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AUDITOR GENERAL
OF CALIFORNIA

THE STATE ATHLETIC COMMISSION NEEDS TO IMPROVE ITS CONTROLS OVER THE PROFESSIONAL BOXERS' PENSION PLAN

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The State Athletic Commission Needs To Improve Its Controls Over The Professional Boxers' Pension Plan

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Office of the Auditor General
California

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September 5, 1991 P-027

Honorable Robert J. Campbell, Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 2163
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning our review of the professional boxers' pension plan. This pension plan is administered by the State Athletic Commission. Our report shows that the commission does not have sufficient controls over the pension plan.

Respectfully submitted,

KURT R. SJOBERG
Auditor General (acting)

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The State Athletic Commission (commission) does not have adequate controls over some aspects of the professional boxers' pension plan (pension plan). During our review, we found the following conditions:

- The commission did not always collect pension contributions from boxers whose purses for a calendar year exceeded $1,500;

- The commission did not ensure that the pension contributions it collected after each boxing show were completely and promptly deposited into the commission's money market fund;

- The commission did not ensure that accounting records reflected all of the pension plan's assets;

- The commission did not ensure that the interest rate, risk, and liquidity of its investments or others available to it were reviewed; and

- The commission did not ensure that information about the boxers was accurately entered into the pension plan's data base.

Without adequate controls over these aspects of the pension plan, some boxers may receive a pension for which they will not have paid the required amounts to the pension plan. In addition, the commission missed opportunities to detect an embezzlement of more than $14,000 in pension funds by an employee of the Department of Consumer Affairs (department), and the pension plan did not earn as much interest as it could have. Moreover, the commission missed opportunities to increase the rate of return on its investments. Finally, we found many errors in the information in the data base that could result in incorrect refunds of pension contributions or incorrect payments of pension benefits to boxers.

Background

The commission is one of the 39 regulatory commissions, committees, boards, bureaus, and programs within the department. Generally, these entities are responsible for licensing and regulating occupational and professional groups to protect the public from incompetency and fraudulent practices. The responsibilities of the commission include setting standards for amateur and professional boxing, kickboxing, and martial arts; conducting examinations and regulatory inspections of these sports; and issuing licenses to boxing promoters, managers, and professional and amateur boxers, among others.

To provide a small amount of financial security for professional boxers, the Business and Professions Code required the establishment of a pension plan, which the commission began in 1982. Boxers, managers, and promoters contribute to the pension plan, and the commission invests these contributions in a money market fund. On June 30, 1991, it was reported that the commission had approximately $1.13 million invested in this money market fund.

In addition to the commission, at least three other entities are involved in the administration of the pension plan. First, the department provides the commission with accounting services for the pension plan. Second, the Office of Risk and Insurance Management within the Department of General Services forwards pension contributions to the servicing agent for the company that manages the commission's money market fund. Finally, the firm of William M. Mercer, Inc., maintains a data base of information for each boxer participating in the pension plan. Mercer has also conducted three actuarial studies of the pension plan.

According to information provided by Mercer, as of December 31, 1989, 2,638 boxers were participating in the pension plan. Of these 2,638 boxers, 193 (7.3 percent) were identified as eligible for a pension at retirement. (Note, however, that the information maintained by Mercer contained errors. Please see pages 18 to 20 for our discussion of the errors we discovered.) According to the commission's executive officer, as of June 30, 1991, no boxers had received retirement, death, or disability benefits under the pension plan because the pension plan was established in 1982 and the boxers in the plan have not reached retirement age. The commission's executive officer does not expect the pension plan to make benefit payments until after the year 2000.

The Commission Needs To Improve Its Controls Over the Pension Plan

The commission does not have sufficient controls over the professional boxers' pension plan. Specifically, the commission did not always collect pension contributions from boxers whose purses for a calendar year exceeded $1,500. As a result, some boxers may receive a pension for which they will not have paid the required amounts. Also, the commission did not ensure that the contributions it collected after each boxing show were completely and promptly deposited into its money market fund. As a result, the commission missed opportunities to detect an embezzlement of more than $14,000 of pension funds by an employee of the department, and the pension plan did not earn as much interest as it could have.

Furthermore, the commission did not ensure that accounting records reflected all of the pension plan's assets. As a result, the commission has reduced the assurance that reported balances in its money market fund are correct and that errors or misuse will be detected. In addition, the commission did not ensure that the interest rate, risk, and liquidity of its investments or other investments available to it were reviewed. As a result, the commission missed opportunities to increase the rate of return on its investments. Finally, the commission did not ensure that information about the boxers was accurately entered into the data base of boxers' records. We found many errors that could result in the payment of incorrect refunds or pension benefits.

The commission's executive officer acknowledged that the commission has insufficient controls over the pension plan and has requested the internal audits unit of the department to provide recommendations and assistance to correct problems with the inadequate reporting and tracking of pension contributions. Furthermore, the executive officer recommended that the commission delete the $1,500 exemption from its regulations because it saves each boxer only a maximum of $45 in pension contributions each year and because of the costs involved in developing and implementing such a system. However, the commission voted on July 19, 1991, to increase the exemption to $5,000. With the $5,000 exemption, each boxer will save a maximum of $150 in pension contributions each year. Finally, according to the executive officer, in March 1991, the commission began reviewing the entire contents of the data base maintained by Mercer to identify and correct existing errors.

Recommendations

To develop and implement sufficient controls over the professional boxers' pension plan, the State Athletic Commission should take the following actions:

- Establish a system to track the amounts of purses earned by boxers;
- Ensure that the amounts of contributions collected after each boxing show can be reconciled with the amounts of contributions deposited into the commission's money market fund;
- Monitor the amount of time it takes to deposit contributions into the money market fund to ensure that these contributions are promptly invested and take action to correct unnecessary delays;
- Ensure that accounting records reflect all assets, including those funds invested in the money market fund;

- Ensure that the interest rate, risk, and liquidity of its investments and of other investment opportunities available are periodically reviewed to determine whether other investments would provide the pension plan with a better rate of return;

- Ensure that the information on the boxers entered into the pension plan's data base is accurate; and

- Complete its identification and correction of errors in the data base.

