



# MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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## MSA COURT OF ENQUIRY 1100

**COURT OF ENQUIRY HELD INTO THE ALLEGED CONDUCT OF MESSRS DEON VENTER AND IAN PALMER, DURING THE SUN CITY 400 ROUND OF THE 2012 ABSA OFF ROAD CAR CHAMPIONSHIP HELD ON 28<sup>TH</sup> JULY 2012. HEARING HELD AT 18H00 ON MONDAY 15<sup>TH</sup> AUGUST 2012 AT MOTORSPORT SA, 9 MONZA CLOSE, KYALAMI PARK, MIDRAND.**

### PRESENT:

Christo Reeders	-	Court President
Dick Shuttle	-	Court Member
Deon Venter	-	Competitor
Ian Palmer	-	Competitor
Francois Jordaan	-	MSA Steward
Siegfried Rosseau	-	Competitor Relations officer (CRO)
Karin Britton	-	Scribe

### ABSENT WITH APOLOGY:

Joe Fourie	-	Clerk of Course (Report submitted)
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### PROCEEDINGS:

The Court was convened to undertake an enquiry into the alleged conduct of Messrs Deon Venter and Ian Palmer inasmuch as it purportedly constituted abuse of officials during the 2012 ABSA Off Road Car Championship held on 28 July 2012; the event being referred to as the Sun City 400.

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.

Early during the proceedings it became apparent that the event was characterised by high emotion, that what might be termed unacceptable conduct on the part of Messrs Venter and Palmer had occurred at previous events and that the MSA Steward had decided for this pattern of behavior to be examined by an MSA Court of Enquiry. Notwithstanding the high emotion which was evident, the Court is indebted to all the attending parties for the comparatively calm and restrained atmosphere in which the proceedings could be concluded. In order to establish the fundamental concerns and avoid a recurrence of the dispute which marred the Sun City 400, the Court elected to allow the parties to speak freely, apart from the Court asking pertinent questions.



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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

It emerged that Mr Siegfried Rosseau acts as the Competitor Relations Officer (“CRO”). His position is a formal appointment approved by the relevant Commission. His duties embrace, inter alia, to resolve disputes which may arise between competitors and the officials of an event.

Precisely such a dispute arose during the Sun City 400. It involved an allegation that Messrs Venter and Palmer had ignored a demarcated stop sign during the preliminary warm up prior to the commencement of the actual event. Accordingly their names featured as offenders on a list which was in due course placed upon the official notice board by the COC. An altercation ensued between the competitors concerned and in particular Mr Rosseau. There was no evidence that the COC had been abused.

The Court established that the evidence of the transgression was flimsy, to say the least, and entirely uncorroborated. It emerged that the electronic monitoring equipment is not as conclusively reliable as one might have hoped. Apart from the foregoing, the alleged transgression was of no relevance to the actual event or its outcome.

After the alleged transgression had been identified and discussed, it was agreed that the list which contained the names of the competitors concerned would be removed. This did not happen within a reasonable time and significantly raised the ire of Messrs Venter and Palmer. They readily admitted that foul language had been used. It emerged that even the intervention of the team manager, Ms Lizelle van Aardt, was ineffectual in defusing the situation which had arisen. There is no doubt that the altercation was of a serious nature.

However, the discussion which ensued revealed a long history of frustration and vacillating decision making on the part of officials, particularly where the privateer teams are concerned. There were complaints of inequality in the treatment of sponsors and the exposure enjoyed by these privateer teams. This is a matter which should be addressed forthwith in order to obviate the flaring up of disputes.

The subsequent debate turned on the provisions of GCR 143 and whether a CRO falls within the defined class of officials who are protected from abuse under GCR 172(x). Notwithstanding the appearance of the phrase “the list is not necessarily exhaustive” in GCR 143, it is difficult to conceive of any person who may perform any duty during a racing event that is not covered by the exhaustive list of officials described in GCR 143. The Court holds the view that notwithstanding the qualifying phrase aforementioned, the list of officials is indeed exhaustive, is intended to cover every conceivable official who may perform duty at an event and as such constitutes a *numerus clausus*. The only reasonable explanation for a CRO not featuring on the list of officials described in GCR 143 is that the creation of that position is a recent manifestation. Purely on the strength of these provisions, a CRO is not an official as meant in GCR 143 and Messrs Venter and Palmer’s conduct would on that basis not constitute abuse of an official as contemplated in GCR 172(x).

However, the Court requested a copy of the published event regulations from which it appears that Mr Rosseau had been appointed as an event official for the Sun City 400. Under the circumstances the Court finds that the altercation between Messrs Venter and Palmer did indeed constitute the abuse of an official.

It is apparent that extraordinary circumstances characterised the events surrounding the placement upon the official notice board of a list of purported offenders who had allegedly transgressed the stop rule. The COC’s subsequent refusal to remove the notice when its removal had been agreed, simply added fuel to the fire. The CFO’s failure to act incisively and in the interests of the competitors whom he is supposed to represent exacerbated the already volatile situation. Messrs Venter and Palmer were



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contrite and apologised for their conduct. This was their only saving grace and obviated a much harsher penalty than is imposed below.

#### **FINDINGS:**

The abuse of officials cannot be condoned and this Court is increasingly called upon to adjudicate upon similar instances. Competitors must be strongly discouraged from behaving in a boorish fashion when decisions of officials are not in their favour. It was readily apparent that Messrs Venter and Palmer are two spirited and volatile competitors who are not only easily offended, but readily rise to the occasion. In the course of the hearing, their combative attitude culminated in impatient remonstrating with the Court and they had to be admonished before calm was restored. In order that the risk of further such incidents are effectively contained, Messrs Venter and Palmer's competition licences are hereby suspended for a period of twelve months; which sentence in itself is suspended for a period of twelve months, calculated from the date of the official publication of this ruling on condition that in the period of suspension, the competitors concerned are not again found guilty of any offence in which abuse of any nature featured as an element. In addition, they are directed to pay the costs of the enquiry which are fixed in the amount of R5 000.00.

The MSA Off-Road Car Racing Commission is urged to meet with the privateer teams to ascertain their complaints and find ways of addressing these going forward, in an effort to alleviate the frustration that clearly played a significant role in this particular matter.

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

**158344/098**



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