

THE ART OF THE DEAL

A Case Study Of The Business Tactics Of Donald J. Trump And What Can Be Learned Of His Character Through His Involvement In Boxing **By Patrick C. English¹**

It may not be widely known, but in November 2015 President Donald J. Trump (“Trump”) was inducted into the New Jersey Boxing Hall of Fame² for his “contributions to boxing in Atlantic City.”³ In the late 1980’s and early 1990’s, casinos bearing Trump’s name sponsored many major boxing events in Atlantic City.⁴ This is a legal case study of the tactics Trump used in connection with the negotiation of boxing events.

To set the stage for this case study, in late 1990 and early 1991, Trump controlled three casinos in Atlantic City, namely, the Trump Taj Mahal, the Trump Castle and the Trump Plaza.⁵ Trump was highly leveraged and it was widely reported that his properties in Atlantic City were losing money.

At the time, Evander Holyfield was the undisputed reigning Heavyweight Champion, having defeated James Buster Douglas for the title in November of 1990.⁶ Holyfield was to first defend his title against George Foreman, an immensely popular figure who was having a second successful career after retiring and then returning to the ring.

The site rights, the right to stage the bout at a given site, were highly sought after by three casino groups, namely, Caesars Palace, Steve Wynn’s Mirage, and the Trump Plaza. The promoters of the bout were to be New Jersey Sports Productions, Inc., which is better known under the trade name Main Events, Holyfield’s promoter, and Top Rank, Inc., Foreman’s promoter. Though the negotiations were between the potential sites and the promoters, the bulk of the profits for the bout would go to the two fighters, as they were on a “profit share” with their respective promoters.

The staging of a mega event is a relatively complicated matter, involving a multiplicity of contracts involving domestic television, international television, the site, sponsors, closed circuit, and the supporting undercard fighters. It was anticipated that the Holyfield vs. Foreman bout would be the largest grossing bout of that time due to a number of factors including the

¹ Mr. English is a principal in the firm of Dines and English, L.L.C. He was personally involved in the events relating to the Holyfield vs. Foreman bout described herein and was designated by the promoters to litigate the matter if the matter went to suit. Much of this article comes from his personal knowledge of the events recounted.

² This is the only distinction, hopefully, the author shares with President Trump.

³ Bernard Fernandez, *Donald Trump among New Jersey Boxing Hall of Fame inductees*, THE PHILADELPHIA INQUIRER (Sept. 1, 2015), [https://www.inquirer.com/philly/sports/boxing/20150901_Donald_Trump_among_New_Jersey_Boxing_Hall_of_Fa
me_inductees.html](https://www.inquirer.com/philly/sports/boxing/20150901_Donald_Trump_among_New_Jersey_Boxing_Hall_of_Fame_inductees.html).

⁴ *Id.*

⁵ Russ Buettner and Charles V. Bagli, *How Trump Bankrupted his Atlantic City Casinos but Still Earned Millions*, N.Y. TIMES (June 11, 2016), <https://www.nytimes.com/2016/06/12/nyregion/donald-trump-atlantic-city.html>.

⁶ *Evander Holyfield*, BOXREC (last updated Aug. 3, 2020), https://boxrec.com/media/index.php/Evander_Holyfield.

popularity of the boxers and because the bout would be shown through a then relatively new medium, pay-per-view, and through a new entity owned and backed by Home Box Office (“HBO”). Once a date for an event of this nature is set, it is extremely difficult to change due to the web of contracts keyed to the date.

This sets the stage for the Trump negotiations.

