



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

<http://www.motorsport.co.za>
e-mail karin@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 1112

ENQUIRY 1112 CONVENED TO INVESTIGATE THE ALLEGED CONDUCT OF COMPETITOR CHARLES CARLSON (JNR.) ARISING FROM A NORTHERN REGIONS REGIONAL OVAL TAR EVENT HELD AT POLOKWANE OVAL ON 6 APRIL 2013

Hearing held in the MSA Boardroom at 18h30 on 8 May 2013

Present:

Christo Reeders	-	Court President
Eldrid Diedericks	-	Court Member
Hanko Swart	-	Court Member
Johan Coetzee	-	MSA Tech Consultant & Tribunal Member
Willem Stols	-	Clerk of Course
Johan van Loggerenberg	-	MSA Steward
Freda Stols	-	Event Secretary
Rouviere Groenewald	-	Startline Marshal
Kallie Newman	-	Owner/Promoter (Ultimate Raceway)
Wim Newman	-	Co-owner/Promoter (Ultimate Raceway)
Charles Charlson	-	Competitor
Johan Alberts	-	Witness (C. Charlson)
Deon Beukman Snr	-	Witness (C. Charlson)
Deon Beukman Jnr	-	Witness (C. Charlson)
Jacques Roos	-	Witness (C. Charlson)
Willem Lubbe	-	Witness (C. Charlson)
Gert du Randt	-	Witness (C. Charlson)
Jacques Kriek	-	Witness (C. Charlson)
Francois van Vollenstee	-	Competitor
Andries Marx	-	Competitor
Adriaan van Zyl	-	Competitor
Liza van Zyl	-	Competitor
Stanley Newman	-	Competitor
Karin Britton	-	MSA Sport Coordinator/Scribe

The Court President introduced himself and the remaining Court Members.

There were no objections to the composition of the court.



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HEARING

1. The subject matter of this court of enquiry arose from events which occurred during a Northern Regions Regional Oval Tar Event held at the Polokwane Oval on 6 April 2013 in respect of which competitor Charles Carlson (Jnr.) stands accused of having engaged in conduct detrimental to the sport and which may serve to bring the sport into disrepute.
2. The dispute which was entertained by the court generated uncommon interest and between 20 and 25 individuals attended the hearing which lasted for 3 ½ hours, whereafter the court members deliberated for another hour. A significant number of written complaints from a variety of competitors and other stakeholders, all conveying a common theme of allegations of adverse conduct on the part of competitor Carlson were received. The adage that “justice must not only be done, but also be seen to be done” applies in this instance and accounts for the lengthy duration of the hearing. The court was at pains to fully investigate the complaints and to exhaustively explore the evidence adduced during the hearing. Such was the interest in the proceedings that at least one (1) of the parties present does not hold membership of MSA, but is in fact a WOMZA competitor. He played a significant role in one of the confrontations as set out below.
3. Apart from the written complaints, significant verbal evidence was adduced by the members who attended the hearing and several video recordings were on offer which allegedly would demonstrate Mr Carlson’s blameworthy conduct.
4. As bizarre as it may sound, it emerged during the proceedings that the primary cause of the conflict is the existence of two (2) distinct factions who participate in oval racing competitions, particularly in what appears to be Sprint Racing which is justifiably the flagship event of Oval racing competitions. These vehicles are massively powerful, hardly carry any weight and the resulting high power to weight ratio predictably culminates in spectacular racing which takes place on a comparatively narrow, short circuit at high speed. Understandably, the Sprint event is hugely popular amongst spectators.
5. It is quite apparent that the competition is keen, not only amongst the competitors, but amongst also the various circuit owners and the opposing factions aforementioned. The unhealthy competition between the opposing factions appears to have been brought to a head by no more grave an allegation on the part of Mr Adriaan van Zyl (and apparently a number of his supporters) that Mr Carlson and his supporters’ competition vehicles perennially leak oil and purportedly were referred to as “oliepotte”. In the course of the court proceedings, Mr Carlson Jnr. readily admitted that several of the “Carlson vehicles” had in the past leaked oil. This notwithstanding, the description of the “Carlson vehicles” as “oliepotte” apparently constituted a significant insult which was not to be lightly accepted.
6. Any attempt at summarising all the evidence entertained during the 3 ½ hour hearing would culminate in an unmanageably voluminous ruling. At first blush, the collective weight of the written complaints suggested grave consequences for Mr Carlson Jnr. However, notwithstanding detailed analysis of the written complaints and intensive questioning of the individual stakeholders who had produced the written complaints, no concrete evidence was adduced which supported any of the allegations levelled against Mr Carlson Jnr., save for the single event which is set out below.