Agency Comments

In its response, the State and Consumer Services Agency concurs with the conclusions and recommendations in our report and is committed to providing assistance, through the Department of Consumer Affairs, to correct the deficiencies we noted. Also, the State Athletic Commission indicates in its response that it is already working to correct most of the problems identified in our report.

Introduction

The State Athletic Commission (commission) is one of the 39 regulatory commissions, committees, boards, bureaus, and programs within the Department of Consumer Affairs (department). Generally, these entities are responsible for licensing and regulating occupational and professional groups to protect the public from incompetency and fraudulent practices. The commission's responsibilities include setting standards for amateur and professional boxing, kickboxing, and martial arts; conducting examinations and regulatory inspections of these sports; and issuing licenses to boxing promoters, managers, and professional and amateur boxers, among others.

The commission consists of eight members, six appointed by the governor, one by the Senate Rules Committee, and one by the speaker of the Assembly. The commissioners serve four-year terms. The commissioners appoint an executive officer to carry out those duties described in the Boxing Act (Section 18600 et seq. of the Business and Professions Code) and those duties delegated by the commission. According to the Governor's Budget for fiscal year 1991-92, the commission's estimated expenses for fiscal year 1990-91 were approximately $1.1 million. It was budgeted for 13 staff.

The Professional Boxers' Pension Plan

The Legislature found that professional boxers, as a group, do not retain their earnings, are often injured, destitute, or both, and are unable to take proper care of themselves financially or otherwise. To provide a small amount of financial security for professional boxers, Section 18881 of the Business and Professions Code required the commission to establish a professional boxers' pension plan (pension plan). The commission established the pension plan in 1982.

According to Title 4 of the California Code of Regulations, boxers, managers, and promoters must each contribute to the pension plan. Each boxer must contribute 3 percent of his or her share of the purses. (A purse is the payment the boxer receives for fighting.) The first $1,500 of the total amount of the purses each boxer receives during a calendar year is exempt from payments to the pension plan. Managers must also contribute 3 percent of their share of the boxers' purses, and promoters must contribute 3 percent of the total revenue they derive from ticket sales and the sale of closed circuit, television, and broadcast rights, less any amounts paid in purses. The commission collects these contributions after each boxing show and invests them in a money market fund. On June 30, 1991, it was reported that the commission had approximately $1.13 million invested in this fund.

In addition to the commission, three other entities are involved in the administration of the pension plan. First, according to its chief deputy director, the department provides the commission with accounting services for the pension plan. These services include receiving and depositing pension contributions forwarded from the commission. Second, the Office of Risk and Insurance Management within the Department of General Services forwards pension contributions to the firm of Boston Financial Data Services, Inc., for investment in a money market fund managed by Federated Investors.[1] Finally, the firm of William M. Mercer, Inc., maintains records of information for each boxer participating in the pension plan. These records show the number of rounds each boxer has contracted to fight, the amount of pension

[1] In a letter dated August 5, 1991, the Office of Risk and Insurance Management terminated its involvement with the pension plan due to staff and budget considerations. Also, according to the chief of the Office of Risk and Insurance Management, Boston Financial Data Services, Inc., is the servicing agent at State Street Bank and Trust Company, which is the custodian transfer agent and dividend disbursing agent for funds managed by Federated Investors.

contributions collected from the boxer, the interest earned by each boxer's pension contributions, and whether the boxer is vested. Mercer also prepares written statements of this information to distribute to each boxer. In addition, Mercer has conducted three actuarial studies of the pension plan. Figure 1 summarizes the responsibilities for investing pension contributions and maintaining boxer information.

Responsibilities for Investing Pension Contributions and for Maintaining Boxer Information

