

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the Matter of :  
The Application of Ron Lipton, :  
Petitioner, :  
:

For a Judgment under Article 78 of :  
the Civil Practice Law and Rules :

-against- :

Ron Scott Stevens, as Chairman, :  
New York State Department of State :  
New York State Athletic Commission and :  
The New York State Athletic Commission, :  
Respondents. :

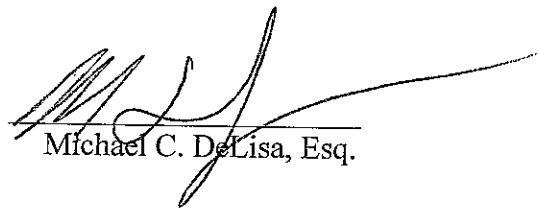
**Affirmation of Michael C.  
DeLisa Opposing Cross-  
Motion to Dismiss Petition**

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Michael C. DeLisa hereby affirms pursuant to CPLR 2106 as follows:

1. I am an attorney duly admitted to practice before the courts of this State. I represent the petitioner Ron Lipton in this proceeding. I submit this affirmation in support of the petition and in opposition to the cross-motion.
2. Petitioner's Executive Director, Hugo Spindola, asserts that Mr. Lipton's petition is time-barred. In order to avoid a review on the merits, Mr. Spindola asserts, without any reference to any rule, regulation, or statute, that "If a license for one licensing year is denied, an applicant must wait until the following year to apply." Affirmation of Hugo B. Spindola dated June 16, 2005 ("Spindola Aff.") Par. 2.
3. Mr. Spindola concocts this argument in order to avoid the fact that Mr. Lipton applied for a license on January 28, 2005 and was denied on March 8, 2005. Mr. Lipton then commenced his action against the New York State Athletic Commission ("NYSAC") on April 7, 2005, well within the statutory period.

4. At the very minimum, Mr. Lipton is entitled to discovery and a hearing as to whether any such rule in fact exists or existed at the time Mr. Lipton filed his application.
5. In this case, as detailed in the Petition, NYSAC has refused to license Mr. Lipton, and has likewise refused to explain its rationale for the denial. For that reason, Mr. Lipton submitted an application in January 2005 that details his past history and sets out the factual basis for NYSAC to consider. A copy of the January 2005 license application is attached to this affirmation.
6. The cases cited by Respondents are inapposite. First, those agencies have specific rules as to applications and requests for reconsideration. NYSAC has failed to set up any procedures for applications other than what is in the statute, i.e. licenses are valid for one year.
7. Moreover, in the cases cited by respondent, the agency was asked to reconsider facts previously litigated at the agency level. In this case, the original application is nothing more than a 3- by 5-inch card. Mr. Lipton's January 2005 application presents new facts. Mr. Lipton's January 2005 presents to NYSAC for the first time a full history of Mr. Lipton's credentials and the basis for it to make a reasoned decision.
8. In other cases, unlike here, such as De Milio v. Borghard, 55 N.Y.2d 216, 448 N.Y.S.2d 441 (1982), the petitioner's right to mandamus was permanently cut off by the tolling of the 4-month period. Here, NYSAC would have Mr. Lipton wait until September to reapply – when they would surely deny him again as they have in the past.

9. Article 78 encapsulates the former prerogative writs available in equity. As Justice Cardozo wrote more than 70 years ago: “let the hardship be strong enough, and equity will find a way, though many a formula of inaction may seem to bar the path.” Graf v. Hope Building Corp., 254 NY 1, 171 NE 884 (1930).
10. In this case, Mr. Lipton has been prevented from practicing his chosen profession for several years. NYSAC has stonewalled every effort by him to ascertain why he has been blackballed. His inquiries have been met with silence. This court should require NYSAC to finally articulate why Mr. Lipton has been ousted from a profession to which he has dedicated his life.



Michael C. DeLisa, Esq.

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**445 Broad Hollow Road, Suite 334**  
**Melville, NY 11747**  
**Tel.: 1-516-695-3810**

January 28, 2005

Ron Scott Stevens, Chairman  
New York State Department of State  
New York State Athletic Commission  
123 William Street, 20th Floor  
New York, NY 10038

Re: Application of Ron Lipton for a professional referee's license

Dear Mr. Stevens:

Enclosed please find a completed application for a professional boxing referee license on behalf of my client, Ron Lipton.

