

BEFORE THE NEW MEXICO ATHLETIC COMMISSION

IN THE MATTER OF:

MICHAEL K. HEBERT-ANDREWS

PROFESEEIONAL BOXER, License No. 10450

Case No. AC 16-04-COM

Respondent.

DEFAULT ORDER

THIS MATTER came before a quorum of the New Mexico Athletic Commission (hereafter “the Commission”), at a regular meeting held on May 9, 2017, with a quorum present and all commissioners voting in the affirmative in the above-referenced matter, the Commission finds as follows:

FINDINGS OF FACT

1. On February 9, 2017, the Commission issued a Notice of Contemplated Action (“NCA”) against Respondent Michael K. Hebert-Andrews, stating the Commission found sufficient evidence to take disciplinary action which may include suspending or revoking of Respondent’s license and/or imposing fees, penalties and/or fines based on alleged violations of the Professional Athletic Competition Act (“PACA”), NMSA 1978, §§60-2A-1 to -33 and/or rules and regulations adopted pursuant thereto.

2. Pursuant to NMAC 15.6.16.1-19, NMSA 1978, § 60-2A-14 (A)-(B) and NMSA 1978, § 60-2A-8, Respondent was advised under the NCA that should he fail to respond within the time and manner prescribed by law, the Commission would take the contemplated action and this action would be final.

3. The Commission mailed Respondent the NCA in case number AC 16-04-COM via certified mail (no. 9171969009350078262215), return receipt requested, to Respondent's at 2115 Highland Dr., Hobbs, NM 88240, his last known address of record on file with the New Mexico Athletic Commission.

4. Respondent failed to respond to the NCA and did not request a hearing on the matter within the timeframe prescribed by law.

CONCLUSIONS OF LAW

Based on the above findings of fact, the Commission reaches the following conclusions:

1. The Commission has jurisdiction over Respondent and the subject matter of this proceeding pursuant to the Professional Athletic Competition Act ("PACA"), NMSA 1978, §§ 60-2A-1 to -33, NMAC 15.6.16.1 to-19 and NMAC 15.6.15.1- to 20.
2. Respondent was properly served with the NCA.
3. The Commission considers the matter and disposes of it on the basis of the evidence before it if Respondent fails to respond, as contemplated by NMSA 1978, § 60-2A-14, NMAC 15.6.16.1 to-19 and NMAC 15.6.15.1- to 20.
4. Respondent did not request a hearing and failed to respond in the time and manner prescribed by law.
5. The Commission has complied with all notice and other procedural requirements of the "PACA," NMAC 15.6.16.1 to-19 and NMAC 15.6.15.1- to 20.

6. The Commission may revoke a license by default action if an individual chooses not to contest a NCA and appear before the Board in a disciplinary proceeding.
7. The Commission, having reviewed the allegations and evidence on record, finds that there is sufficient evidence to justify the Commission in taking action against Respondent as contemplated in the NCA.

ORDER

Based on these findings and conclusions **IT IS THEREFORE ORDERED** that:

1. Respondent's license is hereby **SUSPENDED** for a period of six (6) months effective May 9, 2017;
2. Respondent shall appear in front of the Commission before his license may be reinstated; and
3. Respondent shall pay a fine in the amount of one thousand dollars (\$1,000.00) within ninety (90) days.

IT IS SO ORDERED.

June 15, 2017

DATE



GAVIN PANTOJA, Chairman

NEW MEXICO ATHLETIC COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Default Order was mailed by certified mail to:

Michael K. Hebert-Andrews
2115 Highland Dr.
Hobbs, NM 88240

Certified Mail No. 9171 9690 0935 0078 2621 78
Return Receipt Requested

By:



Laura Romero Halama, Compliance Liaison,
New Mexico Athletic Commission
P.O. Box 25101
Santa Fe, NM 87504

BEFORE THE NEW MEXICO ATHLETIC COMMISSION

**IN THE MATTER OF:
MICHAEL K. HEBERT-ANDREWS,
PROFESSIONAL BOXER, License No. 10450**

Case No. AC 16-04-COM

Respondent.

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Athletic Commission (hereinafter referred to as “the Commission”) has before it sufficient evidence which, if not rebutted or satisfactorily explained at a formal hearing, will justify the Commission in taking disciplinary action against MICHAEL K. HEBERT-ANDREWS (hereinafter “Respondent”), which may include further suspension or revocation of your licenses, and/or the imposition of fees, penalties and/or fines pursuant to the Professional Athletic Competition Act and/or rules and regulations adopted pursuant thereto.