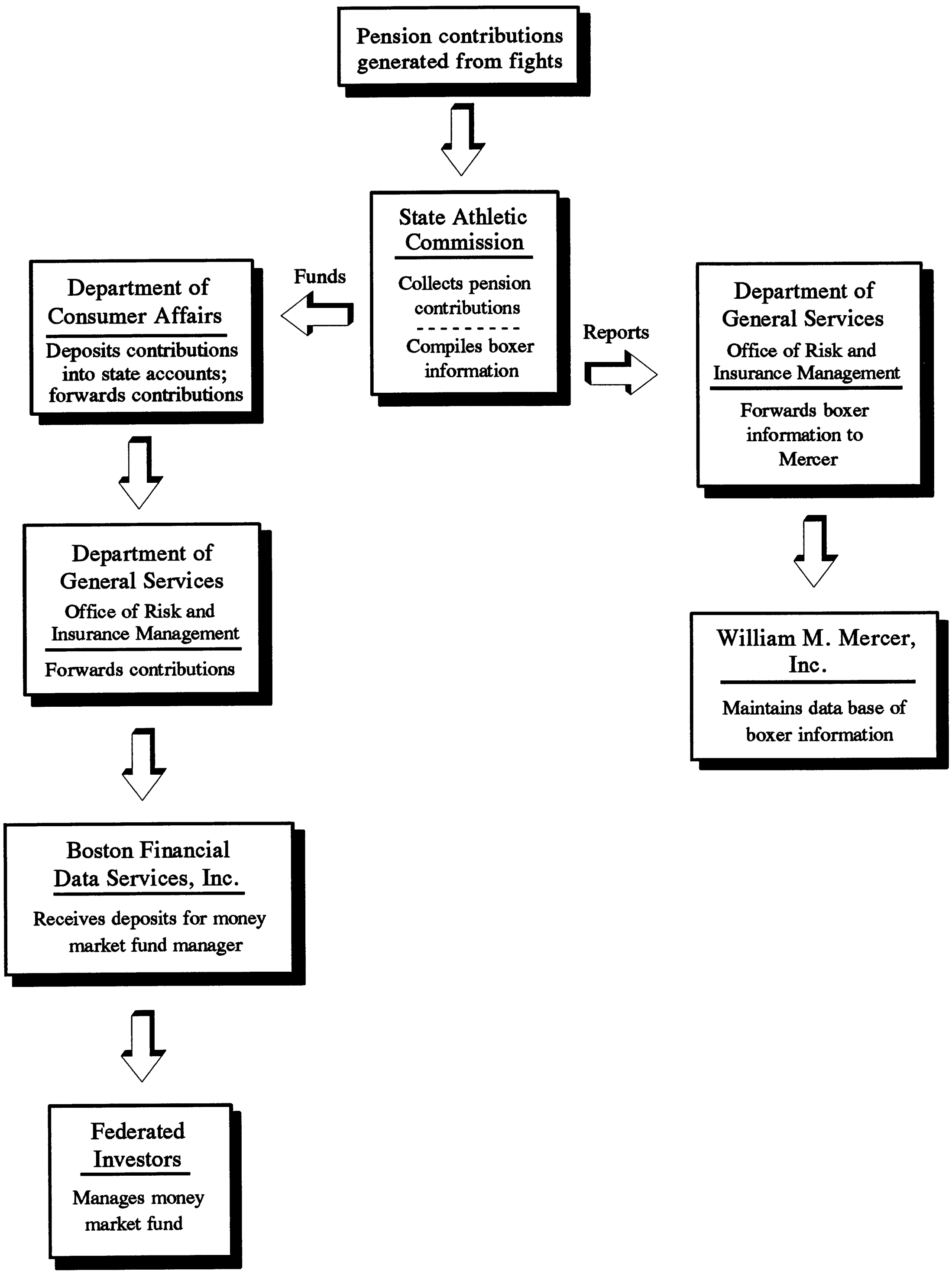


Figure 1

Vesting Requirements

When boxers become vested in the pension plan, they are eligible to receive benefits on retirement. To become vested, boxers must earn at least 75 units of credited service, at least 10 units of which must be earned each year for three years without a break in service. Under the plan, boxers receive one unit of credited service for each scheduled round of professional boxing contracted to be fought in California as part of a contest in which at least one round was commenced after June 30, 1978. A break in service generally occurs when boxers fail to earn at least 10 units of credited service during any 36 consecutive months before retirement. Unless they are vested, boxers who have a break in service forfeit all units of credited service earned to that date.

According to the information provided by Mercer, as of December 31, 1989, 2,638 boxers were participating in the pension plan. Of these 2,638 boxers, 193 (7.3 percent) were identified as vested. (Note, however, that the information maintained by Mercer contained errors. Please see pages 18 to 20 for our discussion of these errors.) According to the commission's executive officer, as of June 30, 1991, no boxers have received retirement, death, or disability benefits under the pension plan because the pension plan was started in 1982 and the boxers in the plan have not reached retirement age. The commission's executive officer does not expect the commission to begin making benefit payments to boxers until after the year 2000.

Pension Benefits

Generally, vested boxers will be eligible for monthly retirement benefits for the rest of their lives on the first day of the month after reaching age 65. The amount of retirement benefits paid to vested boxers will not be based on the amount of contributions the boxers will have made to the pension plan but on the number of units of credited service they will have earned. Under the pension plan, for each unit of credited service vested boxers will have earned, they will receive $2 per month. For example, if a boxer will have earned the minimum of 75 units of credited service, he will receive $150 per month beginning the first month after reaching age 65. However, boxers do not always have to wait until age 65 to apply for retirement. Under certain circumstances, boxers can receive reduced retirement benefits as early as age 45. Furthermore, death and disability benefits are also available under the plan.

Regulations allow boxers that do not vest within three years after the date of their last contribution to the pension plan to apply to the commission for a refund of their contributions. In addition to a refund of the amounts they contributed, these boxers receive 6 percent interest on their contributions from the date each contribution was received. The commission has issued more than $5,400 in refunds to at least 11 boxers.

Payments for Pension-Related Services

The Boxing Act allows pension funds to be used for the purposes and administration of the pension plan. As such, the commission uses pension funds to pay Mercer, which bills the pension plan $1.50 for each account statement prepared annually and $5,000 per year for other services. Other funds are used to pay the Office of Risk and Insurance Management, which bills the commission for consulting services at an hourly rate of $57.60. From January through June of 1991, the charges from the Office of Risk and Insurance Management totaled $3,168.

According to the chief deputy director of the Department of Consumer Affairs, the department does not bill the commission on a fee-for-service basis for the accounting services the department provides the pension plan. Instead, the department charges the commission a pro rata share for these services. According to information provided by an associate risk analyst with the Office of Risk and Insurance Management, the company that manages the money market fund keeps 0.55 of one percentage point of the interest rate earned by the pension funds as payment for services.

Scope and Methodology

The purpose of our audit was to review certain aspects of the professional boxers' pension plan.

To identify the required internal controls for the pension plan, we reviewed the Government Code, the Business and Professions Code, and the California Code of Regulations and interviewed staff of the State Athletic Commission and the Department of Consumer Affairs. To identify specific contribution and collection requirements, we reviewed the Business and Professions Code, the California Code of Regulations, and the State Administrative Manual and interviewed staff of the commission. We then reviewed the commission's records to determine whether the commission collected pension contributions from boxers whose purses for a calendar year exceeded $1,500. We also reviewed the commission's records to determine whether the commission properly calculated pension contributions for boxers, managers, and promoters. We identified no significant errors in the commission's calculations.

