



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## COURT OF ENQUIRY 1186

### HEARING HELD IN THE MSA BOARDROOM ON MONDAY 06<sup>th</sup> FEBRUARY 2017

**Present:**

Vito Bonafede	Court President
Richard Leeke	Court Member
Noleen Roome	Court Member
Tony Taylor	Clerk of the Course
Terry Stidworthy	MSA Steward
Melanie Spurr	Superhatch Chairlady
Gary van Heerden	Father of competitor Seth Van Heerden (Defendant)
Tanya Human	Race Secretary

**Apologies:** Shelley-Anne Taylor Race Secretary

**In attendance:** Allison Atkinson MSA Scribe  
Jacqui Monteiro MSA Operations Manager  
Wayne Riddell MSA Sporting Services Manager

### INTRODUCTION

The court members and attendees were all introduced and no objections were lodged against the composition of the court.

### THE HEARING

On 06<sup>th</sup> February 2017 Motorsport South Africa (“MSA”) enrolled Court of Enquiry 1186 (“the Enquiry”) to investigate whether competitor Seth van Heerden had breached Circuit Racing SSR 1 at an MSA sanctioned Motorsport Festival held at Kyalami on 22<sup>nd</sup> October 2016.

This is the written judgment of Court of Enquiry 1186. The hearing took place on 06<sup>th</sup> February 2017 between approximately 18h00 and 18h30.

### EVIDENCE RECEIVED

Apologies from Shelley-Anne Taylor were noted as above.

Verbal evidence was received from all parties, as well as from MSA as to how the defendant Seth van Heerden was able to obtain a 2016 circuit saloon car competition licence.

*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  
Honorary Presidents – Mrs B. Schoeman, T. Kilburn

It was stated by Mr. Riddell that the online licence system would allow for a competitor to take out his licence. However the system did not block a competitor as per his age when applying for a licence. This had now been implemented on the new 2017 licence system.

Mr. Gary van Heerden stated that he did not carry knowledge of SSR 1 when applying for Seth van Heerden's licence and entering him into the event. It is noted that the licence was handed to the race secretaries and was accepted on the day of the event. The court also notes that Seth van Heerden had competed previously in the Superhatch class at Zwartkops on 03<sup>rd</sup> September 2016.

The court queried from Melanie Spurr, as the chairlady of Superhatch, as to why Seth was allowed to race in this category. She stated that she was not aware of circuit racing SSR 1. As the competitor was in possession of an MSA licence, as well as completing track days at Zwartkops previously, it was presumed that he would be able to race. There is no age rule in the Superhatch category regulations. It was stated that the round before where Seth had competed, a newsletter had been sent to MSA in which it had been stated that he was 12 years old and his age had therefore not been hidden.

Wayne Riddell stated that in the absence of an age rule in the category regulations it will automatically default to SSR 1. It must be noted that SSR 1 was also listed in the event SR's under point 5 for the Kyalami event that Seth Van Heerden had entered.

The court questioned Tanya Human as to why ages were not checked at documentation. It was stated by Tanya that she was not aware that she had to check the ages. As Seth was in possession of a MSA licence it was presumed that he had permission to race.

### **FINDINGS**

The court hereby finds the entrant Gary van Heerden guilty of erroneously applying for a licence for an underage competitor and further erroneously entering him into an event thereby contravening SSR 1 and clause 5.1 of the event SR's.

The chairlady of Superhatch, who is a licenced competitor, admitted that she too had no working knowledge of SSR 1 and had prior knowledge that competitor Seth van Heerden had entered the Kyalami event and was not aware he was in contravention of SSR 1. She did not notify the officials that Seth van Heerden was in contravention of SSR 1.

The court is concerned that the Superhatch category is allowing underage competitors to have access to track days, to enable qualification to race in the series, as this action transfers culpability to the owners of the circuit.

It is unfortunate that the chairlady of this category of racing, by her own admission, does not carry knowledge of SSR 1, and has allowed said competitor to participate in two events. The court is extremely concerned that, had competitor Seth van Heerden been involved in an on track incident that led to injury or even death, it would most certainly have exposed all officials, circuit owners and ultimately MSA to the culpability thereof.

### **PENALTY IMPOSED**

Mr. Gary van Heerden, as the entrant of Seth van Heerden in terms of GCR 19, and as a seasoned competitor himself, should have had cognizance of the regulations. He is hereby fined a sum of R5000.00 for the contravention of SSR 1. The court further disqualifies competitor Seth van Heerden

from participating on any main circuit in any circuit racing event for which he is not eligible in terms of his age (with reference to SSR 1). Should Seth van Heerden again be found to be in breach of this regulation, any MSA licence that he holds at the time will be suspended for a period of 12 months, without the necessity for a court of enquiry.

The Superhatch Association is hereby fined the sum of R50 000-00. An amount of R45 000-00 of this fine is however suspended for a period of three (3) years from the date of publication of these findings. The suspended amount is subject to the association not being found guilty of a further contravention of SSR 1 by allowing an underage competitor to compete. Should this happen the suspended portion of the fine will come into immediate effect.

Gary van Heerden and Melanie Spurr are each ordered to pay court costs in the amount of R1250.00.

In summary, Gary Van Heerden is to pay a R5000-00 fine and R1250-00 court costs. The Superhatch Association is to pay a R5000-00 fine and Melanie Spurr is to pay R1250-00 court costs.

The parties are reminded of the provisions of GCR 180.

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

These findings are distributed via email on 15<sup>th</sup> February 2017 at 09:00am

**Ref. 161121/158**