



# **MOTORSPORT SOUTH AFRICA**

Association incorporated under section 21  
Reg. No. 1995/05605/08

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## **MSA COURT OF ENQUIRY 1065**

**Court of Enquiry lodged by MSA to investigate certain aspects of the  
Lesotho National Enduro event.  
Hearing held in the MSA Boardroom on 13<sup>th</sup> April 2011 at 10h00.**

### **Present:**

WALLY PAPPAS - Court President  
RALF GEBERT - Court Member  
ALAN KERNICK - Court Member

Witnesses: - Peter Luck representing LORA  
- Seamus McCarthy representing  
Adventure Lesotho  
- Lindy Vermeulen, MSA Steward

Scribe - Cindy Correia

MSA: Allan Wheeler: MSA Sporting Manager

The Court convened and the Court President introduced the members of the Court. There were no objections to the Court.

The Court was convened to investigate amongst other things,

1. Timing issues at the Lesotho National Enduro event.
2. Failure to comply with SSR 349(c) of the 2011 Off Road Motorcycle and Quad Regulations regarding the publishing of results.
3. Failure of the organizers to deal with concerns raised by the COC regarding timing.
4. The alleged involvement of the MSA Steward and event organizer in sorting out scoring issues.
5. Various organizational deficiencies related to the event.

The Court heard evidence from three parties, namely Peter Luck, as a representative of LORA, Lindy Vermuelen, as MSA Steward and Seamus McCarthy, as a representative of Adventure Lesotho. More on this follows.

The Court also considered the written evidence provided by the Clerk of the Course, Chris Shinn who was not present.



## THE HEARING:

The Court makes an observation at this initial stage, that the witnesses in this matter were largely open and truthful regarding the various allegations contained within the Courts mandate. Whilst it was clear that some personal animosity existed between Peter Luck and Lindy Vermeulen towards Seamus McCarthy, the hearing was held in a civil manner. It appeared from the evidence presented that Seamus McCarthy representing Adventure Lesotho was both a LORA member and had been contracted by LORA to administer the event. The Court was presented with a document by Peter Luck absolving him of any wrongdoing by Adventure Lesotho; however the Court found that the letter had no significance given the provisions of GCR 71.

1. By the admission of all witnesses present and as alluded to by the Clerk of the Course in his report, the system utilized for timing the event was inadequate. This was something that had been raised prior to the event but little was done to ensure the system would not fail. In fact in the evidence presented, it was common cause that the witnesses believed the system would fail and anticipated the failure. Results were subsequently posted some 12 hours late.
2. The posting of results took place only on Sunday Morning at 07:30. The late posting of results can be directly attributed to the failing of the scoring system. In the evidence presented by Peter Luck, it was necessary to manually input no less than 1500 manually timed times. This and delays in obtaining data sheets was a simple recipe for disaster and results could not be produced.
3. The concerns raised by the Clerk of Course are essentially related to point 1 and require no further address.
4. By her own admission Lindy Vermeulen, the MSA Steward admitted to having assisted Peter Luck who was working on the scores in a hotel room. Whilst the witness appeared to suggest that the assistance was of a peripheral nature, the Court was not satisfied that the evidence given was plausible. In fact the Court members held the view that the Stewards involvement impacted directly on her impartiality and objectivity especially in as far as scoring or timing matters were concerned. The Court noted that these two aspects were the major stumbling blocks at the event and the aspects which had resulted in competitor unhappiness. The Court further questioned why no reference of any scoring deficiency was made in the Stewards report, notwithstanding the vast number of other deficiencies raised and reported on. The Court would have assumed that given the timing and scoring situation as alluded to by all parties including the MSA Steward in her evidence in chief that this would have appeared in some form within the report.
5. By their own admission the organizers both LORA and Adventure Lesotho, admitted to a variety of deficiencies. These are set out in the Stewards report and Clerk of the Course report and require no further elaboration as there was a dispute to the nature of the allegations contained in the report.
6. In the course of the evidence presented, the Court heard evidence that Peter Luck was either appointed by the Race Officials, Organiser or possibly even self-appointed as the event Environmental Steward. The appointment was admitted by Peter Luck however how this had transpired appeared murky. In any event it is so that Peter Luck acted in an Official Capacity. The Court questioned the witness on this aspect and further questioned him on the findings of Courts of Enquiry 998 and 1026 in which he had been suspended as an official. The witness acknowledged the suspension but claimed MSA had subsequently used him as an Environmental Steward at a previous event. The



Court was satisfied that this error may have been an oversight, and that the findings of Court of Enquiry 998(2) of the findings and Court of Enquiry 1026 (Findings) were sufficiently clear that the license to act as an official had been suspended.

#### FINDINGS:

1. In accordance with the provisions of SSR 349(C) of the 2011 Off Road Motorcycle and Quad Regulations, results **must** be published within 2 hours of the time bar or 19:00. In the absence of the posting of results, the timekeepers (in this case the organizers), **will** be fined R2500-00 per hour for results that are late.  
In the absence of any compelling reason for the late posting of results, and given the evidence presented indicating full knowledge of the potential risks, the Court imposes the mandatory penalty of R2500-00 per hour over the 12 hours it took before posting results. The Court thus imposes a fine of R30 000-00.
2. By the admission of the MSA Steward that she had assisted with the scoring during the course of the event, and with reference to GCR151 and GCR 152 and more specifically GCR 152ii, and the highlighted note under the same regulation, the Court suspends the official's license of Lindy Vermeulen with immediate effect. Such suspension to run until the 31st December 2011.
3. By his own admission, Peter Luck acted in an official capacity, whilst admitting to being aware of the suspensions imposed by Courts of Enquiry 998 and 1026. The Court can find no reason why with this knowledge, Peter Luck would act in an official capacity. The Court questioned why he, with this knowledge had not approached MSA to reconsider or rescind the findings regarding the suspension and found the appointment at the Enduro event irregular. The Court suspends the official's license of Peter Luck until the 31<sup>st</sup> December 2015.
4. Whilst the Court acknowledged the candid nature of the evidence presented regarding organizational deficiencies at the event, and the broad admissions of wrongdoing, the Court was left with the question of what penalty to impose. The Court reasoned that in fairness to LORA it would be necessary to at the very least consider the findings of Court of Enquiry 998 and Court of Enquiry 1026. These cases being the most recent cases involving LORA. The Court noted with concern that in both cases, LORA was found guilty of organizational deficiencies and were in fact found to have been grossly negligent in this regard. In the opinion of the Court the imposition of a fine regarding organizational issues simply adds salt to the wound. The Court therefore suggests that no further International or National events may be run by the Club. The Court suggests that the Club concentrate on hosting Club and or Regional events and build up a strong infrastructure suitable to the hosting of International or National events. In any event the Court does not believe any further event at this level should be run in 2011.
5. The Court strongly suggests that the Off Road Motorcycle and Quad Commission interact with the relevant stakeholders within LORA or any other Organizing Committee regarding events in Lesotho in an effort to find a long lasting workable solution to events in Lesotho.

#### COSTS:

Costs in the amount of R500-00 are awarded against the Organizers, LORA.

These findings published at 10H00 on the 14<sup>th</sup> April 2011

All parties are reminded of their rights to a National Court of Appeal.