We also interviewed staff of the department to determine whether its accounting system accounted for all of the pension plan's assets. Additionally, we reviewed two specific areas of the pension plan. We reviewed the commission's and department's records to determine whether pension contributions were promptly deposited into the commission's money market fund. Also, we interviewed staff of the commission, the department, the Office of Risk and Insurance Management, and William M. Mercer, Inc., to determine how investments were selected and to determine whether the accuracy of information entered into the data base maintained by Mercer was reviewed.

Other purposes of our audit included providing certain statistics concerning the plan, determining whether the pension plan caused boxing shows to be held in states other than California, and providing information about the actuarial soundness of the pension plan. Please see the Appendix for these results.

Chapter: The State Athletic Commission Does Not Have Sufficient Controls Over the Professional Boxers' Pension Plan

Chapter Summary

The State Athletic Commission (commission) does not have sufficient controls over the professional boxers' pension plan (pension plan). Specifically, the commission did not always collect pension contributions from boxers whose purses in a calendar year exceeded $1,500. As a result, some boxers may receive a pension for which they will not have paid the required contributions to the pension plan. The commission also did not ensure that the contributions it collected after each boxing show were completely and promptly deposited into its money market fund. As a result, the commission missed opportunities to detect an embezzlement of more than $14,000 of pension funds by an employee of the Department of Consumer Affairs (department), and the pension plan did not earn as much interest as it could have. Furthermore, the commission did not ensure that accounting records reflected all of the pension plan's assets. As a result, the commission has reduced the assurance that reported balances in its money market fund are correct and that errors or misuse will be detected. In addition, the commission did not ensure that the interest rate, risk, and liquidity of its investments or other investments available to it were reviewed. As a result, the commission missed opportunities to increase the rate of return on its investments. Finally, the commission did not ensure that information about the boxers was accurately recorded on the pension plan's data base. We found many errors that could result in incorrect refunds or pension benefits being provided to boxers.

The Commission Did Not Always Collect Pension Contributions When It Should Have

Under Title 4 of the California Code of Regulations, each licensed professional boxer is required to contribute 3 percent of each purse, less the manager's share, to the pension plan once the total amount of the boxer's purses exceeds $1,500 in a calendar year. For example, if a boxer earns $5,000 from the first fight in a calendar year, the commission should collect 3 percent of $3,500, or $105, for the pension plan. For all future fights during that calendar year, the commission should collect 3 percent of the total amount the boxer earns from boxing.

The commission did not always collect pension contributions from boxers whose purses exceeded $1,500 for a calendar year. To determine whether the commission was collecting pension contributions from boxers whose share of the purses exceeded $1,500 in a year, we reviewed the contributions of the first 450 boxers from a 1989 listing of 2,638 boxers to identify those boxers meeting one of two criteria. We identified boxers who had: (a) one or more fights during 1989 of at least eight rounds for which the listing showed that the commission collected no pension contribution from the boxers or (b) three or more fights of at least five rounds for which the list showed that the commission collected no pension contribution for at least one of the fights. We found 24 such boxers. We then reviewed commission records for 11 of the 24 boxers to identify whether the commission should have collected pension contributions from them. For 6 of these 11 boxers, the commission did not collect any pension contributions although each of their total purses for the year exceeded $1,500. For the remaining 5 boxers, either the boxers' purses did not exceed $1,500 for the year or the commission collected contributions from the boxers when their total purses exceeded $1,500.

When the commission does not collect pension contributions from all boxers whose purses exceed $1,500 in a calendar year, some boxers may receive a pension for which they will not have made the required contributions. For instance, the 6 boxers discussed above received credit in the pension plan for the number of rounds they contracted to box. Since monthly pension amounts are based on the number of rounds contracted to box and not on the amount contributed, these boxers, even though they did not contribute the required amount, would receive the same monthly pension as other boxers who had contracted to box the same number of rounds but did pay the required amount.

Further, if the commission does not always collect pension contributions, the pension plan does not receive all the funds it should. For example, from the 6 boxers mentioned earlier, the plan did not receive $157 it should have collected from their fights in 1989.

The commission did not always collect pension contributions from boxers whose total purses exceeded $1,500 during a year because, according to its executive officer, the commission did not have a system to track the amount of purses each boxer earned in calendar year 1989. However, the executive officer had recommended that the commission delete the $1,500 exemption from regulations because it saves each boxer a maximum of only $45 in pension contributions each year and because of the costs involved in developing and implementing such a system. On July 19, 1991, however, the commission voted to amend its regulations to increase the exemption from $1,500 to $5,000. The $5,000 exemption will save each boxer a maximum of $150 a year in pension contributions.

The Commission Did Not Ensure That Deposits to Its Money Market Fund Were Complete

After each boxing show, the commission compiles information concerning the amounts of contributions collected from boxers, managers, and promoters. The commission sends this information to the Office of Risk and Insurance Management for forwarding to William M. Mercer, Inc., and sends the contributions to the department. The department then sends the contributions to the Office of Risk and Insurance Management for forwarding to the servicing agent for the manager of the money market fund. At least once per month, the servicing agent sends to the Office of Risk and Insurance Management a statement showing the amount it has received for deposit into the commission's money market fund. The commission could compare the contribution amounts shown on its documentation with the deposit amounts shown on the account statements to ensure that the amounts agree. If the commission identifies any unexplained differences between the amounts, it could investigate the cause of these differences.

However, the commission does not reconcile deposits of pension contributions it collects after each boxing show with the amounts subsequently deposited into the money market fund. In three instances in October and November 1989, the amounts of contributions collected did not agree with the amounts of contributions deposited. In one instance, the commission collected a total of $3,302.45 in October 1989 from two boxing shows. The commission sent this amount to the department for forwarding to the servicing agent. The servicing agent, however, subsequently reported a deposit of $1,179.24 into the commission's money market fund, a difference of $2,123.21.