Because Mr. Lipton has been denied in the past by the New York State Athletic Commission ("NYSAC"), I think it appropriate to summarize the recent dealings and to lay out a rationale for the granting of a license to him. Since we can only attempt to anticipate NYSAC's concerns, we of course are more than willing to supplement this application in any way deemed necessary by you.

Licensing history and prior applications by Mr. Lipton

Mr. Lipton was a licensed professional boxing referee with NYSAC from 1990 until 1998, licensed each and every year with each application. He was also licensed in New Jersey, Pennsylvania, Maine, and Missouri. In addition, Mr. Lipton was licensed in Vermont up until July 31, 2004.

In 1997, Mr. Lipton uncovered certain improprieties with respect to efforts to have him removed as a referee prior to one of the fights in New York. Mr. Lipton raised these concerns with Tony Russo then Executive Director of NYSAC. Mr. Lipton and Mr. Russo did not agree with NYSAC's handling of that incident. Because of a personal animus that developed on the part of Mr. Russo towards my client, Mr. Russo threatened to blackball Mr. Lipton in New York. Such action, of course would be contrary to law.

The following is a history of Mr. Lipton's recent attempts to obtain a license:

- a. Application dated September 2003.  
NYSAC response – denied November 23, 2003 via telephone call from Ron Scott Stevens.

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Mr. Lipton applied in September 2003 for a professional boxing referee's license and attended NYSAC's referee seminar in October. Along with his application, Mr. Lipton submitted supporting materials and written recommendations. In addition, at that time and in support of Mr. Lipton's application, Harold Lederman, a well-respected boxing judge and commentator, gave his opinion to NYSAC Chairman Ron Scott Stevens that Mr. Lipton was the best referee in NY state and one of the finest in the business.

Nevertheless, Chairman Stevens denied Mr. Lipton's 2003 application in November 2003. At that time, Mr. Stevens informed Mr. Lipton that the sole reason for the denial is because NYSAC had "too many guys."

Thereafter, in anticipation of a hearing on his rejected application, Mr. Lipton sought to ascertain if his complete application – including the supporting materials and recommendations – had been reviewed. Chairman Stevens informed Mr. Lipton that his file had been lost.

Hugo Spindola then informed Mr. Lipton by letter that he would not be allowed a hearing as only people with a license were entitled to a hearing.

Notwithstanding that NYSAC had "too many referees," NYSAC has used out-of-state referees for many of its cards. These referees include New Jersey residents Steve Smoger, Randy Neuman, Benji Estevez, as well as John Callas of Connecticut, and others.

Use of out-of-state referees has continued from 2003 through the present. Accordingly, it seems clear that rather than having "too many" referees, NYSAC did not have enough and was forced to look to out-of-state referees to fill its workload.

- b. Application dated September 16, 2004.  
NYSAC Response: Application denied October 7, 2004.

Mr. Lipton applied for a license on September 16, 2004, and made preparations to attend the October 2004 referee seminar sponsored by NYSAC. On the eve of a scheduled seminar, and over a Holiday weekend, Mr. Spindola faxed a letter denying Mr. Lipton's application "in the best interest of boxing." The meaning or rationale for that statement was not explained.

This stated reason for Mr. Lipton's rejection, is completely ludicrous and unsupportable.

- c. Application dated January 18, 2005.  
NYSAC response – currently pending.

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Ron Lipton's Life in Boxing – Boxer, Trainer, Referee

Mr. Lipton is a professional boxing referee. He was a three time amateur boxing champion, sparring partner of many great boxing champions such as Muhammad Ali, Joe Frazier, and Rubin "Hurricane" Carter. Mr. Lipton is presently employed as a teacher of a credited boxing course in physical education at Marist College in Poughkeepsie NY where he has taught for the past three years.

Mr. Lipton is a retired police officer who worked as an Investigator for the Hudson County Prosecutor's Office in NJ and various NY and NJ police departments. In a national televised interview on Newport Talk on March 25, 1997, Rubin Hurricane Carter credited Mr. Lipton as a police officer who helped secure Mr. Carter's freedom.

In 2002, in Poughkeepsie NY, Mr. Lipton was awarded a Lifetime Civil Rights Achievement Award by the Black Prestige Community Service Award for service to Boxing.

