



World Boxing Organization



COMPLAINT AND GRIEVANCE COMMITTEE

Appeal of Krzysztof Glowacki v. Mairis Briedis

AWARD

COMMITTEE MEMBER NEGRÓN delivered the Opinion of the Committee.

Introduction

The *Appeal* filed by Krzysztof Głowacki (“Appellant” or “Głowacki”) was referred to the WBO Complaint and Grievance Committee (“Committee”) on July 31st, 2019.¹ The Appellant is requesting this Committee to vacate the *Resolution* issued by the WBO World Championship Committee (“WWCC”) on July 17th, 2019, determining, among other things, that (i) the World Boxing Organization (“WBO”) lacked subject matter jurisdiction and authority to issue a suspension on WBO Participant Mairis Briedis (“Appellee” or “Briedis”) for his conduct during his June 15th, 2019 bout with Głowacki held in Arena Riga, Riga, Latvia (“the Bout”), (ii) the Latvian Boxing Federation constitute the entity with jurisdiction and authority to issue a suspension on a professional boxer participating under their jurisdiction and (iii) the WBO lacked subject matter jurisdiction and authority to reverse and/or overturn an official bout result of Technical Knockout (“TKO”) to a ‘No Contest’ because such discretion lies within the jurisdiction and authority of the Latvian Boxing Federation.

However, having concluded that a clear misapplication of the rules of boxing occurred during the Bout, the WWCC ordered that “the winner of the World Boxing Super Series Tournament (WBSS) finals between IBF Jr. Heavyweight Champion Mr. Yuniel Dorticos and WBO Jr. Heavyweight Champion Mr. Mairis Briedis must face WBO Participant Mr. Krzysztof Głowacki within one-hundred twenty days (120) days after the competition of said tournament.”

¹ Section 34 of the WBO Regulations of World Championship Contests state that, “[a]ny WBO Participant, including, but not limited to a Boxer, Manager, or Promoter who is or could be affected by a determination of the World Championship Committee who wishes to contest such a determination must, as his or her sole and exclusive remedy, file a complaint or grievance pursuant to the WBO Appeal Regulations.” Art. 4 of the WBO Appeal Regulations effective 16/10/18 state, among other things, that “[i]t is the intention of the WBO Constitution, the WBO By Laws, and the WBO World Championship Rules that the Grievance Committee shall act as a **fair and independent arbitrator of any grievance arising out of WBO Participation** and it shall conduct all of its proceedings as Amiable Compositeur, *Ex Aequo et Bono*.” (Emphasis supplied).

Głowacki is requesting this Committee to vacate the WWCC's *Resolution* and modify the remedy granted (i) declaring the result of the Bout as a 'No Contest', (ii) declaring that Briedis should have been disqualified, (iii) declaring the WBO Jr. Heavyweight Championship vacant or (iv) ordering a direct rematch with Briedis for said Championship.

On August 9th, 2019 an Initial Docketing and Scheduling Conference Call was held with the parties' representatives.² As ordered by the Committee, on August 26th, 2019 Briedis filed his response to the *Appeal* and on September 6th, 2019 Głowacki filed a reply.³ Głowacki expressly requested a hearing to offer live testimony.

On September 20th, 2019 a Status Conference Call was held during which the evidentiary hearing was scheduled October 2nd, 2019 to take place in Puerto Rico. The parties were instructed to file pre-hearing disclosures by September 30th, 2019. *See*, Minutes of the September 20th, 2019 Conference Call & Scheduling Order issued on September 25th, 2019.

On September 29th, 2019 Appellant filed his pre-hearing disclosures as requested by the Committee. Appellee did not file any pre-hearing disclosures, even though the Committee granted him until the start of the evidentiary hearing. *See*, Order issued on October 1st, 2019. Consequently, at the very beginning of the hearing the Committee requested Appellee's Counsel to state which of the facts proposed by Appellant as uncontested were acceptable by Briedis and should be deemed as stipulated by the Committee. After conferring with his client, Appellee's Counsel accepted as uncontested some of the facts proposed by Appellant. Therefore, this

² Originally the Committee scheduled the Initial Docketing and Scheduling Conference Call for August 5th, 2019. However, due to a conflict with Appellant's Counsel Calendar, it was moved for August 9th, 2019.

³ During said Conference Call Appellee's representative asked if Comosa Fabricators AG ("Comosa") was an indispensable party. The Committee expressed that these proceedings would only require the presence of Appellant and Appellee. *See*, Minutes of the Initial Docketing and Scheduling Conference issued on August 19th, 2019. It should be noticed that none of the allegations made by Głowacki are related to Comosa, nor it is alleged that Appellant made any requests from Comosa. After all, when filing his Appeal, Głowacki determined not to include Comosa in this proceeding, nor requested leave to join Comosa to the Appeal.

Committee deems as uncontested the facts that were numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 19, 24, 27, 30, 31, 32, 34, 35 and 36 in pages 2-4 of Appellant's pre-hearing disclosures.

In addition, during the hearing sixteen (16) documents were marked as Exhibits as requested by Appellant without any objection from Appellee. The Exhibits were marked A to P and consist of all the attachments Appellant included with his pre-hearing disclosures and an additional document provided during the hearing. Furthermore, Appellant presented the live testimony of Głowacki and Jacek Szelaḡowski. Finally, during the hearing Appellant offered the video of the Bout and a video of an interview Briedis participated in right after the Bout concluded.