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7. The court devoted at least an hour to reviewing the video evidence that was available during the hearing and entertained both slow motion and frame by frame analysis of the video material, all the while explained and commented upon by the clerk of the course. Also the video evidence revealed no substantiation or corroboration of the allegations against Mr Carlson Jnr. In fact, quite the opposite was true. The video evidence revealed that the complainants who had levelled allegations of reckless conduct on the part of Mr Carlson Jnr. against him had been overtaken by Mr Carlson Jnr. and subsequently failed to avoid contact and/or collisions when they were in a position to do so. Mr Carlson Jnr. appears to be a talented, albeit forceful competitor and his presence on the circuit allied to the presence of novice competitors or otherwise competitors who infrequently participate in Sprint events, ensured a potentially lethal combination of disparate abilities and physical contact among competitors was virtually guaranteed.
8. In the result, in respect of all the allegations directed at Mr Carlson Jnr. as having arisen from the Polokwane event aforementioned, no persuasive evidence of any adverse conduct on the part of Mr Carlson was adduced and under the circumstances, he must be acquitted of these charges.
9. Under GCR 211 a court of enquiry is entitled to investigate any infraction of any rule in respect of which no earlier penalty has been imposed. Under the circumstances, what came under scrutiny was an event at the Mahem circuit in Pretoria West on an undisclosed date. The “oliepotte” allegations had significantly raised the ire of Mr Carlson’s technician, one Mr Gert du Randt, the non-MSA member referred to earlier. He confronted Mr van Zyl aforementioned and a physical altercation ensued. The scuffle was punctuated by Mr du Randt lying prone on the ground while his jacket was pulled over his head by Mr van Zyl, who this court finds had done no more than respond to an assault by Mr du Randt. Lamentably, this confrontation occurred not only in the presence of Mrs van Zyl and her children, but in full view of the public at large.
10. Prudently, Mr and Mrs van Zyl elected to depart from the Mahem circuit in not inconsiderable haste. However, it appears that Mr Carlson Jnr. and certain of his cohorts, one of which may have been Mr Carlson Snr., albeit that his presence is disputed, set off after Mr and Mrs van Zyl in hot pursuit; having commissioned for this purpose a “1400 bakkie” driven there and then by an unidentified spectator. A wild car chase ensued during which Mr van Zyl was obliged to take significant evasive action in order to avoid a collision. There is incontrovertible evidence that at least the Van Zyl children were significantly traumatised by this confrontation.
11. What followed over several days thereafter was a perpetuation of the dispute, not only during verbal telephonic exchanges, but also in writing on social media platforms. Suffice it to say that all of these exchanges were socially unbecoming, profanity-laden and nothing short of brutal.
12. Mr Swart and the Court President were also members of court of enquiry 1105. The comments made in respect of the fracturing and splintering in motorsport made in that ruling apply equally to the incumbent situation. For the avoidance of doubt, those remarks are re-iterated below:
 - 12.1. The feuding members are all senior competitors who have been involved in motorsport for many years.



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- 12.2. Many of them conduct private business ventures, hold sway over employees or otherwise fulfil managerial positions in corporate structures.
- 12.3. The members of this court are often called upon to adjudicate disputes which arise amongst MSA members across all of the various motorsport disciplines. During the past approximately two (2) years severe splintering in the sport has become apparent at all levels and a propensity has become evident on the part of several clubs and associations to establish alternative silos of influence/authority in an effort to establish alternative strongholds.
- 12.4. The jockeying for position which has resulted often times culminate in pedantic and autocratic decision making in conflict with not only internal rules and regulations, but also with overarching rules of natural justice.
- 12.5. The spreading inclination on the part of individuals to act as “judge, jury and executioner” in their own cause must be brought to an abrupt end and the gravity with which this court views the frankly deplorable conduct of the members concerned, *vis-a-vis* one another is reflected in the sanctions set out below.
13. Motorsport, albeit an expensive sport, is no more than a social pursuit. There is simply no room for the deplorable and socially unacceptable conduct displayed by the stakeholders in this instance in respect of one another. It is entirely unacceptable that male competitors conduct themselves in such a deplorable fashion; however, the mere fact that women, children and innocent spectators and bystanders have been drawn into and compromised by what frankly is a ridiculous dispute, is of grave concern to this court and the court is constrained to express its displeasure and disapproval of the manner in which the dispute has unfolded amongst the various stakeholders. There is no doubt that Mr Carlson Jnr.’s conduct at the Mahem circuit severely compromised the sport and brought it into disrepute. However, Mr Carlson is a first offender, was contrite, readily conceded the wrongfulness of his actions and submitted an apology. Under the circumstances, he is suspended from participation in all MSA sanctioned motorsport events for a period of twelve (12) months, which suspension in itself is suspended for a period of three (3) years provided that in the latter period, Mr Carlson Jnr. is not again convicted of any conduct which may serve to bring the sport into disrepute.
14. There was an attempt on the part of certain individuals to unilaterally impose a ban upon Mr Carlson Jnr. This was merely announced as a *fait accomplis* without Mr Carlson having being afforded an opportunity to state his case. This is a breach of the *audi alteram partem* rule, one of the rules of natural justice, is unlawful and the decision is hereby set aside.
15. As result of the unlawful ban, Mr Carlson was precluded from participation in certain events; hence he has been unlawfully deprived of the opportunity to score points in the events concerned. In order to redress the situation, at the end of the season the total points scored by Mr Carlson will be divided by the number of events in which he participated and the average points so determined will be added to his total score in respect of each event from which he had been excluded.



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16. The Oval Commission President is directed to publicise this ruling amongst all clubs and stakeholders and competitors. Their supporters, pit crew and the like are reminded of GCR113, xiv) which holds that a competitor is accountable also for the conduct of supporters and associates. There is no doubt that conduct as reprehensible as had occurred over a protracted period between the various stakeholders must be nipped in the bud with immediate effect and competitors must appreciate that any similar conduct which comes before this court will attract severe penalties.
17. Mr Carlson Jnr. is directed to pay costs in an amount of R1 500.00 (One Thousand Five Hundred Rand).
18. Mr Carlson Jnr. is reminded of his right to appeal.

Dated at Midrand on this the 27th day of May 2013.

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