APPLICABLE LAW

This action arises under the Professional Athletic Competition Act (“PACA”), NMSA 1978, §§ 60-2A-1 to-33 NMSA. Respondent is licensed pursuant to PACA and as such, is subject to the jurisdiction of the Commission. The Commission has sufficient evidence which, if not rebutted or explained, will justify the Commission in suspending or revoking Respondent’s license and/or imposing discipline pursuant to NMSA 1978, §§ 60-2A-14(A)-(B) “Suspension; Revocation of Licenses” and pursuant to NMSA 1978, §§ 60-2A-8 “Jurisdiction Over Professional Contests”, which provide in pertinent part:

NMSA § 60-2A-14. Suspension; Revocation of Licenses.

- A. The commission may suspend or revoke any license when in its judgment the licensee:
- (1) participated in any sham or fake professional contest;
 - (2) is guilty of a failure to give his best efforts in a professional contest;
 - (3) is guilty of any foul or unsportsmanlike conduct in connection with a professional contest; or
 - (4) is guilty of participating in an event while under the influence of illegal drugs.
- B. Before revocation of a license, the commission shall afford the licensee opportunity for a hearing, and upon request of the licensee and after reasonable notice, the commission shall conduct a hearing on the revocation, permitting the licensee to appear personally and by counsel, introduce evidence and examine and cross-examine witnesses.

NMSA § 60-2A-8. Jurisdiction of Commission over Professional Contests.

The commission shall have sole direction, management, control and jurisdiction over all professional contests to be conducted, held or given within New Mexico, and no professional contest shall be conducted, held or given in this state except in accordance with the provisions of the Professional Athletic Competition Act.

Evidence indicates that Respondent may have violated the above cited statutes and more specifically the following statutory provision which provides, in pertinent part:

NMSA § 60-2A-14. Suspension; Revocation of Licenses.

- A. The commission may suspend or revoke any license when in its judgment the licensee:
- (3) is guilty of any foul or unsportsmanlike conduct in connection with a professional contest.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENT

1. On or about September 9, 2016, Respondent MICHAEL K. HEBERT-ANDREWS participated in a Professional Boxing weigh-in at the Hilton Garden Hotel Inn located in Hobbs, New Mexico.

2. On information and belief, Respondent engaged in unsportsmanlike conduct by either instigating or least participating in an unsanctioned fight with a Mr. Edgar Zubia.

3. On information and belief, the unsanctioned fight included the throwing of punches head butting each other.

4. On information and belief, Respondent's actions were either the cause or proximate cause of an even broader melee that resulted in property damage and injuries to several individuals, which included a baby being sent to the emergency room after the baby was hit during the scuffle.

5. By engaging in the above-referenced conduct, Respondent violated the general provisions of the Professional Athletic Competition Act (PACA) NMSA 1978, § 60-2A-14(A)-(B), NMSA 1978, § 60-2A-8 and more specifically NMSA 1978, § 60-2A-14(A)(3).


IF YOU WOULD LIKE THE OPPORTUNITY FOR A FORMAL HEARING ON THIS MATTER, YOU MUST RESPOND TO THIS NOTICE WITH A REQUEST FOR A HEARING WITHIN TWENTY (20) DAYS. The response must be sent to the Commission in writing, by certified return receipt mail requested to the address below. Failure to respond will result in the Commission taking the contemplated action, and this action will be final. Please send your response to:

Laura Romero-Halama
Compliance Officer, Team Leader
Boards & Commissions Division
Regulation and Licensing Department
P.O. Box 25101
Santa Fe, NM 87504

The formal hearing, if requested, will be conducted pursuant to the New Mexico Athletic Commission provision **15.6.16.11 NMAC**. The licensee is specifically advised as follows:

15.6.16.11 NMAC RIGHTS OF PERSON ENTITLED TO HEARING. A Respondent entitled to be heard under 15.6.16.11 Athletic Commission provisions has the following rights: They may represent themselves before the Commission or its duly appointed hearing officer; Respondent also has the right to be represented by counsel; present all relevant evidence by means of witnesses and books, papers, documents and other evidence; and to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued for the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request to the Commission. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Commission as outlined in NMSA 1978, § 60-2A-15.

DATE: February 9, 2017



Gavin Pantoja
Commission Chair
New Mexico Athletic Commission

Prepared by:
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Santa Fe, NM 87501
(505) 827-6021
jpuentes@nmag.gov


CERTIFICATE OF SERVICE

A true copy of this Notice of Contemplated Action was sent to Respondent MICHAEL K. HEBERT-ANDREWS by certified mail, return receipt requested, on this 9th day of February 2017.

MICHAEL K. HEBERT-ANDREWS
2115 Highland Dr.
Hobbs, NM 88240

Certified Mail No. 9171969009350078262215
Return Receipt Requested

By: _____


Laura Romero-Halama
Compliance Officer, Team Leader
Boards & Commissions Division
Regulation and Licensing Department
P.O. Box 25101
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