Appellee decided to participate during the hearing through videoconference, cross examined Appellant's witnesses and offered no evidence. The Committee members made several questions to Counsel regarding law matters and provided the parties until October 9th, 2019 to file post-hearing briefs.⁴ Appellant timely submitted a post-hearing brief. Appellee did not submit a post-hearing brief.

Having evaluated all the evidence offered during the hearing, the stipulated facts and the parties' pre and post hearing disclosures, the Committee issues the following:

Statement of Facts

1. The WBO received official sanction request from the WBSS Tournament seeking authorization that the WBO Jr. Heavyweight Championship Title be at stake during the Semi-Finals between WBO reigning champion WBO Participant Głowacki and

⁴ The hearing is deemed closed as of October 9th, 2019, with the filing of the post-hearing briefs. Although the ten (10) business day period established in Art. 4 of the WBO Appeal Regulations for this Committee to issue the Award started to run on October 10th, 2019, and should have expired on October 23rd, 2019, on October 22nd, 2019 the Committee issued an *Order* requesting the parties to clarify their respective positions on a particular matter. The parties were given until October 23rd, 2019 to file their respective positions, which they did.

then-former Unified World Champion Briedis, scheduled for Saturday, June 15th, 2019 at Arena Riga, Riga, Latvia.

2. The WWCC granted the WBSS Tournament approval for hosting the WBO Jr. Heavyweight Championship Contest between WBO Participant Głowacki and Briedis to be held under the WBSS governing rules and regulations. The WBO Regulations of World Championship Contests would be enforced supplementary with the WBSS governing rules.
3. The WBO Regulations of World Championship Contests adopted the Uniform Rules of the Association of Boxing Commissioners (“the Uniform Rules”)
4. On June 6th, 2019 the WBO World Championship Committee issued official sanction letter notifying all interested parties from the WBSS Tournament via email.
5. The WBO ordered that the Bout be conducted under both the WBO’s own rule as well as those of the WBSS.
6. On June 15th, 2019 the Bout was held between Głowacki and Briedis for the WBO Cruiserweight (also known as Junior Heavyweight) Championship.
7. The Bout was a semi-final bout in the WBSS Tournament. Therefore, the winner would be entitled to compete in said Tournament Finals.
8. Głowacki entered the Bout as the defending Champion.
9. The Bout was held in Briedis’ home of Latvia.
10. The Referee for the Bout was Robert Byrd (“Byrd”), who was appointed by the WBO.

11. Briedis committed an intentional foul in round two by hitting Głowacki with an elbow to his face that knocked Głowacki to the canvas.
12. Głowacki was injured and stunned from the foul.
13. Byrd deducted only one point from Briedis for the foul.
14. After the Bout resumed, one of Briedis' seconds entered the ring while the boxers were engaged in combat.
15. Głowacki then suffered a knockdown from a blow to the back of his head. This knockdown occurred while one of Briedis' cornermen was inside the boxing ring.
16. Shortly after the third round commenced, Głowacki was knocked down by a Briedis punch. Although Głowacki beat the ten count, Byrd ended the Bout and ruled Briedis the winner by Technical Knockout, making Briedis the new WBO Jr. Heavyweight World Champion.
17. Briedis was declared the winner of the Bout by third-round Technical Knockout and is currently recognized as the WBO Jr. Heavyweight World Champion in the 200-pound category.
18. On June 17th, 2019 Promoter Andrew Wasilewski, on behalf of Głowacki, filed an official complaint with the WBO requesting that Briedis be disqualified and suspended and that the official Bout result be reversed and declared a No-Contest.
19. Głowacki timely filed an appeal requesting the following reliefs from the WBO: (i) disqualify Briedis due to the admitted and significant illegal foul, (ii) declare the Bout a NO-Contest and return the world championship to Głowacki, (iii) enforce the mandatory two-point deduction against Briedis, (iv) declare the cruiserweight

championship vacant and/or (v) require Briedis to grant Głowacki a direct rematch or forfeit the WBO world championship.

20. On June 18th, 2019 Głowacki's promoter sent a written communication to the President of the Latvian Professional Boxing Federation ("the Latvian Commission"), Mr. Andrey Akhmedov, stating the following:

I wish to protest and appeal the decision rendered by the referee in the ring as many violations of the rules of boxing, and rule of law occurred. Following videos show all the fouls and violations: <https://vimeo.com/341735454> or <https://youtube/-XqBkmk3Mbl>
The purpose of this letter is to ask what the process is for us to file this appeal (please supply written rules), so we can exhaust our administrative remedies before seeking redress in a court of competent jurisdiction. We are seeking that the result be changed to either a disqualification of Mr. Briedis or at least the changing of the decision to a no-contest.

If there exists no proper procedure for us to proceed, we shall be forced to seek the proper remedy before the courts. We await your response.

