

MOTORSPORT NEW ZEALAND (INC)

MotorSport

New Zealand



**NOTICE OF DECISION
OF A SUB-**

COMMITTEE APPOINTED BY THE EXECUTIVE COMMITTEE, NAMELY:

- Mr Martin Fine (Chair)
- Mrs Janet Phipps
- Mr Geoff Langham

MOTORSPORT NEW ZEALAND (INC) under the powers set out in Article 118 and 119 of the National Sporting Code, having considered matters brought to its attention convened a hearing before a sub-committee appointed by the Executive.

ON THE GROUNDS set out in Article 119 of the National Sporting Code namely:

- 119(a)(iii)
- 119(a)(iv)
- 119(a)(v)

FURTHER INFORMATION

The Sub Committees was tasked to investigate three decisions of the Race Director issued to competitor Mr James McLaughlin during Rounds 2 and 3 of the NZV8TC Championship 2013 to review their validity, compliance with the regulations and to review whether the penalties applied were appropriate. All three Decisions related to the Code of Driving Standards and resulted in a penalty being applied under Schedule CH 40.16. This penalty is a drive through penalty applied after an enquiry held by the driving standards officials from information reviewed after the race is completed. The decision is issued as a time penalty.

HEARING PROCEDURE

The Hearing was conducted in accordance with National Sporting Code (NSC) Article 120.

DECISION

All Parties attended, the Race Director, the Competitor and other affected parties:

The parties accepted the jurisdiction of the Sub-Committee to hold the hearing under abridged time.

All parties were heard and the matter properly considered.

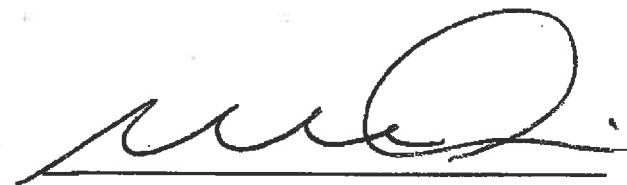
FINDINGS

1. The decisions by the Race Director were properly made out and valid in terms of the National Sporting Code, Schedule CH and the Championship Articles. All required procedural matters were properly conducted.
2. The Competitor when advised of the decisions was made aware of his right to protest the matter but elected not to do so.
3. The penalties applied in each case were the only penalties that could be applied.

RULING

1. The decisions of the Race Director and the penalties imposed upon the competitor were valid, effective and appropriate in terms of the Authority of the Race Director and the applicable rules of the Sport.
2. The competitor had not exhausted his rights of review/appeal prior to the Inquiry being held.
3. No prima facie evidence was available to support the holding of the Inquiry.
4. MotorSport New Zealand should consider whether the continued use of a drive through penalty applied against a competitor following an enquiry held after a race but without any hearing being conducted is procedurally correct and fair.
5. MotorSport New Zealand should also consider whether this was an appropriate matter to be put before a sub-committee constituted under Articles 118 and 119 of the National Sporting Code.
6. There is no order for costs.

SIGNED ON BEHALF OF THE SUB-COMMITTEE:

A handwritten signature in black ink, appearing to read 'M. Fine', written over a horizontal line.

MARTIN FINE
CHAIRMAN

WRITTEN DECISION FORWARDED BY EMAIL ON 17 MARCH 2014.

RIGHT OF APPEAL:

ATTENTION IS DRAWN TO THE RIGHT OF APPEAL IN ACCORDANCE WITH THE PROVISIONS OF THE NATIONAL SPORTING CODE.