



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

<http://www.motorsport.co.za>
e-mail karinb@motorsport.co.za

First Floor, No. 9 Monza Close (Formerly 108), Kyalami Park, Midrand. P.O. Box 11499 Vorna Valley, 1686
Telephone (011) 466-2440. Fax: (011) 466-2262 National Number: 0861 MSA MSA (0861 672 672)

MSA COURT OF ENQUIRY 1096

COURT OF ENQUIRY HELD INTO THE ALLEGED EVENT ORGANISATION OF THE NOCSDA DRAG RACING EVENT THAT TOOK PLACE OVER PERIOD 7 – 8 APRIL 2012 (EASTER WEEKEND) AT KIMBERLEY. THE HEARING HELD AT 17:30 ON MONDAY 10th SEPTEMBER 2012 AT MOTORSPORT SA, NO. 9 MONZA CLOSE, KYALAMI PARK, MIDRAND, 1686

PRESENT:

Christo Reeders	-	Court President
Dick Shuttle	-	Court Member
Mohammed Desai	-	Organiser (NOCSDA)
Mudinie Hassim	-	NOCSDA Secretary
Tyrone Noble	-	MSA Steward
Henry Venter	-	Scrutineer
Karin Britton	-	Scribe

ABSENT WITH APOLOGY:

Tony Grifo	-	Clerk of Course
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PROCEEDINGS:

The court was convened to enquire into an event organised and held by NOCSDA/Street Kings on 7 and 8 April 2012.

The court comprised Messrs Shuttle, Bonafede and Reeders; however, at the last moment Mr Bonafede was unable to attend the proceedings and the Court proceeded with the remaining two members in attendance; Mr Reeders acting as the Court President.

As a result of the aforementioned difficulty, the Court members in attendance explained to the parties present that they could object to the composition of the Court and the matter could be postponed to be heard at a later occasion. There was no objection to the composition of the Court and the matter proceeded accordingly.

It bears mention that the NOCSDA/Street Kings Club was fully represented by all the *dramatis personae* who were involved in the event under enquiry, all of whom travelled from Kimberley to Midrand to attend the proceedings. Albeit that



Motorsport South Africa is the only recognised motorsport Federation in South Africa

Directors: S. E. Miller (Chairman), A. Taylor (Financial), J. du Toit, M. du Toit, P. du Toit, D. Lobb, N. McCann, C. Pienaar, B. Sipuka, D. Somerset, L. Steyn – Hon. Presidents : T. Kilburn, Mrs. B. Schoeman

the enquiry was precipitated by the COC's report whereafter Mr John Barne's written complaint followed, lamentably absent from the proceedings, were both the COC and Mr Barnes. In view of their absence, the Court spent an inordinate amount of time fully examining and enquiring into each of the complaints raised by Mr Barnes in what was a lengthy written account of what had purportedly transpired over the weekend of 7 and 8 April 2012. At this early stage, it bears further mention that Mr Barnes had seen fit to disseminate his complaint also to SASCOC and the Department of Sport and Recreation. In consequence of the gravity of the allegations and the governing bodies who had been included in the distribution list, the Court went about its business in the manner set out above.

The NOCSDA/Street Kings members answered all questions unerringly and without hesitation and were magnanimous in making concessions in response to somewhat rigorous questioning under circumstances where, absent the COC and Mr Barnes, denials could comfortably have been made without fear of contradiction or discovery. The Court was favourably impressed by their candour.

In response to Mr Barnes' specific complaints, the Court established the following:

- The meeting contemplated in section 4 of the Safety at Sports and Recreational Events Act, 2/2010 ("the Act") occurred some three weeks prior to the event.
- The ambulance had indeed arrived late, but no racing was commenced until its arrival.
- The fire station is some 5 km from where the event occurred and the section 4 plan was approved on the basis of the fire brigade being on standby.
- While it is correct that the timing equipment was problematical, alternative functioning equipment was secured.
- During a meeting of drag racers earlier in the year, Mr Barnes stated that he wanted no involvement in the proposed Easter event.
- Mr Barnes only first arrived at the event at approximately 14h30 in the afternoon. It could not be established what the source was of the information set out in his complaint.
- Adequate toilet facilities were rented and proof of payment was tendered to the Court.
- Albeit that the event occurred on a public road, an inspection of the surface had been carried out earlier and the findings at the time were merely verified on the Friday which preceded the event.
- No track preparation was required as the event occurred on a public road.
- The purported charge of drunken driving against Mr Tyrone Noble was thoroughly investigated. While it is correct that he had been arrested, this occurrence had no bearing on the success or otherwise of the event.
- There is no merit in the allegation that the permit issued by MSA for the event had been withdrawn.
- The documents requested by Mr Barnes had been sent to him in April 2012.

- As far as Mr Hassim misrepresenting himself at a WOMZA event, also this allegation was thoroughly explored. No letter as had been promised by Mr Barnes was ever received.
- It emerged that Mr Barnes had intended to arrange an event later in April, i.e. on 27 April; however, the prerequisite municipal consent could not be secured.

The Court found the complaint to be singularly without merit. In fact, the purported account of events is per se defamatory and injurious. On any basis, a separate court of enquiry may likely find that Mr Barnes' allegations served to bring the sport into disrepute. It is recommended that MSA convene such a court to explore whether Mr Barnes' conduct has not so brought the sport into disrepute.

It became clear that much bad blood exists between the two adversarial clubs. The Court heard of a High Court application brought on an urgent basis by Mr Barnes in order to interdict the NOCSDA/Street Kings from proceeding with certain events. This type of action can only serve to further bring the sport into disrepute; moreover if these proceedings are unsuccessful, as it appears this matter had been. Competitors, clubs and event organisers should be strongly discouraged from acting precipitously until the internal remedies for dispute resolution within the structures of MSA have been exhausted.

FINDINGS:

Without countervailing evidence, the Court could only rely upon its own enquiry and the evidence so elicited for its conclusions. Irresistibly, Mr Barnes complaints and those of the COC must be dismissed.

All parties are reminded of their right of appeal to the MSA National Court of Appeal in connection with these findings.

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