21. On June 18th, 2019 Raimonds Zeps, on behalf of Briedis, sent an email to the WBO stating, in essence, that Głowacki was repeatedly intentionally hitting Briedis in the back of his head and Briedis' reaction of hitting Głowacki with his elbow was used to push Głowacki back. Zeps argued that the fouls committed by each boxer are arguably equally punishable. In addition, asserts that Głowacki was not significantly hurt as upon resuming the fight seemed able, fit and ready. Finally, Zeps welcomed a rematch against Głowacki, but after the completion of the WBSS Tournament.
22. Briedis timely filed an appeal with the WBO to make two points: (i) he did not state that he intentionally hit Głowacki and (ii) he is not licensed in Latvia, only in Austria.

23. After all interested parties submitted their respective arguments, the WWCC issued a *Resolution* on July 4th, 2019 with the following findings:
- a. “in round two (2), with thirty-nine seconds (0:39) to finalized the round, WBO Participant Głowacki commits a clear intentional foul by hitting behind the head (Rabbit Punch) of Mr. Briedis who immediately, responded by committing an intentional foul by hitting WBO Participant Głowacki with an elbow to his face and consequently, WBO Participant Głowacki went down on the canvas various seconds until Referee Robert Byrd instructed said fighter to stand up and head to the neutral corner without any consideration of a recovery period. Thereafter, Referee Byrd executed a one (1) point deduction to Mr. Briedis for the intentional foul (elbow)”;
 - b. After the one (1) point deduction, second round resumed “and when the bell rings signifying the end of the round two (2), apparently, [Byrd] could not hear the bell, and immediately then, each respective corner stood on the ring apron indicating that the round had finished, local commission representatives raised their hands waving off as an indication to the referee that the round had terminated, however, both WBO Participants continued fighting and exchanging punches for numerous seconds after the bell had rung”;
 - c. “as a result of both WBO Participants continued exchange of punches after the completion of round two (2), Mr. Briedis landed a right hand to WBO Participant Głowacki’s face suffering a knockdown. Referee Byrd executed the mandatory eight (8) count and after examining WBO Participant Głowacki and asking him if he wanted to continue, WBO Participant Głowacki responded

affirmative and Referee Byrd seemed to resume the action until acknowledging that the round had concluded”;

- d. “Referee Byrd ordered the commencement of round three (3) and both fighters began exchanging punches until WBO Participant Briedis landed a right hand to the face of WBO Participant Głowacki within the first twenty-one (21) seconds of round three (3), suffering WBO Participant Głowacki a knockdown. Immediately thereafter, Referee Byrd commenced the mandatory eight (8) count whereby WBO Participant Głowacki stood up at the count of five (5), however clearly physically unstable causing Referee Byrd to wave off the fight and stopping it immediately”;
- e. “the official bout result was declared a Technical Knockout (TKO) in round three (3) in favor of WBO Participant Briedis. WBO Participant Briedis declared the new WBO Jr. Heavyweight Champion of the World”;
- f. “during the post-fight interview of the WBO Participant Briedis, he was asked what happened in round two (2) and he stated that during the course of the round, WBO Participant Głowacki has illegally punched the back of his head (Rabbit Punch) and the referee had not taken any action against WBO Participant Głowacki and therefore, he intentionally hit WBO Participant Głowacki with an elbow. Further, WBO Participant Briedis was questioned regarding if he had heard the bell rang at the end of round two (2) and answered that he in fact had heard the bell”;
- g. “the World Boxing Organization lacks subject matter jurisdiction to disqualify WBO Participant Briedis for any and all actions incur by such fighter during

the course of the bout against WBO Participant Głowacki. Such ruling and/or determination lies under the authority and jurisdiction of the Latvia Boxing Federation”;

- h. The World Boxing Organization lacks subject matter jurisdiction and authority to issue a suspension on WBO Participant Briedis regardless of his actions during the course of the bout against WBO Participant Głowacki. The Latvian Boxing Federation which grants a professional boxing license to WBO Participant Briedis constitutes the entity with jurisdiction and authority to issue a suspension on a professional boxer participating under their jurisdiction and in accordance with their rules and regulations”;
- i. “the World Boxing Organization lacks subject matter jurisdiction and authority to reverse and/or overturn an official bout result of Technical Knockout (TKO) to a No-Contest’. Such discretion lies within the jurisdiction and authority of the Latvian Boxing Federation”;
- j. “the Latvian Boxing Federation has the sole discretion to determine and issue any and all ruling regarding the protest of the aforementioned boxing contest held under their authority and jurisdiction”;
- k. “the World Boxing Organization issued sanction of the WBO Jr. Heavyweight Championship Contests between WBO Participant Głowacki and WBO Participant Briedis subject to both participants be bound and governed by the rules and regulations of the World Boxing Super Series Tournament”;
- l. “this Committee having considered the events transpired during the WBO Jr. Heavyweight Championship Contests, having identified the numerous

violations of the rules and standards of professional boxing in conjunction with the applicable World Boxing Championship Contests; determined that the proper forum to address, submit and request the reliefs stated herein by WBO Participant Głowacki, shall be directly refereed to the authority with jurisdiction over said matters the Latvian Boxing Federation in conjunction with the World Boxing Super Series Tournament Officials”;

m. “notwithstanding, this Committee strongly recommends that the winner of the World Boxing Super Series Tournament defends the WBO Jr. Heavyweight Championship Title within one-hundred twenty days (120) after the competition of said tournament against WBO Participant Głowacki”;

n. “this ruling is subject to acceptance by the World Boxing Super Series Tournament within the following forty-eight (48) hours upon official issuance of this Resolution. If the World Boxing Super Series Tournament Officials do not accept and/or reject this Committees’ ruling, we shall determine a further ruling in accordance to our WBO Regulations of World Championship Contests”.