Trump wanted to put the fight at Atlantic City’s Convention Hall, which was adjacent to the Trump Plaza Casino. Hosting a mega event such as the Holyfield vs. Foreman bout brings a great deal of favorable publicity to the site and also brings in high rollers, known as “whales,” who are likely to, according to the odds, lose large sums of money at the casino. In a deal such as the one discussed here, the site host would also receive the gate revenue.⁷ Hence, there was active bidding among the major casino groups. Ultimately, Trump bid \$11 million for the rights to host the event. As part of the package Trump offered, he was also to receive the right of first refusal to the winner’s next bout, which was anticipated at the time to be against Mike Tyson.⁸

Concerned about the widely reported financial troubles of the Trump Atlantic City empire, Main Events and Top Rank demanded assurances that the Trump Plaza would be able to meet its financial obligations. Accordingly, financial statements were provided which showed that although the Trump Taj Mahal and the Trump Castle were facing severe financial difficulties, the Trump Plaza, a legally distinct entity, was not facing similar troubles and was profitable. Representations were made, stating that money would not be siphoned off from the Trump Plaza to support the weaker casinos. Satisfied, a contract was duly drawn up with the Plaza. The contract was agreed upon in December of 1990 and executed in January of 1991. The bout was to take place on April 19, 1991. Based on that date, a multitude of other deals were consummated including (in addition to contracts with the fighters) contracts with HBO for the pay-per-view telecast of the bout and for a delayed telecast, sponsorship deals, closed circuit deals, and international television deals.

Payments under the contract were to be staggered. \$500,000. was to be paid upon execution of the contract and subsequently, there would be a series of payments on a schedule, with a payment of \$1 million to be made on January 19, 1991.

During the week of January 14, 1991, the promoter’s representatives were informed that Trump was utilizing profits from Trump Plaza to pay debts due from the other non-profitable casinos. The promoters were requested to negotiate a new payment schedule as a favor to Trump. The promoters voluntarily acceded to this request and an amendment to the contract was drawn up and executed on January 19, 1991.

Next, this case study will examine world affairs in order to provide context for what next transpired.

⁷ There are many types of site deals. In this case the deal began with a straight site fee.

⁸ The winner, Evander Holyfield, did not in fact next fight Mike Tyson. Tyson suffered an injury and then was convicted of rape and incarcerated. They ultimately fought twice, years later, with Holyfield the victor in both bouts.

On August 2, 1990 Iraqi forces had invaded the neighboring State of Kuwait.⁹ The invasion and Iraq's refusal to withdraw its forces from Kuwait by the deadline set forth by the United Nations (UN)¹⁰ led to military intervention by a coalition of forces led by the United States. On November 29, 1990, at the urging of the United States and others, the UN Security Council authorized the use of “all necessary means” of force against Iraq if it did not withdraw from Kuwait by the following January 15.¹¹ There was no doubt that “all necessary means” meant war. In sum, the Persian Gulf War contextualized the affairs in the Middle East when the original contract was executed on January 12, 1991.

Congressional authorization for the Gulf War was given on January 14, 1991.¹² On January 17, 1991 combat operations began with a massive U.S.-led air bombing campaign against Iraqi forces, also known as Operation Desert Storm.¹³ U.S. officials stated bluntly that the bombing campaign was for the purpose of destroying Iraq's Command and Control structure prior to movement by United States troops.¹⁴

Hence, the Gulf War had broken out by the time of the execution of the January 19, 1991 amendment.¹⁵ At no time during the negotiations leading to the January 19, 1991 amendment was the war in the Middle East discussed as a possible impediment to the April 19, 1991 bout. Rather, Main Events and Top Rank's principals believed that they were simply doing Trump a favor by stretching out the payment schedule through the January 19, 2001 amendment.

On February 5, 1991 at a routine meeting ostensibly arranged as a “meet and greet” for a new senior member of Trump's staff, Dan Duva, the president of Main Events, was abruptly informed that Trump would not honor the contract to be the site promoter for the bout on April 19, 1991. As justification Trump pointed to the following clause of the contract, which read, in pertinent part:

“In the event that ... the event is delayed or prevented from occurring on the scheduled date by an act of God, fire, flood, war, power failure, public disaster, other calamity, strike or labor difficulties, or boxing or athletic commission or association determination, enactment or action, regulation or order ... promoter should attempt to reschedule the event to a date and time reasonably acceptable to Plaza and the Promoter; subject to the continuing availability of the championship sanction.”