By not reconciling the amounts to ensure that they agreed, the commission missed an opportunity to identify the misuse of pension contributions. Specifically, the commission did not determine that these three discrepancies in October and November 1989 were caused by the embezzlement of more than $14,000 in pension plan funds by an employee in the department's accounting office. If the commission had routinely reconciled the amounts, it would have identified the three discrepancies, prompting it to investigate the reasons they had occurred.[2]

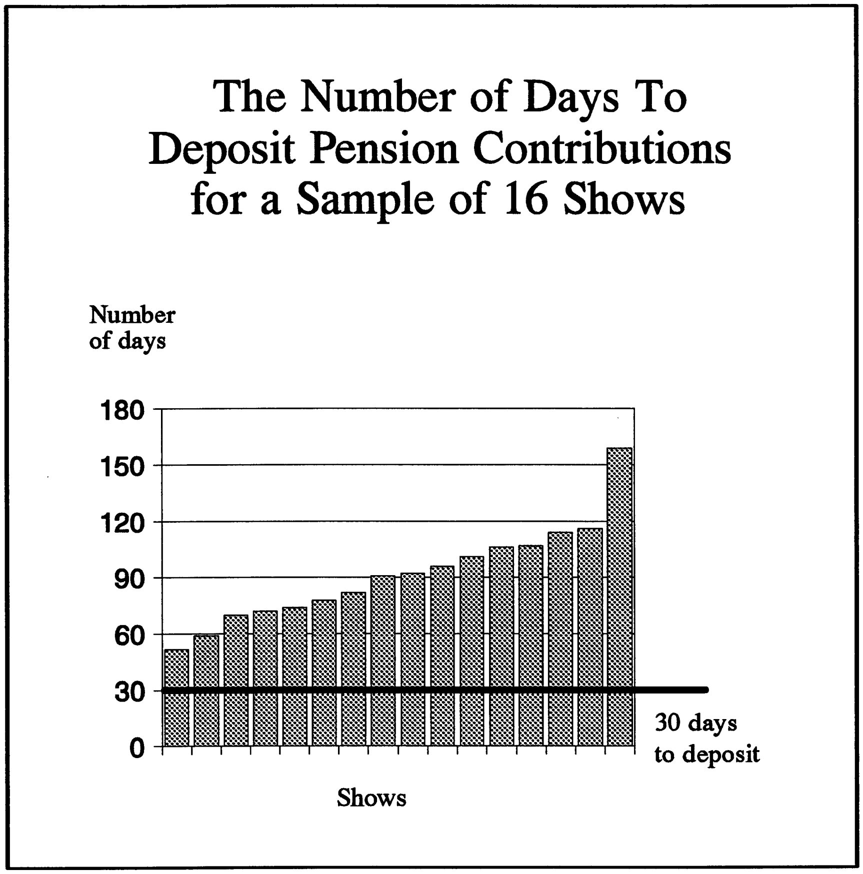
[2] In addition to our review of the commission on this matter, the department issued a report in December 1990 concerning its review of its accounting office and the embezzlement. The department concluded that the embezzlement occurred because of several control weaknesses in its accounting office.

The Commission Did Not Ensure That Deposits to Its Money Market Fund Were Prompt

We estimated that it should take no more than 30 days from the date of a boxing show to deposit pension contributions into the pension plan's money market fund. The commission's executive officer agreed. These 30 days allow time for steps including mailing the contributions from the show location to Sacramento, preparing the paperwork necessary to deposit the contributions into state accounts, preparing a check payable to the money market fund, and mailing the check to the servicing agent. By monitoring deposits of pension contributions, the commission could ensure that pension contributions were promptly deposited. Furthermore, if the commission identified delays, it could investigate the reasons for the delays.

The commission does not monitor the amount of time it takes for pension contributions to be deposited into its money market fund to ensure that they are deposited promptly. For a sample of 16 boxing shows that took place from January 29, 1990, through February 28, 1991, an average of 92 days passed between the date of the show and the date of the deposit into the commission's money market fund. These contributions totaled more than $25,600. For the 16 shows, deposits took from 52 days (almost two months) to 159 days (more than five months). Figure 2 shows the number of days it took to deposit pension contributions for our sample of 16 shows.

Figure 2



We reviewed the commission's and the department's records to identify where the delays in depositing contributions occurred. We found that, as part of the average of 92 days it took to deposit the contribution checks, an average of 47 days passed from the date the deposit was made into the department's uncleared collections account to the date the check was written for deposit into the commission's money market fund. Although the department only processes the pension deposits into a state account and then issues a check for deposit into the commission's money market fund, it appears that more than half of the average time from the date of the show to the date of deposit into the money market fund occurred at the department.

Part of the average of 47 days from the date the deposit was made with the department to the date the check was written was caused by a department policy to hold the amounts of checks deposited in the uncleared collections account for at least 30 days. The department's chief deputy director stated that the primary purpose of the uncleared collections account is to deposit overpayments of fees collected by various boards, bureaus, commissions, committees, and programs within the department. Since refund checks for overpayments are issued from this account, the department delays the issuance of any refund checks for at least 30 days to ensure that the original check is honored by the bank on which it is drawn. According to the chief deputy director, this policy was not supposed to apply to checks for pension contributions.

In March 1991, the department stopped depositing pension contributions into its uncleared collections account and began depositing them into the boxers' pension account within the State's General Fund. To determine whether the delays in depositing contributions continued after this change, we reviewed the commission's records.

From 21 boxing shows held in California from March 3, 1991, through May 31, 1991, the commission collected more than $32,400 in pension contributions. With an additional $5,200 from shows held before March 1, 1991, the commission sent more than $37,600 to the department for deposit into the boxers' pension account. On June 19, 1991, the commission requested the department to send more than $33,400 of these funds to the Office of Risk and Insurance Management for forwarding to the servicing agent. This request was processed on July 24, 1991, or almost two months after the last of the 21 collections was made.