24. Although the WBO initially referred this dispute to the local commission, on July 9th, 2019 the Latvian Commission, through its President, Mr. Andrey Akhmedov, sent a letter to the Chairman of the WWCC, Luis Batista-Salas, *Esq.*, stating that (i) “neither Briedis nor Głowacki are licensed by our Federation”, (ii) the Bout “took place under WBO-rules and the Referee, Mr. Robert Byrd, was appointed by the WBO”, (iii) the Latvian Commission “rejects herewith any responsibility for the way this contest was refereed by the WBO-Referee Mr. Robert Byrd as well as

for the outcome and result of this contest for which the WBO alone is responsible” and (iv) “[t]here is no legal competence for the [Latvian Commission] to change the result nor anything else regarding this fight.”

25. On July 9th, 2019 the WBO President sent a reply letter to the President of the Latvian Commission advising him that, as a matter of Law, the WBO lacked subject matter jurisdiction to terminate, reverse or overturn the official Bout result held under the jurisdiction and authority of said local commission. Furthermore, the WBO President clarified the President of the Latvian Commission that it is the local commission’s function to conduct and administer all professional boxing matches held in the territory under its jurisdiction.
26. On July 16th, 2019 the WBSS confirmed acceptance of the WWCC’s ruling recommending the winner of the WBSS Tournament facing Głowacki within the following 120 days after the completion of the Tournament.
27. On July 17th, 2019 the WWCC issued another *Resolution* adopting by reference any and all the conditions set forth in its July 4th, 2019 Resolution and ordering “that the winner of the World Boxing Super Series Tournament (WBSS) finals between IBF Jr. Heavyweight Champion Mr. Yuniel Dorticos and WBO Jr. Heavyweight Champion Mr. Mairis Briedis must face WBO Participant Mr. Krzysztof Głowacki within one-hundred twenty days (120) after the competition of said tournament.” The WWCC also recommended “the WBO Ratings Committee to install Mr. Głowacki at the number one (1) position for the July 2019 WBO Jr. Heavyweight Ratings accordingly.”

28. In the July 17th *Resolution*, the WWCC determined that “the resolution of [the Bout] was substantially irregular.”
29. The WWCC determined that Briedis committed an intentional foul in round two by hitting Głowacki with an elbow to his face that knocked Głowacki to the canvas.
30. The WWCC ruled that Briedis admitted the elbow was an illegal blow and the second knockdown came when Briedis continued punching even though he heard the bell sound to end round two.
31. The WBSS Finals has not been set.⁵

Conclusions of Law

Applicable Legal Framework

The Bout was governed by the WBSS Rules of Boxing at WBSS Tournament Bouts (“WBSS Rules”) and the WBO Regulations of World Championship Contest (“WBO Regulations”) applied supplementary. Art. 1 of the WBSS Rules states the following:

The [WBSS Rules] apply to all Bouts of the WBSS Tournament which shall also be governed by the rules of the local commission where the contest is held (hereinafter called ‘Bout’ or ‘Tournament Bout’).⁶ All Bouts are promoted by Comosa or its designee. In the event of an inconsistency between a rule of the local commission and one contained herein, and Comosa has agreed to proceed with the Bout being a Comosa-sanctioned bout, the local commission shall be responsible for the enforcement of its own rules and regulations, and Comosa shall reserve its right to take appropriate actions or decisions to resolve any controversy as it may deem necessary and appropriate.

⁵ In his disclosure filed on October 23rd, 2019, Briedis stated that “[i]t is our understanding that the proceedings before the Committee are a significant factor why the date of the finals cannot be set until the Committee reaches a decision.” In his disclosure filed on the same date, Glowacki stated that “[t]he WBSS has confirmed in writing that it CANCELLED the December 14th date to allow the WBO to address Glowacki’s grievance.” Under this scenario, it cannot be reasonably argued that this Award affects the rights of the WBSS nor of any of the other boxers who participated in the Tournament. After all, the powers granted to this Committee cannot be subordinated to third party private negotiations.

⁶ Even though this Committee requested Briedis’ Counsel to provide copy of the rules and regulations of the Latvian Commission, none were provided; copy is not available in the internet.

The WBSS Rules are clear in that “[t]he referee shall be the person who has complete authority and control over the Bout, and it shall be his responsibility to enforce the rules and regulations governing the Bout. The Referee shall be the only authorized person to determine if a foul has produced an injury, and if it was accidental or intentional.” *See*, Art. 9 of the WBSS Rules. According to Art. 27 of said Rules, “[t]he Referee shall determine whether a foul has been committed and whether the foul is accidental or intentional. The Referee is the only person authorized to stop the fight and to decide whether an injury was caused by a foul. Intentional fouls shall result in either a mandatory two (2) point deduction or a disqualification, subject to the Referee’s discretion.”⁷

Art. 32(c) of the WBSS Rules establishes that “[d]uring or after a Tournament Bout or its related preliminary matters, the local boxing commission in agreement with Comosa and the Comosa representative, are empowered to resolve unforeseen issues or dispute that require an immediate decision.”

