



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF ENQUIRY 1194

HEARING HELD AT THE MSA OFFICE IN CAPE TOWN AT 18:00 ON 13th JUNE 2017

Present:	Joy Dolinschek	-	Court President
	Wayne Arendse	-	Court Member
	Roy Pheiffer	-	Court Member
	Bernard Clarke	-	Competitor
	Ian Long	-	Clerk of the Course
	Saritha Bowles	-	Race Secretary
	Andre Kotze	-	Chairman – Cape Hell Drivers
	Estelle Rossouw	-	Secretary of the Meeting
In attendance:	Lizelle van Rensburg	-	MSA Scribe

INTRODUCTION:

The Court President introduced herself and the other court members. There were no objections to the composition of the court.

THE HEARING

1. Motorsport South Africa is convening a Court of Enquiry in terms of GCR 211 to investigate, *inter alia*:
 - a) Whether Mr Bernard Clarke has breached the General Competition Rule GCR 121 (i), 127 C, 136 or any other GCR in relation to allegedly competing at a Cape Hell Driver event without a valid MSA licence on the 06th May 2017.
 - b) Whether Cape Hell Drivers has breached the General Competition Rule GCR 98, 136, 141 (iii) and 159 (ii) or any other GCR in relation to allegedly allowing a competitor to compete without a valid MSA Licence on the 06th May 2017.

EVIDENCE LEAD

2. a) The Race Secretary – Estelle – Informed the Court of the administrative procedures which were followed on the day in question. She advised that Mr. Clarke had his licence on his mobile phone which was shown to her and which she accepted as valid. The Court was further advised that Cape Hell Drivers do not have an official entry form and that a 'sign-on' sheet is accepted as a valid entry.

MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN SOUTH AFRICA



Directors: Adv. G. T. Avvakoumides (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), P. du Toit, D. Easom, J. Fourie, G. Hall, A. Harri, M. Rowe, R. Schilling, Ms N. Singh, Ms M. Spurr

- b) Competitor Clarke explained that he had attended a CHD general meeting in November 2016 at which he requested CHD to take out Club Membership and an MSA licence on his behalf. He made no payment to CHD for these related expenditures at that time. Mr. Clarke then left the country for an extended period from December 2016 to the end of February 2017 and upon his return in March 2017 made the necessary payment to CHD. Mr. Clarke confirms that he received his MSA competition licence via email from MSA in December 2016. Mr. Clarke stated that he was not conscience of the expired 2016 licence as he hadn't raced in 2016 and having received the licence late in December assumed it to be valid. Mr. Clarke confirmed that he had not participated in a race until the 6th of May 2017.
- c) The Club Secretary – Saritha – confirmed that during 2016 is was acceptable to MSA for CHD to apply for an MSA competition licence on behalf of its members and that CHD paid these amounts over to MSA in batches.

COURT REFERENCES

3. a) GCR 98, GCR 141 (iii) and GCR 159 (i) & (ii) – It is the promoters responsibility to include the checking of entrant's and drivers licences.
- b) GCR 121 (i) – A competitor must hold a licence of the correct grade for the competition which licence must be available at an event.
- c) GCR 127 (c) ii) – that he has signed the form of indemnity stipulated by MSA.
- d) GCR 136 – A competitor shall produce his licence on demand to an official at a meeting. It is essential for the secretary, acting on behalf of the organisers, to check the licence of every competitor to confirm that they are eligible and that the licence is valid.

FINDINGS:

4. a) Mr. Clarke participated at the event on the 6th of May 2017 without a valid MSA competition licence.
- b) That CHD neglected to verify the validity of the licence produced by Mr. Clarke.
- c) That CHD are not in compliance with GCR's 91, 92 and 94 – 97 inclusive.
- d) That in February 2017 CHD was fined for allowing two competitors to participate in an event without a valid competition licence.
- e) That according to the permitted SR's for the event Saritha Bowles is the listed race secretary. On the day in question 'Estelle' actually officiated in this position. This Court is unable to find the relevant documentation (bulletin) informing of this change of official. GCR 88 refers.
5. a) Mr. Clarke will forfeit any points which he scored at the event on the 6th of May 2017. The organisers are instructed to amend the results accordingly. While the Court understands how the confusion came about, it is nevertheless clear on the licence shown to the Court that same expired on the 31st of December 2016. Mr. Clarke does not hold an MSA licence at this time and therefore this Court has no jurisdiction over him and views this incident in a very serious light. Mr. Clarke is

cautioned that when next he participated in an MSA event he MUST ensure that he hold the relevant and valid licence.

- b) In the matter of CHD the Court finds the Club to have been in breach in respect of the section 3 of these findings.

Appendix R 2 (ii) g is clear that a fine SHALL be levied in the amount of R5000.00 for allowing the participation of a competitor without a valid competition licence, which this Court now imposes.

In terms of the breach of 4 c) above CHD is fined in the amount of R500.00 and is instructed to implement an entry form as envisaged by the relevant GCR's and which entry form must accompany the SR's when submitting same to MSA for approval and permit.

In terms of the breach of 4 (e) above CHD is fined in the amount of R250.00 and is instructed to ensure that all or any changes to the approved SR's are authorised and published to competitors in writing.

- c) The Clerk of the Course – Mr. Ian Long is reprimanded and reminded that all personnel and officials are his responsibility and that as part of his duties he must ensure that matters are handled in terms of the relevant regulations.

- d) Costs are awarded against CHD in the amount of R750.00

All parties are reminded of their rights in terms of GCR 212 B.

These findings are published via email on 12/07/2017.