When deposits of contributions into the commission's money market fund are not prompt, there are two results. First, the pension plan does not earn as much interest as it could. During fiscal year 1990-91, the commission deposited almost $117,800 into the money market fund. We estimate that the commission could have earned at least an additional $1,100 in interest if these contributions had been promptly deposited. Second, opportunities for errors or misuse of pension contributions increase. For example, on April 18, 1991, we found that a check for $11,354.19 for deposit into the commission's money market fund, dated January 16, 1991, had not yet been cashed. According to the department's chief deputy director, this check had been overlooked and had been in a department safe awaiting signatures. The department subsequently sent the check to the Office of Risk and Insurance Management for forwarding to the servicing agent.

The Commission Did Not Ensure That Adequate Accounting Records Were Maintained

Accounting records for the pension plan should reflect all of the pension plan's assets (such as those funds the commission invests in the money market fund), liabilities (such as amounts owed to Mercer but not yet paid), revenues (such as contributions collected and interest earned), and expenditures (such as contributions refunded to boxers, payments to Mercer, and eventually, pension payments to boxers). If accounting records do not reflect all of the pension plan's assets, liabilities, revenues, and expenditures, the commission has reduced the assurance that transactions are properly recorded, that pension fund balances are correct, that assets are adequately safeguarded, and that errors or misuse will be identified.

The commission did not ensure that accounting records reflected all assets for the pension plan. For example, according to the commission, other than account statements provided by the servicing agent for the commission's money market fund, no accounting records are maintained to show the amounts of money the commission has in its money market fund. Without adequate accounting records for this asset, the commission has reduced the assurance that the balances in the money market fund are correct and that errors or misuse will be identified. As of June 30, 1991, the servicing agent reported that the commission had a balance of $1.13 million in the money market fund.

Although the Department of Consumer Affairs provides the accounting services for the commission, according to the department's chief deputy director, his staff believe that all funds transferred to the Office of Risk and Insurance Management for investment should be accounted for by the Department of General Services.

The Commission Did Not Review Its Investments

To select investments for pension plan funds that provide the optimal rate of return, the commission should ensure that, among other things, the interest rate earned by its investments, the risk associated with the investments, and the liquidity of the investments are periodically reviewed. Risk is the possibility that the commission will lose all or a portion of the money it used to acquire the investments. Investments that are riskier have a higher possibility of losing the money used to acquire them. Liquidity is the ability to convert the investments into cash. Investments with higher liquidity are more easily converted into cash.

According to its executive officer, the commission does not review the interest rate, risk, or liquidity of the investments it acquires with pension contributions, nor does it determine whether its investments should be sold and other investments acquired. As a result, the commission may have missed opportunities to increase the return on these investments. For example, in a letter dated March 20, 1990, the commission's actuary told the Office of Risk and Insurance Management that there were other investment opportunities available from the manager of the money market fund that had the same level of risk and liquidity as its current investments yet earned higher interest. Although the Office of Risk and Insurance Management passed this information on to the commission in April 1990, the commission made no changes in the pension plan's investments. According to the chief of the Office of Risk and Insurance Management, commission members indicated that they wanted to wait for pending legislative changes before making any changes in their investments.

Furthermore, the commission could have improved the interest rate earned by its investments by authorizing the investment of the pension plan's funds in the State's Surplus Money Investment Fund. The Surplus Money Investment Fund comprises those state funds not necessary for immediate use. Money in this fund can be invested by the State. In 1990, the Surplus Money Investment Fund earned an average of approximately 8.4 percent interest while the commission's money market fund earned an average of

7.7 percent interest. If the commission had invested the pension funds in the Surplus Money Investment Fund rather than in its money market fund, it could have earned approximately $6,600 more in interest during 1990.

The Commission Did Not Review the Accuracy of the Pension Plan's Data Base

After each boxing show, the commission compiles information concerning the amounts each boxer in the show contributed to the pension plan and the number of rounds each of them contracted to box. The commission then sends this information to the Office of Risk and Insurance Management, which forwards the information to Mercer for updating its data base of boxers' records. According to its executive officer, the commission uses the information on the data base to determine the amounts of refunds due boxers. Although the commission has not yet paid any pensions, the data base is also the source of information for determining the amounts for boxers' pensions. To ensure that it pays proper refunds and, eventually, proper pension amounts, the commission should review the accuracy of the information entered into Mercer's data base.

According to its executive officer, the commission does not review the accuracy of the information Mercer enters into its data base. We found many examples of incorrect information. For instance, the data base contains multiple accounts for the same boxers. Dated December 31, 1989, a list of boxers' records from Mercer's data base contains a total of 2,638 records for boxers. Of these 2,638 records, there are at least 159 instances of boxers with the same or similar names but different fight information. According to the commission's executive officer, a boxer should have only one record in the data base. We reviewed the commission's records for 20 of these 159 instances to determine whether they actually represented one boxer with two or more records in the data base or whether they represented more than one boxer. In these 20 instances, the boxers had a total of 44 separate records. We found that these 44 records actually represented only 22 boxers. For example, in one instance the data base had 4 separate records for one boxer. Under one record, this boxer was listed as having contracted to fight 62 rounds, under another record, 21 rounds, and under the final two records, 8 and 5 rounds.

Furthermore, while conducting other audit tests in which we relied on the printout of the data base for information, we found that the data base contained incorrect round or contribution information for some boxers. For example, the printout listed one boxer who had received a refund of his contributions in 1986 as still having his contributions in the pension plan. In addition, Mercer credited one boxer with 20 rounds and $120 in contributions for a fight on October 19, 1989, when commission records indicate that he fought only a 10-round bout and contributed only $60 to the pension plan on that date.