⁹ “Iraq Invades Kuwait,” HISTORY: THIS DAY IN HISTORY (last accessed Aug. 11, 2020), <https://www.history.com/this-day-in-history/iraq-invades-kuwait>.

¹⁰ United Nations Security Council Resolution 660 (Condemning the Invasion of Kuwait by Iraq), S.C. res. 660, 45 U.N. SCOR at 19, U.N. Doc. S/RES/660 (1990).

¹¹ See, generally *Persian Gulf War*, History (last accessed Aug. 11, 2020), <http://www.history.com/topics/persian-gulf-war>.

¹² Authorization for Use of Military Force Against Iraq Resolution, Pub. L. No. 102-1, 105 Stat 3 (1991).

¹³ Brynn Holland, *History Vault: Operation Desert Storm*, HISTORY (last updated Aug. 22, 2018), <https://www.history.com/news/history-vault-operation-desert-storm>.

¹⁴ *Id.*

¹⁵ *Persian Gulf War*, *supra* note 7.

Legal letters were sent. The promoters took the position that the event was neither prevented nor delayed by a war more than 6,000 miles away. The promoters asserted that Trump had breached the contract and that they would attempt to find an alternate site for the bout. They began negotiations with Caesars Palace in Las Vegas as a new site. Trump, in turn, threatened lawsuits against the promoters and Caesars Palace.

The dispute quickly boiled over into public view, with headlines such as “Hurting Trump Grasping at Wars?”¹⁶, “Trump Woe\$ Threaten Fight”¹⁷, “Big Fight on the Ropes”¹⁸, “Trump Seeks \$5-6M cut in site fee for title bout,¹⁹” “Analysis: Trump will emerge loser”, and “Casino Chief [Trump] Loses His Credibility.²⁰” In interviews, Trump first claimed that he wished to change the date pursuant to the *force majeure* provision. However, Trump then altered his position, stating, “[i]f they cut the price, I will waive the war clause.” Trump variously told reporters that he was claiming “high rollers from the Orient” would not fly during the war.²¹

The promoters began looking at their options. From a legal perspective, it seemed clear that the bout in Atlantic City was not being “delayed or prevented” by a war 6,000 miles away. Additionally, it was clear that the war would be over long before April 19, 1991, the bout’s scheduled date.²² Having seen figures reflecting the profitability of Trump Plaza, it was clear that Trump was siphoning off money from the Plaza to support the money lost at the Trump Taj Mahal and Trump Castle.²³ The conclusion was that Trump’s position was legally insubstantial to the point of being frivolous.

On the other hand, Trump had powerful leverage and he knew it. When the promoters began negotiations with other possible sites, Trump threatened to sue. Trump’s threat of potential costly litigation gave other potential sites, specifically Caesars Palace in Las Vegas, pause. Despite the weakness of Trump’s legal argument, most responsible entities *avoid* costly litigation and Trump utilized the threat of litigation to block other potential sites from moving forward.

A media firestorm developed, with Trump receiving substantial criticism. Articles referred to Trump’s “perilous financial status”²⁴ and Trump’s “perilous financial woes”,²⁵ and other articles asserted that Trump was “panicking because he has other financial woes.”²⁶

¹⁶ *Hurting Trump Grasping at Wars?*, NY NEWSDAY (Feb. 8, 1991).

¹⁷ *Trump Woe\$ Threaten Fight*, NEW YORK POST (Feb. 8, 1991).

¹⁸ *Big Fight on the Ropes*, N.Y. TIMES (Feb. 7, 1991).

¹⁹ See, generally, Russ Buettner and Charles V. Bagli, *How Trump Bankrupted his Atlantic City Casinos but Still Earned Millions*, N.Y. TIMES (June 11, 2016), <https://www.nytimes.com/2016/06/12/nyregion/donald-trump-atlantic-city.html>.

²⁰ The Press of Atlantic City (Feb. 7, 1991).