Some of the purposes of the WBO Regulations are to promote “the most democratically representative institution in professional boxing, and [that it’s] Champions and Championships [be] accorded the greatest esteem in professional boxing.” As such, the WBO “encourages each World Champion and Challenger to be an example of the highest ideals and spirit of sportsmanship. A World Champion is an integral part of the sport of boxing, but he is not greater than the sport of boxing. A World Champion’s sportsmanship shows his respect for the profession he has chosen, including the Champion himself, his opponent, the World Boxing Organization, and, most importantly, boxing fans worldwide.” *See*, Preamble of the WBO Regulations.

⁷ Art. 27 of the WBSS Rules identified as common fouls that may be committed by Boxers or seconds (i) the use of elbows, (ii) hitting in the back of the head (rabbit punch) and, (iii) during a round, a boxer’s seconds entering the ring or stepping on the ring apron.

According to §1(b) of the WBO Regulations, the WWCC is empowered to (i) recommend to the WBO President and the Executive Committee that a Title should be vacated if a Champion fails to comply with the WBO Regulations, (ii) recommend to the Executive Committee whether a direct return fight should be authorized and (iii) make or recommend exceptions or variations from the Rules as it determines necessary, among other powers specifically delegated to the Committee. These powers “shall be interpreted to include any or all powers necessary, helpful or convenient to accomplish the purposes, policies and intent of these rules.” *See*, §1(c) of the WBO Regulations.

A ‘direct fight’ is defined in §18 of the WBO Regulations as “a fight between the new Champion and the former Champion from whom the new Champion won the title (or between a new Champion and the losing Contestant in a Vacant Title Fight), before the new Champion defends his title against any of the other fighters classified in his category.” Said §18 adds that “[i]f the World Championship Committee determines either that the resolution of a Championship Contest was substantially irregular, or that there was a clear misapplication of the rules of boxing resulting in a manifest unfairness, such that in either case the World Championship Committee determines that the Championship was substantially unresolved, the World Championship Committee may, in its discretion, recommend a direct return fight, which may be authorized only by the majority vote of the Executive Committee. The World Championship Committee may recommend a direct return fight for any other circumstances, in that event a direct return fight shall only be authorized by the affirmative vote of not less than 75% of the Executive Committee.”

As stated before, the WBO Regulations sets the fundamental principles of the organization. Among others, it is the WBO’s aspiration that its Champions earn the greatest esteem in professional boxing by their individual capabilities as athletes and by practicing “the highest ideals

and spirit of sportsmanship”, which includes showing respect for the profession, the opponent and, most importantly, boxing fans worldwide. Any conduct deemed contrary to those fundamental principles is prohibited. *See*, §19(b)(6) of the WBO Regulations.

The WWCC is also empowered to examine, evaluate and consider any all allegations concerning a WBO Participant’s conduct contrary to the organization’s fundamental principles. *See*, §19(c) of the WBO Regulations. In those cases in which the WWCC concludes that a WBO Participant violated a prohibition included in the WBO Regulations, the “WBO Participant may be subject to the imposition of... (6) any of other rulings deemed necessary, helpful or convenient to accomplish the purposes, policies and intent of the World Boxing Organization.” *See*, §19(e) of the WBO Regulations. Furthermore, it is clearly established in §35(b) of the WBO Regulations that “[a] WBO World Champion or Regional Champion who violates these rules may lose the recognition of the Title, which shall then be declared vacant.”

As per the WBSS Rules, under the WBO Regulations “[t]he Referee shall be the chief official in all Championship contests and shall be in charge of the control of the fight.” *See*, §24(a) of the WBO Regulations. In addition, “[t]he Referee may impose discipline and enforce the WBO Rules and the Uniform Rules regarding the conduct and behavior of the Contestants and Seconds.” *See*, §24(f) of the WBO Regulations.

Regarding ‘fouls’, the WBO adopted and incorporated the Uniform Rules. *See*, §26 of the WBO Regulations. Art. 12(a)(2) of the Uniform Rules states that, “[i]f an intentional foul causes an injury and the bout is allowed to continue, the referee shall notify the authorities and deduct two (2) points from the boxer who caused the foul. Point deductions for intentional fouls will be mandatory.”⁸

⁸ This Committee will not address Głowacki’s argument regarding the five (5) minutes resting period because it is based on the ABC Regulatory Guidelines issued by the Association of Boxing Commissions and Combative Sports

Analysis

This Committee agrees with the WWCC in that ordinarily the local commission, which in this case is the Latvian Commission, is the entity with jurisdiction and competence to reverse or overturn the official result of the Bout.⁹ We also agree in that it is under the WBO's jurisdiction and competence to examine, evaluate and consider whether Briedis, as a WBO's Champion, violated the WBO Regulations.