Because the actual number of rounds are split between more than one record when duplicate records exist in the data base, some boxers may not be considered vested when they actually are vested. Also, because the rounds and contributions may be split between records, the commission may not pay proper refunds or, eventually, proper pension amounts. For example, if the commission relies on the data base to determine the amount of refund due to the boxer credited with the $120 contribution, it will refund $60 more to this boxer than it should refund.

When the data base contains errors in the number of rounds fought by the boxers, the commission may pay incorrect amounts of retirement benefits. In the example above, if the commission relies on the data base to determine the amount of retirement benefits to the boxer credited with 20 rounds, it will pay $20 more per month to this boxer than it should pay.

We found that the errors in the data base appear to have been caused by the commission and by Mercer. For instance, it appears that the commission sent fight information for one boxer under two different license numbers. As a result, Mercer set up separate listings for the boxer under each license number. Also, errors appear to have been made in entering the data. For example, the printout of the data base shows contributions of $2,245.50 for each of two boxers, while the commission's records indicate that these boxers contributed $22,450 each. Although Mercer uses the data base for information to conduct its actuarial studies of the pension plan, we did not determine the impact of the errors on the actuarial soundness of the pension plan.

The Commission Has Begun To Correct Its Controls

In April 1991, during our audit, the commission's executive officer requested the department's internal audits office to provide recommendations and assistance in correcting problems concerning the inadequate reporting and tracking of pension contributions. The department's chief deputy director approved the request in June 1991, stating that the internal audits office would begin the project in September 1991. Furthermore, according to the commission's executive officer, in March 1991, the commission began reviewing the entire contents of the data base to identify and correct existing errors.

Conclusion

The State Athletic Commission does not have sufficient controls over the professional boxers' pension plan. As a result, some boxers may receive a pension for which they will not have paid the required contributions to the pension plan, the commission missed opportunities to identify an embezzlement of more than $14,000 of pension funds by an employee of the Department of Consumer Affairs, and the pension plan did not earn as much interest as it could have. Furthermore, the commission has reduced the assurance that reported balances in its money market fund are correct and that errors or misuse will be detected. The commission also missed opportunities to increase the rate of return on its investments, and we found many errors in the data base that could result in incorrect refunds or pension benefits provided to boxers. The commission's executive officer has requested the assistance of the internal audits unit of the department to provide recommendations in correcting problems concerning the inadequate reporting and tracking of pension contributions. In addition, according to the executive officer, the commission began reviewing the entire contents of the data base maintained by Mercer to identify and correct existing errors.

Recommendations

The State Athletic Commission should develop and implement sufficient controls over the professional boxers' pension plan. Specifically, the commission should take the following actions:

- Establish a system to track the amounts of purses earned by boxers;
- Ensure that the amounts of contributions collected after each boxing show reconcile with the amounts of contributions deposited into its money market fund;
- Monitor the amount of time it takes to deposit contributions into its money market fund to ensure that contributions are promptly invested and take action to correct unnecessary delays;
- Ensure that accounting records reflect all assets, including those funds invested in the commission's money market fund;
- Ensure that the interest rate, risk, and liquidity of its investments and of other investment opportunities available are periodically reviewed to determine whether other investments would provide a better rate of return;
- Ensure that the information entered in the pension plan's data base of boxers' records is accurate; and
- Complete its identification and correction of errors in the data base.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

KURT R. SJOBERG
Auditor General (acting)

Date: September 3, 1991

Staff: Steven L. Schutte, Audit Manager
Dale A. Carlson

Appendix Additional Information Concerning the Professional Boxers' Pension Plan

In addition to determining whether the State Athletic Commission (commission) had sufficient controls over the professional boxers' pension plan (pension plan) and whether the commission collected proper amounts of pension contributions, our review of the pension plan included other issues. We were asked to provide certain statistics concerning the pension plan, to determine whether the pension plan is achieving its statutory goal of providing a small amount of financial security for professional boxers, to determine whether the pension plan causes boxing shows to be held in states other than California, and to provide information about the actuarial soundness of the pension plan.

Statistics Concerning the Pension Plan

To determine the required rates of contribution to the pension plan for boxers, managers, and promoters, we reviewed Title 4 of the California Code of Regulations. To determine the number of boxers participating in the pension plan, we interviewed staff of the firm of William M. Mercer, Inc., and obtained and reviewed pension information provided by the firm, which is the department's actuary. We discuss the number of boxers participating in the pension plan on page 5.

In addition, we reviewed Title 4 of the California Code of Regulations to identify benefit rates to be paid to retired boxers. We selected 10 vested boxers from Mercer's data and calculated the amount of the monthly pension each boxer would earn assuming that the boxer did not contract to fight any more rounds in California before retirement.

Title 4 of the California Code of Regulations states that, upon application to the commission and after reaching age 65, vested boxers will be paid $2 per month for each round of boxing they contracted to fight in California. Of the 10 boxers we selected, 3 boxers would earn pensions of more than $400 per month. For example, one boxer has 356 credited rounds and would earn a pension of $712 per month. Three of the remaining 7 boxers would earn monthly pensions ranging from $252 to $374. The remaining 4 boxers would earn pensions of less than $200 per month.

Effect of the Pension Plan on Fights Held in California

To determine whether the pension plan caused fewer boxing shows to be held in California, we surveyed 15 people by telephone, including current and former commissioners, and managers and promoters from in-state and out-of-state.

The results of our survey were inconclusive. Seven of the 15 people we surveyed, including the 3 in-state promoters, the one out-of-state promoter, 2 of the 3 in-state managers, and a former commissioner, believed that the existence of California's pension plan resulted in fewer boxing shows in the State. Six of the 15 people, including the 3 out-of-state managers, 2 of the 3 current commissioners, and one former commissioner, stated that the pension plan's existence did not result in fewer boxing shows in the State. Two people we surveyed stated that they either did not know or had no opinion on the matter.

