



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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COURT OF ENQUIRY 1106

MSA COURT OF ENQUIRY NUMBER 1106 – ENQUIRY INTO THE ALLEGED CONDUCT OF COMPETITOR THEO ERNST BRUSSOUW (SNR.) AT AN EVENT HELD AT THE ULTIMATE RACEWAY OVAL RACING VENUE, VEREENIGING ON 26 JANUARY 2013. THE HEARING HELD AT 16:30 ON WEDNESDAY 27 FEBRUARY 2012 AT MOTORSPORT SA, NO. 9 MONZA CLOSE, KYALAMI PARK, MIDRAND, 1686

PRESENT:

Christo Reeders	-	Court President
Alan Kernick	-	Court Member
Johan Coetzee	-	Court Member
Wally Pappas	-	MSA Oval Commission President
Jacques Roos	-	Competitor
Willem Stols	-	Clerk of the Course
Johan van Loggerenberg	-	MSA Steward
Freda Stols	-	Secretary of the event
Johan Alberts	-	Witness
Karin Britton	-	Scribe

APOLOGIES

Theo Brussow Snr	-	Defendant (Competitor)
Rouviere Groenewald	-	Startline Marshal

PROCEEDINGS

- 1) The President of the court introduced himself and the other court members. There were no objections to the composition of the court.
- 2) The court was empowered to investigate all aspects of the matter pre, during and post the event under, *inter alia*, GCR172(iv), (vi), (vii), (x) and 220.
- 3) The court considered two preliminary issues:
 - a. Mr Brussow's absence from the proceedings, having advised MSA by means of an e-mail dated 27 February 2013, received at 11h57, only scant hours prior to the commencement of the proceedings to the effect that he would not attend the enquiry;



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Directors: S. E. Miller (Chairman), A. Scholtz (CEO – Operations), 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

- b. The fact that the COC had already imposed a two race ban upon competitor Brussow for contraventions of GCR 172(vi) and (vii).
- 4) To the extent that the COC at the event had neither considered nor imposed any penalty in respect of a contravention of at least GCR 172(iv) and (x), MSA is entitled to convene a court of enquiry to investigate such a breach irrespective of whether the breach concerned has been the subject of a protest and/or an appeal as contemplated in GCR 211. In such an event, the court of enquiry stands to be convened as an MSA court of appeal under GCR 211(ii); hence the court was constituted as a MSA court of appeal as contemplated in GCR 210 and proceeded as a court of first instance to enquire into disciplinary matters not heard by the stewards of the meeting as contemplated in GCR 210(iii).
- 5) The court enquired into and was satisfied by the MSA court secretary that competitor Brussow had been informed in writing of the provisions of GCR 220 to the effect that the hearing may proceed to judgment in default of appearance by a party who had been summoned to attend the hearing. Accordingly, the court proceeded with the enquiry in competitor Brussow's absence.
- 6) Consequent upon competitor Brussow's absence, the court investigated the matter in detail during a hearing which lasted 1 ½ hours. In the course of the hearing, detailed questions were directed at the witnesses present, including competitor Roos, who himself had incurred a one race ban consequent upon his altercation with competitor Brussow. It bears mention that the MSA steward at the event, Mr Johan van Loggerenberg advanced certain compelling, however ultimately unpersuasive arguments in favour of competitor Brussow; the bulk of it focusing upon the deleterious impact on competitor numbers that a lengthy ban from the sport imposed upon Mr Brussow would have; primarily as a result of the MSA / WOMZA conflict.
- 7) The court carefully considered all the evidence and the submissions made by the COC, the secretary of the event, the remaining independent witnesses and in particular, Mr Van Loggerenberg's submissions. The court came to the following conclusions:
- a. The charges against competitor Brussow are of a serious nature, particularly his use of uncouth language and the disdain he displayed for MSA and the rules applicable to the event.
 - b. Competitor Brussow ignored direct instructions from the COC to the effect that he had been banned from remaining events on the day consequent upon his altercation with competitor Roos.
 - c. He subsequently became involved in a further on track altercation with the race officials when he took to the grid notwithstanding having been banned from further proceedings.
 - d. Upon being instructed to vacate the grid, competitor Brussow further delayed the proceedings by walking onto the circuit in amongst a grid which had already been formed whereupon he instructed two of his team members, already under starters orders, to vacate the grid.



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- e. Apart from the fact that the altercation with competitor Roos occurred on circuit, the subsequent altercation on the grid also occurred in full view of the spectators present at the event who volubly indicated their disapproval of competitor Brussow's conduct.
- 8) There is no doubt that competitor Brussow's conduct was not only prejudicial to the interests of MSA and of motorsport generally as contemplated in GCR 172(iv), but also constitutes abuse of officials as contemplated in GCR 172(x).
- 9) If anything, the gravity of the offence is exacerbated by the fact that competitor Brussow had previously incurred a lengthy ban for similar conduct. Likeminded behaviour at a WOMZA event attracted sanction also from that body. The court came to the conclusion that competitor Brussow is a volatile and aggressive competitor who plainly stated that he had scant regard (if any) for the rules governing motorsport events and patently regards himself a being above these rules.
- 10) Notwithstanding Mr Van Loggerenberg's submissions, the court is of the view that behaviour such as has been displayed by competitor Brussow, is detrimental to motorsport, sets a bad example to fellow competitors and the public alike and notwithstanding the impact which a ban may have upon the overall competitor numbers, it would be remiss of MSA to entertain and allow the type of thuggery displayed by competitor Brussow merely for the sake of filling an event with a full grid of competitors.

FINDINGS:

- 11) Under the circumstances the court imposes the following penalties:
- a. In respect of the contravention of GCR 172(x) – abuse of officials – competitor Brussow is suspended for a period of six (6) months notwithstanding that this is not a first offence.
 - b. In respect of the breach of GCR 172(iv), competitor Brussow is sentenced to a fine of R20 000.00 (Twenty Thousand Rand), the payment of which is suspended for a period of two (2) years provided that Mr Brussow is not in the period of suspension charged with and found guilty of any breach of the General Competition Rules, SSR's or SR's.
 - c. Competitor Brussow is directed to pay an amount of R5 000.00 (Five Thousand Rand) in respect of the costs of the proceedings.
- 12) The competitor is reminded of his right to appeal.

158543/098
6th March 2013



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