²¹ *Trump Woe\$ Threaten Fight*, *supra* note 12.

²² The coalition forces decimated the Iraqi forces and the war was over by February 28, 1991. See *Persian Gulf War*, *supra* note 7.

²³ *Big Fight on the Ropes*, *supra* note 13.

²⁴ *Trump Woe\$ Threaten Fight*, *supra* note 12.

²⁵ *Hurting Trump Grasping at Wars?*, *supra* note 11.

²⁶ *Big Fight on the Ropes*, *supra* note 13.

In an analysis published in the Atlantic City Press, which turned out to be prescient, the analyst noted Trump's "financial pinch" and further stated that, "[r]egardless of how this debate turns out ... Trump is already the loser. What outfit in the future will do business one eye on the arena and the other eye on an escape clause? Trump's posture in this situation will erode the strong trust required to make business deals."

Faced with a barrage of bad publicity, Trump decided that acknowledging the financial woes was the better course of valor and told the press that his real goal was not to reschedule the bout but to gain a reduction in site fee.

As noted earlier, the Holyfield vs. Foreman bout was anticipated to be highly lucrative. Faced with the inability to move the bout due to the threat posed by Trump, the promoters utilized a three-prong strategy. The first prong was to communicate the facts to the press, which was pillorying Trump over his stance. The second prong was to draft a lawsuit against Trump and have it ready to be filed. The third was to meet with Trump to attempt to reach a compromise, with the intent to immediately file suit if unsuccessful.

On February 10, the promoters and their counsel met with Trump and his Director of Entertainment. Trump began the conversation by stating that he was well aware that the "act of war" excuse was a weak one but that he has been ill advised when the deal had been made and that the deal was simply too expensive given that the other casinos had been uncooperative in buying tickets.²⁷ He blamed his Entertainment Director for the deal. Dan Duva quickly pointed out that it was Trump himself who had personally made the deal, not any advisor. Trump moved on quickly when confronted with this fact.

Rather than litigate, the promoters were desirous of settlement if possible. In a report drafted the next day for Holyfield and his personal counsel, Dan Duva, the President of Main Events, explained why the promoters were willing to compromise. He first noted that they were in a "difficult dilemma" and that while "our attorneys are confident that we would prevail in a lawsuit against Trump," there were a number of factors they had to consider in negotiating, Duva wrote,

If we moved to Caesars and filed suit against Trump we must consider the "Cloud" that would be cast over the event. Trump obviously will defend himself. There is a substantial possibility that the public, casinos, and pay-per-view systems will be reluctant to make substantial commitments toward the event with the uncertainty that might develop. We also considered the expense involved in litigation against Trump and how "collectable" Trump Plaza will be if and when a judgment is obtained.²⁸

Thus, the promoters settled. There was a \$4 million reduction in the guarantee, and the promoters took back certain gate receipts, certain site related sponsorship rights, and ensured that the ticket revenue in which they were to share would not run through Trump Plaza. Instead, it

²⁷ Trump had been hostile towards the Atlantic City Casino Association and this undoubtedly contributed to the fact that the other casinos did not wish to cooperate.

²⁸ This letter is in the files of Dines and English, L.L.C.

would be paid directly to the promoters from Ticketmaster. Finally, and significantly, Trump lost the right to be the site promoter for winner's next bout.

Ultimately, with the "cloud of uncertainty" eliminated, the event was a resounding financial success. Though the promoters lost approximately \$2.5 million in site-related revenue, the 1,400,000 pay-per-view buys was far in excess of early estimates and garnered the highest percentage of homes in the addressable universe²⁹ in the history of pay-per-view (roughly 8.8%), a record unlikely to be broken, amounting to roughly \$75 million.³⁰ Delayed telecast fees, closed circuit, sponsorship and sale of international rights added up to approximately \$12 million more.³¹

The analyst who predicted that Trump would be the long-term loser was correct. While the Trump properties hosted boxing events after the incidents described, promoters never trusted Trump to host a "Mega Event." Thus, though Trump obtained his goal of forcing a reduction in the site fee in the short-term, he undercut the ability of his casino to negotiate for future major bouts.

