



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF ENQUIRY 1079

**COURT OF ENQUIRY HELD INTO THE ALLEGED CONTRAVENTION OF GCR 172 (IV) BY COMPETITOR IZAK MARITZ AND COMPETITOR ANNELIE MARITZ. THE HEARING HELD AT 15:30 ON THURSDAY 8<sup>TH</sup> SEPTEMBER 2011 AT MOTORSPORT SA, NO. 9 MONZA CLOSE, KYALAMI PARK, MIDRAND, 1686**

### PRESENT

Christo Reeders	:	Court President
Wally Pappas	:	Court Member
Elza Thiar	:	Court Member
Hanko Swart	:	Competitor & MSA NR 4X4 Representative
Annelie Maritz	:	Competitor
Hesma Swart	:	Competitor

### APOLOGIES

Izak Maritz	:	Competitor
Jacques du Plessis	:	Chief Marshal

The court president introduced the court members and there were no objections to the composition of the court.

In terms of GCR 220, the hearing may proceed to judgment in default of appearance by any party or witness.

It was further confirmed that the notice periods for the calling of the hearing were correctly served and sufficient notice given.

The Court was convened to investigate amongst other things an alleged contravention of GCR 172(iv) as well as the alleged contravention of the conditions of suspension of the penalty imposed by Court of Enquiry 1073 by Mr Izak Maritz.

Evidence was led by the Chairman of the 4X4 Challenge Association Mr Hanko Swart as well as Mrs Swart, the representative of one of the classes. Evidence was also provided by Mrs Maritz in the absence of Mr Maritz. The Court was concerned that Mr Maritz was not present and advised Mrs Maritz that Mr Maritz was liable to being found guilty and an appropriate ruling handed down in his absence; however his wife satisfied the Court that she would be in a position to adequately represent her husband. In particular she declined the opportunity to apply for a postponement of the proceedings when questioned in this regard by the Court President.

Prior to entertaining any evidence, the court heard Mrs Maritz in respect of four arguments in limine of which the court had been notified. After thorough questioning, examination and consideration, the arguments in limine were all dismissed. If so required, the court would be amenable to tabulate the reasons for doing so. Suffice it to



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say that the reasons for the dismissal of the arguments in limine were provided ex tempore.

The evidence presented by Mr Swart was that the Association had held an AGM on the 14<sup>th</sup> August 2011. During the course of said AGM, Mr Maritz, amongst other things raised and reiterated the earlier issue of alleged misconduct by the Chairman and which had formed the subject matter of COE 1073. It appeared that Mr Maritz was critical on the issue of the suspended sentence which had been imposed by Court of Enquiry 1073. It appeared further that Mr Maritz held the view that he was in fact innocent and that he had been found guilty erroneously. He continued to inform those present that the findings were incorrect, did not hold water with him and that a suspended sentence was of little concern to him.

The conflict was further exacerbated when a group of people at the meeting appeared to support Mr Maritz's views and this created a significant level of dissent at the meeting.

The thrust of Mr Swart's argument was that the conduct of Mr Maritz constituted a further contravention of GCR 172 as well as a breach of the conditions of suspension which accompanied the penalty imposed by COE 1073. He argued that Mr Maritz had attended various enquiries, was present and able to ventilate any and all submissions which he may have wished to make in respect of these hearings. This he had done and had found it unnecessary to Appeal any finding made against him. Having failed to pursue the appropriate avenues available to him had he been dissatisfied with the outcome of Coe 1073, it was inappropriate to further ventilate the issue at the AGM.

Mr Swart's views were amplified by Mrs Swart who added that the conduct of Mr Maritz undermined the functions and authority of not only the Chairman, but also her functions as a representative of a class within the Challenge Series.

In support of the evidence reference was made to 5 separate statements provided by members involved in the 4x4 Challenge. These documents all support the versions propounded by Mr Swart and Mrs Swart.

The Court afforded Mrs Maritz an opportunity to not only question both Mr Swart and Mrs Swart, but to provide any evidence which she wished to adduce.

The Court reiterated its concern at Mr Maritz's absence; however, Mrs Maritz made it clear that while Mr Maritz in fact was present in the Johannesburg area, he was otherwise indisposed and would not attend the proceedings. She reiterated that she was comfortable to represent Mr Maritz notwithstanding the severity of the allegations and was authorised to so represent him. The Court took note of this and the provisions of GCR 220, which allows the Court to proceed in the absence of a party and in fact to come to a finding.

The evidence by Mrs Maritz was sparse. It essentially disputed the evidence presented by the other parties but bore little substance save for a bald allegation that the evidence was incorrect. The fact was that Mr Maritz in the course of presenting evidence made it clear that her husband and she had decided to distance themselves from all aspects of the Challenge save as competitors. In her words, her husband and she had decided to "stay out of the politics".

In cross examination, Mr Swart pointed out that the allegations he had leveled at Mr Maritz were also recorded, one assumes by means of a recording device. These recordings had been captured and formed part of the evidence before the Court. The Court noted the visible reaction to this evidence by Mrs Maritz, who was, as it appeared to the Court, unaware of the recording.



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Having exhausted all evidence and cross examination the Court informed Mrs Maritz that it would listen to the recordings and if unclear it may be required that the Court reconvene. This however would be unnecessary if the recordings were clear. Mrs Maritz raised no objection to this.

### **COURT DELIBERATIONS:**

The Court having considered the physical evidence as presented as well as having read the various statements from the other members, concluded that Mr Maritz has still not appreciated and come to terms with the wrongfulness of his actions which brought him before COE 1073. His patent misunderstanding of the rules of which he complained remains firmly entrenched in his reasoning and he continues to perpetuate the flawed arguments which were pointed out to him by COE 1073. This conduct continues to destabilise the structure and good order of the Off Road Commission and undermines the discipline which is essential for its continued effective functioning.

The evidence before the Court, both physical, written and the recordings were all consistent with one another and there was no conflict or contradiction in as far as the content was concerned which served to raise with the court any doubt as to the veracity of the charges against Mr Maritz. In assessing the findings of Court of Enquiry 1073, the findings were also well set out and the explanations contained therein well formulated. The question then was whether Mr Maritz had misunderstood or had not acquainted himself with these findings. It was unlikely that he was unaware of the findings having not only apologised in writing for his earlier conduct, but also having commented at the AGM that he found the findings to be incorrect and of no application to him. The Court could then only conclude deliberately flouted the findings of and penalties imposed by COE 1073.

### **FINDINGS:**

The Court in coming to a finding is cognisant of the fact the Motorsport competitors enter into a contract by which they agree to be bound by the rules of the sport. It follows that by operating outside of this framework a breach of contract exists. It seems pertinent to mention that Mr Maritz is prone to breaching the rules as he had earlier attended three separate hearings.

Accordingly the Court finds Mr Maritz guilty of contravening GCR 172 (iv). In this regard the Court imposes a penalty of exclusion from competition for 12 months.

The Court takes into account the finding of Court of Enquiry 1073 and imposes the suspended sentence as specified of 3 years.

Mr Maritz is accordingly suspended from all Motorsport Competition for an effective period of 4 years.

All parties are reminded of the right of Appeal.

**21<sup>st</sup> SEPTEMBER 2011**

**Ref: 157809/098**



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