officials without incident.

With regard to Oquendo's demand that the WBA enforce a clause in the Bout Agreement with Promoter for an immediate rematch with Chagaev, the WBA declined to do so per WBA Rule C.25 which confirms that rematch clauses are not binding on the WBA. The WBA's rule

on rematch clauses is intended to deter boxers or promoters from attempting to tie up a championship or otherwise interfere with application of WBA rules for mandatory contenders, etc. Additionally, Oquendo had tested positive, thus the WBA took no further action on the matter.

Oquendo also demanded the WBA force Promoter to pay the balance of the \$1 million dollar purse. However, not until after the bout and Oquendo was not paid on it was the WBA notified of the \$1 million dollar purse agreement. This apparent second Bout Agreement was entered into between the parties on or about July 4, 2014 and was not the Bout Agreement upon which the WBA approved and sanctioned the bout. The second Bout Agreement was neither submitted to the WBA prior to the bout nor was it approved by the WBA. If the second Bout Agreement containing a higher purse had been timely submitted and approved by the WBA, then additional sanction fees would due to the WBA.

With regard to Oquendo's positive test for banned substances on the night of the fight, Oquendo challenges RUSADA's findings, including the testing and sampling procedures. Considering that Oquendo's Bout Agreement with Promoter allowed for testing of items prohibited by WADA, and did not exclude or prohibit RUSADA (a WADA approved laboratory), Oquendo waiting to raise the issue until after an adverse bout decision and after the positive test is questionable. In any event, per the Bout Agreement and applicable WBA rules, the remedy for a boxer challenging a positive test is for the B sample to be tested, either by the same laboratory, or for the B sample to be shipped to another WADA accredited laboratory for testing. Although the WBA offered to facilitate testing of the second sample by the WADA approved Swiss laboratory, Oquendo elected not to do so by failing to submit the deposit necessary to cover the cost of transporting and testing the second sample by the November 7, 2014 deadline. Therefore, Oquendo waived his opportunity to challenge the findings of the A sample and was notified that a minimum six (6) month suspension was likely.

Although Oquendo may have provided another voluntary sample at some unknown time and date after returning to the United States, this subsequent sample and its testing in September 2014 were not official and cannot be considered.

## **II. ANALYSIS**

A. Boxers, their representatives, and promoters are obligated to "know and be familiar with all Association rules." WBA Rule C.14.

B. No boxer who has tested positive for a prohibited substance can be rated, retain a title, or be permitted to participate in a sanctioned bout for no less than six (6) months from the date of the positive test. WBA Rule C.45.

C. The WBA rules and medical guidelines adopt the prohibited substances list as identified by the International Olympic Committee ("IOC"), WBA Rule E.24. The IOC has adopted the prohibited list published by WADA. Tamoxifen and anastrozole are on the prohibited substance list and are used in conjunction with, to recover from, or mask the use of estrogen, human growth hormone, or steroids.

D. For purposes of collecting and testing the boxers' samples, RUSADA was the agency selected by the Promoter per the terms of the Bout Agreement. If Oquendo wanted a different agency to perform the testing, it should have been identified in the Bout Agreement or cleared with the WBA prior to the bout.

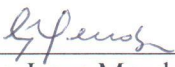
### III. DECISION

A. Based upon the above-mentioned Rules, which Oquendo is presumed to know, the WBA has express authority and discretion to interpret and apply its rules and guidelines in the best interests of boxing and the WBA.

B. Due to Oquendo's positive test for a prohibited substance, he is suspended for six (6) months, which shall end December 6, 2014.

C. Any interested party may request reconsideration of this decision per WBA Rule F.5.

Date: 12/3/2014

  
\_\_\_\_\_  
Gilberto Jesus Mendoza, Jr.  
Championship Committee Chairman