Actuarial Soundness

To determine whether Mercer believed the pension plan to have been actuarially sound, we reviewed the conclusions stated in its actuarial reports for the pension plan for the calendar years ending December 31, 1986, and December 31, 1988.[3] The two

[3] According to staff at Mercer, the actuarial study for the pension plan for the year ending December 31, 1990, will begin sometime during the middle of 1991.

actuarial reports stated that the pension plan continued to be adequately secured. We also reviewed the reasonableness of the assumptions used in the reports. Mercer used the same seven assumptions in both reports. For example, Mercer assumed that no fight-related deaths or disabilities would occur and that boxers will retire at age 65. Based on our review, we believe that none of these seven assumptions are unreasonable.

PETE WILSON
GOVERNOR

State and
Consumer Services Agency
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915 CAPITOL MALL, SUITE 200
SACRAMENTO, CA 95814

Building Standards Commission
Consumer Affairs
Fair Employment & Housing
Fire Marshal
Franchise Tax Board
General Services
Museum of Science & Industry
Personnel Board
Public Employees' Retirement System
Teachers' Retirement System
Veterans Affairs

August 29, 1991

Kurt R. Sjoberg
Acting Auditor General
Office of the Auditor General
600 J Street, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

RE: P-027

Thank you for the opportunity to review and comment on your draft report entitled "The State Athletic Commission Needs to Improve Its Controls Over the Professional Boxers' Pension Plan."

I concur with the conclusions and recommendations reached in your report and I am committed to providing assistance, through the Department of Consumer Affairs, to correct the deficiencies. As you noted in your report, the Chief Deputy Director has already agreed to make available staff of the Department's Internal Audit Unit to assist the Commission in implementing your recommendations.

In addition, the Department of Consumer Affairs has taken the following steps to improve accounting controls: As noted in the report, the Department has changed its cashiering procedures for these funds so they are no longer processed through the uncleared collections account but instead are deposited directly to the Professional Boxers' Pension Account. This action will increase accountability and reduce the time before the funds begin earning interest. The accounting office has also set a goal that all funds of this nature will be remitted to the State Treasurer properly within an average of five working days from the date of receipt from the Commission. Supervisors will periodically observe to assure that this goal is being met.

Your report recommends that the Commission ensure that accounting records for the pension plan reflect all assets, liabilities, revenues, and expenditures. We concur with your recommendation. However, the task is complicated since neither the Commission nor the Department currently receive all the pertinent data to maintain such records. As you noted, functions (and records) are currently split among the Department, the Commission, and outside contractors. The Internal Auditor will assist the Commission to find remedies to this problem.

Again, thank you for the opportunity to comment on your draft report. If you wish to discuss our comments, please contact C. Lance Barnett, Chief Deputy Director, Department of Consumer Affairs, at 445-1591.

Sincerely,

Barbara Fitzer

BARBARA FITZER
Deputy Secretary

cc: C. Lance Barnett, Chief Deputy Director
Department of Consumer Affairs

State of California Department of Consumer Affairs

PETE WILSON, *Governor*

CALIFORNIA STATE ATHLETIC COMMISSION
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August 27, 1991

Kurt R. Sjoberg
Auditor General (Acting)
660 J Street, Ste. 300
Sacramento, CA 95814

Dear Mr. Sjobert:

Pursuant to your request for a written response to the findings of the audit of the Professional Boxers' Pension Plan, the Athletic Commission submits the following:

I. <u>The Commission Did Not Always Collect Pension Contributions When It Should Have</u>

For lack of a completed automation system, the commission must manually tabulate prior purse earnings. The commission is currently pursuing the services of a competent computer programmer to complete an automation project in this specific area and other areas.

II. <u>The Commission Did Not Ensure That Deposits To Its Money Market Fund Were Complete</u>

In an effort to rectify this issue, the commission will compare the contribution amounts shown on internal documentation with the monthly deposit statement from the servicing agent.

The commission intends to work with the department's accounting office to implement a reconciliation system for deposits to the money market fund.

III. The Commission Did Not Ensure That Deposits To Its Money Market Fund Were Prompt

The commission has rectified the problem of in-house processing of pension checks by forwarding all checks to the department's accounting office on a weekly basis and all requests for refunds are now done bi-monthly.

IV. The Commission Did Not Ensure That Adequate Accounting Records Were Maintained

Although no formal accounting records are maintained by the commission, departmental accounting, or General Services, the information could be obtained after a lengthy review of commission cashiering logs and other internal documents.

The commission has requested and received departmental approval for assistance from the Internal Audit Office on pension related matters. This issue will be addressed at that time.

V. The Commission Did Not Review Its Investments

The commission staff relied upon the firm of William M. Mercer, Inc. and the expertise of the Department of General Services/Office of Risk and Insurance Management.

There is a possibility that the commission may seek the services of a firm (unknown at this time), other than William Mercer, Inc., to act as an agent on behalf of the commission. This decision may be based upon previous services provided by Mercer, Inc.

In addition to the possible selection of a firm other than Mercer, we are recommending an independent annual audit of the pension plan's investments.

As for the commission's decision not to change pension plan investments in April 1990, legislation had been introduced which would have radically altered the pension program.

VI. The Commission Did Not Review The Accuracy of the Information Entered Into the Boxers' Data Base

Commission staff has taken the necessary steps to eliminate the errors associated with the incorrect reporting of pension information. All information has been corrected or updated and forwarded to Mercer, Inc.

As stated before, the commission plans on implementing an in-house automation system. This will enable future errors to be kept to a minimum.

Respectfully Submitted,

Rob Lynch
Assistant Chief Athletic Inspector

RL:az

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps