



MOTORSPORT SOUTH AFRICA NPC

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COURT OF ENQUIRY 1204

**MATTERS ARISING FROM THE 2017 SA NATIONAL ENDURO CHAMPIONSHIP EVENT (ROUND 6) HELD ON THE 29th SEPTEMBER 2017 IN LESOTHO.
ENQUIRY HELD IN THE MSA BOARDROOM ON THE 22ND NOVEMBER 2017 @ 18:00.**

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|----------------|------------------|---|-------------------------------|
| PRESENT: | Tony Taylor | - | Court President |
| | Mark Cronje | - | Court Member |
| | Vaughn Williams | - | Court Member |
| | Franziska Brandl | - | KTM Entrant |
| | Mark Garland | - | Witness |
| | Neil McCann | - | Clerk of the Course |
| IN ATTENDANCE: | Wayne Riddell | - | MSA Sporting Services Manager |
| | Carmen Hill | - | MSA Sport Co-ordinator |
| APOLOGIES: | Dwayne Kleynhans | - | Competitor (Defendant) |
| | Lindy Sutherland | - | MSA Steward |
| ABSENT: | Tubatsi Kuo | - | Club Steward |
| | Denzil Torlage | - | Route Director |

INTRODUCTION:

The Court members introduced themselves and there were no objections to the composition of the Court.

Apologies were noted but the Court members made clear they were not pleased that the MSA Steward Lindy Sutherland and Defendant Dwayne Kleynhans were not present at the Court and only choosing to inform the court of their non-attendance on the day of the court.

It was also noted that the Club Steward Tubatsi Kuo and Route Director Denzil Torlage, both of whom were requested to attend the Court, had failed to attend or tender apologies.

The Court members would continue with the proceedings and findings will be made in their absence, in line with GCR 220.

THE HEARING:

The Court members requested the Clerk of the Course Neil McCann provide details regarding the proceedings at the event. The CoC explained that Mr. Garland who is also the Riders Representative on the Enduro Steering Committee, provided him with video footage of Defendant Kleynhans. The CoC advised that he wanted to check the GPS downloads before making a decision. After checking the downloads, it was clear to him that Kleynhans did deviate from the route, and decided to issue the 600-

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Directors: Adv. G. T. Avvakoumides (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), D. Easom, J. Fourie G. Hall, A. Harri, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Van der Merwe

point penalty. The CoC contacted Ms. Brandl as the Competitors Entrant and informed her that the penalty was issued. He advised the Court members that he received the protest and the money from Ms. Brandl, however could not hold the protest hearing that evening and it was postponed to 07:00 the next morning.

The CoC met with the Stewards before the protest hearing was held where he reread the protest and realized that the Competitor, and not the Entrant signed the protest, which he pointed out to the MSA Steward. He felt that the protest was inadmissible, however the MSA Steward proceeded with the protest hearing, while he continued to get the proceedings for Round 7 ready. The CoC heard later in the day that his decision was overturned and felt upset enough that he requested for MSA to call for an enquiry in his race report.

Discussion regarding the 20m rule as per Art 43 a) (iv) ensued, where the CoC explained to the Court members the route that Kleynhans took. Ms. Franziska Brandl provided a screenshot image of the correct route and the route that was taken by Kleynhans. The CoC further advised that the route not competed by Kleynhans was possibly the most technical part of the route, therefore claiming that he did not gain an advantage was not correct, as he gained an advantage by not having to compete on the most technical part of the route.

The court president highlighted part of the protest where Kleynhans mentioned that the route was unclear. The CoC mentioned that other competitors did get the route wrong, however consulted their GPS's, turned around and continued with the correct route. The CoC confirmed that Kleynhans was the only competitor that was penalised for this infringement. He further confirmed that each loop was the same route.

MSA explained that Enduro was a facet whereby competitors had to complete the loop in a shorter time than they did for their previous loop. Mr. Williams queried how the CoC knew that Ms. Brandl was the Entrant for Kleynhans as there was no paperwork or signature to advise as such. He advised that he was aware of who the rider rode for, but also did not check that the Entrants signed on for the riders, he just made sure that all riders signed on at documentation.

The court pointed out that there was an entry system where competitors entered for the event and Entrants were not signing on for the competitors, then at what point did the Official Entrants become the Official Entrants for the competitors. GCR 197 was mentioned as Ms. Brandl stated that anyone of the competitors that rode under her Entrants licence could submit a protest in their personal capacity.

Ms. Brandl mentioned that with the way that documentation and registration was being handled at the events, there was no reason for an Entrant to sign for the competitor. Mr. Williams mentioned that this needed to be addressed in this facet.

Ms. Brandl advised the Court members that the route was not marked very well. She confirmed that Kleynhans did have a GPS for the event. Ms. Brandl explained that on the sighting lap, Kleynhans used the correct route but saw competitors taking the incorrect route. On the second lap, he used the correct route again that he was familiar with, however on the 3rd lap he took the incorrect route as he saw other competitors taking this route previously and as the marking was not clear, assumed it was the correct route.

On the 4th lap, he used the correct route again. Ms. Brandl was of the opinion that Kleynhans did not gain an advantage. Ms. Brandl commented that the video was not clear and could not clearly see who the competitors were. She mentioned that when the hearing was held with the Stewards, they stated that Kleynhans did not gain an advantage by using the incorrect route, and in fact was at a disadvantage as he lost time taking the incorrect route.

Wording and interpretation of ART 43 a) (iv) was discussed. The CoC explained that the top 5 competitors in each class had their GPS's downloaded and only Kleynhans was penalised for deviating off the route. The video footage was perused and explained. Mr. Williams queried if any formal complaint had been given to the officials that the route was badly marked, to which Ms. Brandl confirmed that no formal complaint was given. Ms. Brandl confirmed that Kleynhans did not follow his GPS, but followed the route markings and the routes that the other competitors took.

Mr. Garland provided feedback as the rider's representative on the Enduro Steering Committee, and explained that he received the video footage from one of the riders, and reminded the CoC about downloading the competitors GPS's. He advised that the 2 riders on the video was Scott Bouverie and Dwayne Kleynhans.

Mr. Garland explained the markings of the route and the usage of the GPS devices. He mentioned that he liaised with the Route Director regarding the correct route at that specific point of the loop. Mr. Garland advised that the Route Director was not present when the GPS of Kleynhans was downloaded, but Mr. Peter Luck (Organiser) commented that the competitor deviated off the route.

Mr. Garland confirmed that he did not compete in the same class as Kleynhans. As per Mr. Garlands opinion, Kleynhans would have been disadvantaged should he have realised that he was on the wrong route, turned around and went back onto the correct route. Mr. Garland explained that the Enduro Steering Committee has agreed that penalties will be issued should competitors deviate from the route.

He confirmed that as the rider's representative, he had not received complaints from other competitors about a poorly marked route.

THE FINDINGS:

After receiving all evidence and heard all information provided from the members present, the Court members find the following:

- 1) The defendant Dwayne Kleynhans is found to be guilty in deviating from the route of the event as evidenced by the submission of the GPS tracking data submitted by Franziska Brandl of KTM, and the 600-point penalty issued by the Clerk of the Course at the event will be re-instated.
- 2) The Court members severely reprimand the MSA Steward Lindy Sutherland as an A Grade Official in a National Championship for not considering the protest correctly. The Court members withdraw the official's license of Lindy Sutherland for a period of 12 months from the date of these findings. The court further suggests that the MSA Steward acquaint herself to the Rules and Regulations, the MSA Steward would need to re-write and pass the MSA official's exams before obtaining an officials licence after the suspension period has expired.
- 3) The organiser is admonished for supplying sub-standard quality officials for a national championship event and is to ensure in future that competent officials are appointed, specifically when National Championship events are being held, should the organiser receive the rights to host another national event in future.
- 4) The Court members noted that the organisers of the event, Extreme Offroad Promotions, had failed to comply with the requirements that Entrants should have signed on at documentation. They are reminded that this is a pre-requisite when host a round of the national championship as prescribed in the GCR's

COURT COSTS:

Court members impose the following court costs:

- 1) R 3 000-00 is levied against the Defendant Dwayne Kleynhans.
- 2) R 1 000-00 is levied against MSA Steward Lindy Sutherland.

All parties are advised of their rights in terms of GCR 212(B).

These findings are distributed via email on 11th January 2018 at 15:20

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