As to this matter, the facts are clear in that Briedis committed an intentional foul in round two by hitting Głowacki with an elbow to his face that knocked Głowacki to the canvas. In addition, after the second round resumed, Głowacki suffered a second knockdown from a blow to the back of his head. Moreover, in an interview offered after being declared the new WBO Jr. Heavyweight Champion of the World, Briedis acknowledged that he intentionally hit Głowacki with an elbow.¹⁰

Although Briedis tried to justify the elbow punch alleging that it was a reaction to Głowacki's illegal punches to the back of his head, the truth of the matter is that Referee Byrd did not called any illegal punches from Głowacki to the back of the head of Briedis. Being Referee

which do not apply to the Bout. Specifically, said ABC Regulatory Guidelines apply only to boxing competitions held within the U.S., Puerto Rico, the U.S. Virgin Islands, the District of Columbia and any Indian reservation.

⁹ We see no circumstances in this case for us to deviate from that general rule. Therefore, this Committee will not grant the following reliefs requested by Głowacki: (i) to declare the result of the Bout as a 'No-Contest' and (ii) to declare that Briedis should have been disqualified. In order to overturn the result of the Bout, Głowacki shall exhaust all available remedies before de Latvian Commission, Comosa and the Latvian Courts. It should be noticed that in the letter dated June 18th, 2019, that Głowacki's promoter sent to the President of the Latvian Commission, Głowacki stated that he wanted to exhaust administrative remedies before seeking redress in a court of competent jurisdictions and, "if there exists no proper procedure for us to proceed, we shall be forced to seek the proper remedy before the courts." Nor will the Committee grant Głowacki's request for a two-point deduction due to jurisdictional issues. Further, if such relief were granted it would also require the Committee to deduct two points from Głowacki for his rabbit punch that the WWCC found to be intentional.

¹⁰ Briedis' statements during the interview he offered right after the conclusion of the Bout are included in the WWCC's Resolution marked as Exhibit B. During the hearing Briedis expressed no objection to mark that Resolution as Exhibit B and did not questions its findings. In addition, Briedis did not offer any evidence contrary to the findings of the WWCC.

Byrd the person with complete control over the Bout, to consider in our analysis an illegal punch from Głowacki is the equivalent as to second guess Byrd, which we will not do. However, even assuming that those fouls occurred, Briedis reaction by throwing an intentional elbow to the face of Głowacki must be strongly rejected.

This Committee has no doubt that Briedis violated the WBO Regulations and the fundamental principles of the organization. Therefore, WWCC's conclusions that the resolution of the Bout was substantially irregular and that Briedis committed an intentional foul are strongly supported by the record. Hence, our analysis moves now to consider whether the remedy granted by the WWCC is adequate. Głowacki avers that it is not, and we agree.

Under the specific circumstances of this case, Głowacki should be given the opportunity of competing for the WBO Jr. Heavyweight Championship immediately. Making Głowacki wait 120 days after the competition of the WBSS Tournament is an inadequate remedy, even though in the right direction. Among the factors considered that moves us to conclude that the remedy provided is inadequate is that the Finals of the WBSS Tournament has not yet been scheduled. Consequently, Głowacki might end up waiting approximately a year for a WBO Jr. Heavyweight Championship match.

On the other hand, allowing Briedis to defend the WBO Jr. Heavyweight Championship Title in the Finals of the WBSS Tournament constitutes a reward for having won the WBO Title by violating the WBO Regulations. Therefore, the remedy granted by the WWCC should be modified as follows:

1. A direct return fight is ordered between Głowacki and Briedis within one hundred twenty (120) days after the issuance of this Award.

2. It is strongly recommended to the WBSS Tournament to consider scheduling the Final of said Tournament to take place after the direct return fight ordered above. If our recommendation is accepted, the Tournament Finals should be between the IBF Jr. Heavyweight Champion Mr. Yuniel Dorticos and the winner of the direct return fight hereby ordered.
3. If Briedis does not comply with the direct return fight hereby ordered, the WBO Jr. Heavyweight Championship Title shall be declared vacant.
4. If the WBO Jr. Heavyweight Championship Title is declared vacant, Głowacki shall be given the opportunity of fighting for that Title against the next ranked boxer in the WBO Jr. Heavyweight Division.

COMMITTEE CHAIRMAN GIERBOLINI, concurring in part and dissenting in part:

I concur with the majority opinion's holdings that this Committee lacks jurisdiction to reverse or overturn the result of the Bout. However, I respectfully dissent from the Committee's holding that the WBO World Championship Committee's ("WWCC") Resolution did not provide Appellant with adequate relief and the Committee's reversal of the Resolution on those grounds.

For starters, I believe that the majority opinion exceeds the role of this Committee. In this regard, the Committee functions as an appellate body reviewing the decisions of the WWCC. To wit, Section 1(b) of the WBO Regulations grants the WWCC certain powers and discretions, including: (1) designating the mandatory challenger, (2) recommending whether titles should be vacated, selecting contestants for a Vacant Championship, (3) to approve the challenger for any Championship, and (4) recommending whether a direct return fight should be authorized. These powers and discretions are directly related to the matter before this Committee.

