



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF ENQUIRY 1185

**HEARING HELD AT THE MSA OFFICE IN CAPE TOWN AT 18H00 ON 07 FEBRUARY 2017**

<b>Present:</b>	Steve Miller	-	Court President
	Joy Dolinschek	-	Court Member
	Clint Rieper	-	Court Member
	Brian Hoskins	-	Clerk of the Course (Defendant)
	Johann Grundlingh	-	Clerk of the Course (Defendant)
	Giordano Lupini	-	Competitor
	Michele Lupini	-	Father and Entrant of competitor Giordano Lupini
	Ian Long	-	Clerk of the Course
	Jan Thorsen	-	MSA Steward
	Denis Agnew	-	Club Steward
<b>In attendance:</b>	Lizelle van Rensburg	-	MSA Scribe

### FINDINGS OF COURT OF ENQUIRY NO 1185:

1. Motorsport South Africa has convened a Court of Enquiry in terms of GCR 211 to investigate, inter alia:
  - a. Whether Mr Brian Hoskins breached the General Competition Rule GCR 19, GCR 172 (vi) or any other GCR in relation to allegedly conducting a disciplinary hearing with a minor competitor, or preventing the entrant/parent from participating/acting on behalf of the minor in the handling of the matters between Messer's Lupini Senior and Junior.
  - b. Whether Mr Johann Grundlingh breached the General Competition Rule GCR 19, GCR 172 (vi) or any other GCR in relation to allegedly conducting a disciplinary hearing with a minor competitor, or preventing the entrant/parent from participating/acting on behalf of the minor in the handling of the matters between Messer's Lupini Senior and Junior.

*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

2. The Court observed the following about GCR 19 and other GCR's deemed to be relevant to its interpretation:
  - a. This General Competition Rule describes the person or body deemed to be a competitor in motor sport events.
  - b. It specifically states that "where any person so involved is a minor, the natural parent or guardian of such minor will be deemed to be a competitor..."
  - c. However, it circumscribes this definition and clearly states that this is applicable "for the purposes of the GCR's."
  - d. It does not include any reference to nor suggest applicability to the Standing Supplementary Rules.
  - e. Considering also GCR226 which states "In interpreting motorsport regulations 'what is not specifically permitted is disallowed'", then this Court believes GCR19 has to be read as being applicable ONLY to the GCR's, not the SSR's. No other interpretation is permitted.
  - f. Driver conduct rules are contained within MSA's SSR's and, specifically, within each category's specific regulations. They do not by definition, therefore, fall under the ambit of GCR 19.

Cognizance must also be given to GCR225 which specifically states that "where there is a contradiction between the GCR's and the SSR's, the latter take precedence..."

3. The Court determined:
  - a. In accordance with the foregoing, the natural parent or guardian of the minor will be deemed to be the minor's proxy only in matters covered by the GCR's.
  - b. As driver conduct rules are contained within the SSR's, GCR 19 is NOT applicable to driver conduct.
  - c. The driver is thus deemed to be responsible for infractions incurred under the SSR's, even as a minor (see SSR 1.i.). The sensible rule of thumb applied by MSA's Clerks of Court seems to be that if you're old enough to race you're old enough to answer directly for your driving conduct.
  - d. Given that the driver is responsible for their on-track behavior it is understandable and acceptable that a Clerk of Course will interact directly with the driver, even if they are a minor.
  - e. The Official can expect to do this without undue influence or interference from a parent or guardian.
  - f. This is established common practice in MSA-sanctioned events, even amongst the junior karting categories where most participants are minors.
  - g. It is considered best practice for a minor competitors' parent or guardian to be present when the official interacts with the participant to act as a bulwark against rank bullying, abuse or intimidation, and to encourage the minor to engage candidly and honestly.
  - h. There is no injunction in the SSR's that grants the parent or guardian the right to speak on behalf of the participant, even if the competitor is a minor.
  - i. In the interests of fairness and transparency it makes sense for officials to engage with the parent or guardian of a minor, but this will be at their discretion.

4. The Court accordingly finds that in the matter against Mr Brian Hoskins:
  - a. That he legitimately engaged directly with the driver in the execution of his duties as outlined in GCR's 156 and 157.
  - b. There was no material breach of the GCR 19 or any SSR evidenced in any formal hearing or interaction.
  - c. There was no evidence of procedural malfeasance in the formal hearings conducted under his auspice and thus no breach of GCR 172 (vi).
  - d. Whilst the Court acknowledges Mr Hoskins' right to engage with off-the-record conversations with and "counselling" of competitors, especially as it pertains to his feelings and perceived slights, these would be better aired in a public forum and certainly in the presence of minor competitors' parents. In the interests of fairness, these interactions, should they occur in future, need to be clearly signaled as personal in nature and "not official".
  - e. It should also be noted that these exchanges are deeply colored by his real and perceived authority, and so what might be intended by him as robust mentorship and advice might be perceived by the recipient as official condemnation. This skewed power relationship is exacerbated when dealing with young and relatively inexperienced competitors.
  - f. Mr Hoskins is therefore counselled to temper his unofficial feedback and attempt to be more considerate to competitors, and especially to younger participants, in the execution of his duties.
  
5. The Court therefore finds that in the matter against Mr Johann Grundlingh:
  - a. He legitimately engaged directly with the driver in the execution of his duties as detailed in GCR 156 and 157.
  - b. He allowed the presence of the minor's parent, and although he restricted said parent's input, no breach of the GCR 19 or any SSR was evidenced in any formal hearing or interaction.
  - c. There was no evidence of procedural malfeasance and thus no breach of GCR 172 (vi).
  - d. The Court acknowledges Mr Grundlingh's occasional exasperation with competitors but counsels him to attempt to be more considerate to minor competitors and their parents in the execution of his duties.
  
6. MSA is enjoined to amend or remove the sub-clause of GCR19 in parentheses which refer to GCR 127, as this is erroneous.
  
7. The court recommends that MSA reviews the manner in which race officials are expected to deal with minor competitors and their parents, and issues a directive in this regard.

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

These findings are published via email on 15/02/2017.

**161109/098**