Although they earned a lot of money given the success of the event, the biggest losers as a result of Trump's machinations were Evander Holyfield and George Foreman, since the bulk of the money was to go to them through their profit share arrangements.

We believe that this illustration of Trump's business dealings is instructive. There are those who may consider this a canny business move. There are those who consider this a blatant and intentional contract violation and a welshing on one's word. However viewed, one must question how much faith foreign leaders or leaders of Congress could give to the word of Donald Trump, or even faith in written treaties under a Trump administration, given his history in transactions such as the one described herein. Justifiably they would have to be wary, putting the United States, we submit, in a weakened position as the "leader of the free world." History has since shown this to be true.³²

Given that this article was written with the intent to illuminate the character of the President and candidate for a second term, another unrelated but enlightening boxing incident is worth noting. In November of 1992, Riddick Bowe became the Undisputed Heavyweight Champion by defeating Evander Holyfield. After that victory, Trump met with Rock Newman³³, Bowe's manager and *de facto* promoter, and Milton Chwasky, Bowe's attorney, to attempt to

²⁹ The "addressable universe" is that number of homes technologically able to purchase pay-per-view. The universe has expanded greatly since 1991, so there have been events with more "buys" but with a lower percentage of "buys."

³⁰ Interview with Mark Taffet, former chief of HBO's Pay-Per-View division on June 10, 2016.

³¹ *Battle of the Ages is the King of Money-makers*, PHILADELPHIA INQUIRER (Apr. 25, 1991); *Revenue Record Apparently Falling*, INTERNATIONAL NEW YORK TIMES (Apr. 25, 1991).

³² E.g. Nicholas Burns & Douglas Lute, *NATO's Biggest Problem is Trump*, WASHINGTON POST (Apr. 2, 2019), https://www.washingtonpost.com/opinions/natos-biggest-problem-is-president-trump/2019/04/02/6991bc9c-5570-11e9-9136-f8e636f1f6df_story.html; Gabriel Glickman, *At UN Trump abdicates US leadership*, WASHINGTON POST, (Sept. 25, 2018), <https://www.washingtonpost.com/outlook/2018/09/25/un-trump-abdicates-us-leadership/>.

³³ Mr. Eugene "Rock" Newman is executive producer and host of *The Rock Newman Show* which airs on Howard University's WHUT-TV. He is a member of the Board of trustees of Howard University. <https://www.howard.edu/secretary/trustees/bios/ERockNewman.htm>

negotiate a Bowe bout at Trump Plaza. Newman is a very light skinned Black man and Chwasky (now deceased) was White. Trump apparently did not know Newman's ethnicity and during the conversation made the following remark, as independently related to the author by both Chwasky and Newman,

“Rock, if you have any problems with Black fighters just let me know. I know how to handle them.”³⁴

Trump went on,

“In fact, let me tell you a joke about those people.”

At this point Chwasky interrupted, out of embarrassment, saying, “Did you know that Rock is Black?” Trump immediately changed the topic and took the conversation in a different direction. Needless to say, Bowe never fought at a Trump property after this conversation.

Given the debate regarding whether Trump is a racist, the incident described above may be instructive. Trump claims he is not racist. However, Trump's protestation in this regard that he is not a racist may simply be a manifestation of a lack of self-awareness or a recognition that self- introspection would not be politically beneficial. In any case, the incident casts light on Trump's personality and actions.

It is submitted that the reader can draw his/her own conclusions as to whether there has been any moral improvement by Trump since the actions described herein. Yet, from the author's perspective, this tiger has not changed his stripes.

³⁴ This comment was relayed to the writer of this article in 1992 by Mr. Chwasky, now deceased, contemporaneously with the occurrence. Rock Newman relayed the exact same account in an interview with the author on June 4, 2016.