In other words, Appellant otherwise asks us to judge whether the Committee correctly used its powers and discretions in rendering its Resolution. Because of the wording of this section, my understanding is that we should evaluate the Resolution under an abuse of discretion standard. This view is supported by case law holding that the crafting of a remedy is subject to the grantor's discretion. See e.g. Int'l Ass'n of Machinists & Aerospace Workers, District 776 v. Texas Steel Co., 639 F.2d 279, 283 (5th Cir. 1981) (emphasizing the "broad discretion accorded arbitrators in fashioning appropriate remedies"); Gen. Tel. Co. of Ohio v. Communications Workers of Am., AFL-CIO, 648 F.2d 452, 457 (6th Cir. 1981) (stating that "in fashioning a remedy [. . .] an arbitrator is given broad latitude and discretion"). Indeed, on prior occasions, this Committee has held that the standard of review to be used when reviewing determinations of the WWCC in the

exercise of its Section 1(b) powers is abuse of discretion.¹¹ Furthermore, Section 18 of the WBO Regulations states that any recommendation by the WWCC of a direct return fight is subject to the WWCC's discretion.

Under this standard, the WWCC's Resolution would warrant reversal if its ruling were based on an erroneous view of the law or a clearly erroneous assessment of the evidence. Highmark, Inc. v. Allcare Health Mgmt. System, Inc., 572 U.S. 559, 563 n. 2 (2014) (citing Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 405 (1990)). "Judgment calls" are also subject to deferential review. United States v. Lewis, 517 F.3d 20, 24 (1st Cir. 2008). Therefore, the Resolution should be affirmed "so long as the record evinces an adequate reason for the [determination therein]." Calderon-Serra v. Wilmington Tr. Co., 715 F.3d 14, 20 (1st Cir. 2013).

The relief granted by the WWCC in its Resolution is unmistakably supported by the record. To justify the relief granted, the WWCC concluded that the Bout was substantially irregular. July 17, 2019 Resolution, p. 1. In support of this determination, the WWCC found that Appellant committed a "clear intentional foul" by rabbit punching Appellee. July 4, 2019 Resolution, p. 3.¹² This foul was followed by Appellee's elbow blow to Appellant's face, also held by the WWCC to be an intentional foul. Id.

Although Appellant unquestionably had unclean hands and in fact precipitated the irregularities that ensued during the second round of the Bout, the WWCC still saw fit to grant him

¹¹ Complaint and Grievance Committee, Appeal of Dillian Whyte – Award, World Boxing Organization (Aug. 15, 2019), <https://www.wboxing.com/news/boxing-news/wbo-complaints-and-grievances-committee-award-appeal-wbo-participant-mr-dillian-whyte/>.

¹² The majority opinion states that the referee for the Bout did not call this a foul by Appellant. However, the video of the bout shown to the Committee by Appellant during the hearing contradicts the majority opinion's assertion. With 39 seconds remaining in the second round of the Bout, Appellant threw his rabbit punch and, immediately thereafter and in response to this blow, the referee called for the fight to be stopped. Appellee's elbow blow occurred thereafter. See Boxing Fights Videos, Mairis Briedis vs. Krzysztof Głowacki (15-06-2019) Full Fight, DailyMotion (June 15, 2019 5:58 PM), <https://www.dailymotion.com/video/x7bau76>.

some form of affirmative relief. The undersigned believes that, under an abuse of discretion standard, the WWCC's determination stands. It considered both fighters' conduct during the Bout and granted relief after evaluating such conduct in excruciating detail. The majority opinion's decision, however, essentially overturns a judgment call, based on an incorrect application of a *de novo* standard of review.

Even then, upon applying a *de novo* standard of review, the WWCC's Resolution should still stand. During the hearing, Appellant based his request for review of the WWCC's Resolution on the general principles of equity. However, these very same principles ought to preclude his appeal to this Committee. The central feature of equity jurisdiction is "the ability to assess all relevant facts and circumstances and tailor appropriate relief on a case by case basis." Rosario-Torres v. Hernández-Colón, 889 F.2d 314, 321 (1st Cir. 1989) (en banc). As part of this assessment, one must "always consider whether the petitioning party has acted in bad faith or with unclean hands." Texaco P.R. Inc. v. Dep't of Consumer Affairs, 60 F.3d 867, 880 (1st Cir. 1995). If so, the doctrine of unclean hands "closes the doors of a court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief." Precision Instrument Mfg. Co. v. Automotive Maintenance Mach. Co., 324 U.S. 806, 814 (1945). That is precisely what occurred here.

As noted, Appellant did not merely figure into the irregularities of the Bout but provoked the chain of irregularities which he now challenges. Appellee's elbow blow did not come about unprovoked, rather it came about directly after Appellant's own rabbit punch. Moreover, I believe that Appellant's rabbit punch is a far more serious offense than Appellee's own blow. In this sport, people have suffered brain damage and even died from blow like the one given by Appellant.¹³ I

¹³ Lance Pugmire, Family of Injured Boxer Prichard Colon Praying, Seeking Answers, Los Angeles Times (Oct. 20, 2015 3:06 PM), <https://www.latimes.com/sports/sportsnow/la-sp-sn-boxing-prichard-colon-brain-injury-pbc->

respectfully understand that, in granting Appellant additional relief, the majority opinion fails to consider both Appellant's involvement in the Bout's irregularity and the severe nature of his involvement therein. Far from vindicating the sport, the majority opinion instead permits a malfeasant to have his cake and eat it. Indeed, Appellant's conduct during the Hearing further supports an application of the unclean hands doctrine: thereat, Appellant tried to pass off his rabbit punch as a stray left hook. Notwithstanding, the footage showed him going straight for Appellee's nape. This misrepresentation should foreclose any further requests for relief from Appellant.

However, other considerations also move me to dissent from the majority opinion, these being the context of the Bout. The Bout was part of the World Boxing Super Series, an annual tournament designed to bring together the "best of the best fighters."¹⁴ Part of the draw thereof is the elimination-style tournament format which, by design, would result in a winner-take-all titles finals. By ordering a rematch between the parties prior to the resolution of the WBSS, the majority opinion is enabling a situation through which the WBO Jr. Heavyweight Championship may not be in contention for the remainder of the WBSS, in case of a direct rematch prior to the WBSS Finals and a victory by Appellant.

Moreover, ordering a direct rematch prior to WBSS Finals would not just affect the WBSS, but other third parties. As is known, Yuniel Dorticos ("Dorticos") is the other WBSS finalist. A direct rematch prior to the WBSS Finals would undoubtedly delay the WBSS Finals and Dorticos' opportunity to face the other finalist. By this token, the majority opinion presents a contradiction: a delay in competing for the WBO title is the same rationale employed in the majority opinion to reverse the WWCC's determination. However, the majority opinion deems proper a delay

[20151020-story.html](http://en.espn.co.uk/boxing/sport/story/250439.html); Dan Rafael, [Francisco Leal Dies of Brain Injury](http://en.espn.co.uk/boxing/sport/story/250439.html), ESPN (Oct. 23, 2013), <http://en.espn.co.uk/boxing/sport/story/250439.html>.

¹⁴ [About](https://worldboxingsuperseries.com/about/), World Boxing Super Series, <https://worldboxingsuperseries.com/about/> (last visited Oct. 24, 2019).

affecting the rights of an absent third-party. Moreover, if Appellant's age is part of the rationale of the majority opinion, this rationale is inapplicable because Dorticos *is older than Appellant*.¹⁵

In this vein, I understand that the majority opinion violates both Dorticos' and the WBSS's rights to due process. Their rights are indubitably affected by the majority opinion, without having been afforded any chance to be heard at any stage during these proceedings. Tellingly, the majority opinion recognizes as much, because it seeks the WBSS's input *ex post facto*. Specifically, the majority opinion recommends that the WBSS both schedule the WBSS Finals after the direct rematch and that the winner of the direct rematch be considered the WBSS Finalist who would fight Dorticos. The majority is, in effect, recommending that the Bout be declared a no-contest, after conceding that it does not have jurisdiction to do so and denying Appellant's request to that effect.¹⁶

In sum, the majority opinion misapplies the correct standard of review, glosses over key facts that invalidate its rationale, fosters unsportsmanlike conduct, violates third-parties' right to due process, and exceeds the powers of this Committee. For these reasons, I respectfully dissent.

¹⁵ Yuniel Dorticos was born on March 1, 1986. Yuniel Dorticos, BoxRec, <https://boxrec.com/en/proboxer/507154> (last visited October 24, 2019). Appellant was born months later, on July 31, 1989. Krzysztof Głowacki, BoxRec, <https://boxrec.com/en/proboxer/470367> (last visited October 24, 2019).

¹⁶ Additionally, the majority opinion includes this recommendation and other remedies without any knowledge as to the nature of the contractual relationship between Appellee and the WBSS. In other words, and without first obtaining any confirmatory evidence, the majority opinion assumes that it can issue its intended relief without interfering with any existing contractual rights.

Award

Głowacki's appeal is **DENIED** in part and **GRANTED** in part and the WBO Championship Committee *Resolution* issued on July 17th, 2019 is **MODIFIED** as stated in the majority opinion. Committee Chairman Fernando Gierbolini, *Esq.*, concurred in part and dissented in part.

The parties are advised that pursuant to the §34 of the WBO Regulations this Award is the final decision on the merits of the Appeal. Furthermore, pursuant to §35(e) of the WBO Regulations this Award is governed by the United States Arbitration Act, 9 U.S.C. §§1-16, and the Puerto Rico Commercial Arbitration Act, P.R. Laws Ann. Tit. 32, §§ 3201-3229. Therefore, the parties are also advised that enforcement or review of this Award may be sought before the United States District Court for the District of Puerto Rico or the Puerto Rico Court of First Instance pursuant to these acts and applicable case law. *See* also Art. 8 of the WBO Appeal Regulations.

Served today to the parties via e-mail: **Scott Shaffer, Esq.**, sshaffer@olshanlaw.com;
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Issued today, October 25, 2019.

/s/ Fernando J. Gierbolini-González
Fernando J. Gierbolini-González, *Esq.*
Chairman

s/ José R. Negrón-Fernández
José R. Negrón-Fernández, *Esq.*
Member

/s/ Scott E. Gizer
Scott E. Gizer, *Esq.*
Member

cc: Francisco Valcárcel, *Esq.*, WBO President
Luis Batista-Salas, *Esq.*, WBO World Championship Committee Chairman