In addition to the above, Mr. Lipton is a boxing historian and boxing writer who has been published in Ring Magazine, Boxing Illustrated, World Boxing, International Boxing, Ulster Magazine and Cyberboxingzone. Mr. Lipton received credit as the "Senior Boxing Consultant" for the film "Muhammad Ali, the Whole Story," which was aired on the TNT network. Mr. Lipton is also a boxing choreographer whose work won an award for the "Ali," in 1992.

Mr. Lipton has been active with former Heavyweight Canadian Champion George Chuvalo in his anti-drug program in arranging personal appearances and lectures with Mr. Chuvalo where we have both appeared on television and in the newspapers as helping the youth of our country fight drug abuse.

Mr. Lipton will be appearing in an upcoming documentary as a top referee and boxing expert giving background analysis on the life of former heavyweight boxing champion James J. Braddock, for the upcoming movie, entitled "Cinderella Man," starring Russell Crowe. The documentary is scheduled to be aired on the A& E network in the coming year.

Referee Credentials

Mr. Lipton has refereed championship boxing matches in most weight classes in professional boxing, including bouts televised on HBO, Pay-per-view, ESPN, USA and MSG channels. He has refereed main events at venues throughout New York, including Madison Square Garden, as well as several other states, Indian reservations, Ireland, and Italy.

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In December 1995, then NYSAC Chairman Floyd Patterson choose Mr. Lipton to referee the Oscar DeLahoya vs. James Leija Lightweight Championship Bout, billed as the return of big-time boxing to New York City.

In March 1995, Mr. Lipton was chosen to referee World Super middleweight Championship match between Middleweight Champion Steve Collins and Chris Eubank, which was held on March 15, 1995 in Ireland and televised to all of Europe and the Orient on Sky TV. Mr. Lipton refereed the fight despite attempts by outside sources attempting to coerce the officials. Mr. Lipton reported this misconduct immediately and testified as such in High Court in Dublin Ireland in 1997 in a subsequent case. Steven Collins the champion has supplied the NYSAC with a letter of recommendation as to his abilities as a referee and as an honest official who stood up to corruption.

In sum, Mr. Lipton's integrity and ability as a professional boxing referee is of the highest order.<sup>1</sup>

Conclusion

Mr. Lipton has been denied a professional boxing referee's license without good reason. This letter is meant to give NYSAC a better view of Mr. Lipton's qualifications. His ability cannot be questioned. His integrity and honesty are above reproach. His dedication to the sport is part of his life's work.

Beyond that, Mr. Lipton would be – as he was in the past – a valuable asset to the Commission as it goes about its work of regulating boxing in New York State.

Wherefore, it is respectfully requested that NYSAC grant Mr. Lipton a professional boxing referee's license.

Very Truly Yours,

Michael C. DeLisa

cc. Hugo B. Spindola

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<sup>1</sup> Mr. Lipton does have a misdemeanor assault conviction arising from an attempted assault upon him by three men. The Courts, however, are currently reviewing that conviction. Mr. Lipton is confident that the conviction will be vacated and the complete facts pertaining to this matter revealed.

STATE OF NEW YORK    )  
  ) ss.:  
COUNTY OF SUFFOLK    )

MICHAEL DeLISA, being duly sworn, deposes and says, that deponent is not a party to this action, is over 18 years of age and resides in Farmingville, New York.

On the 21st day of June, 2004, I served the within

**AFFIRMATION IN OPPOSITION TO CROSS-MOTION TO DISMISS**

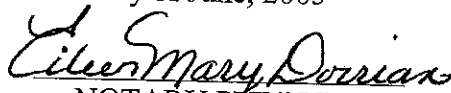
by depositing a true copy of same enclosed in a post-paid, properly addressed wrapper in a post official depository under the exclusive care and custody of the United States Postal Service within the State of New York upon:

**Elliot Spitzer**  
**Attorney General, State of New York**  
**120 Broadway, 24th Floor**  
**New York, New York 10271**

**Attn: Eugene Bengert, Esq.**

  
\_\_\_\_\_  
MICHAEL C. DELISA

Sworn to before me this  
21st day of June, 2005

  
NOTARY PUBLIC

**EILEEN MARY DORRIAN**  
**Notary Public, State of New York**  
**No. 01DO487261 f**  
**Qualified in Suffolk County**  
**Term Expires 9-29-06**