

DECISION OF THE JUDICIAL COMMITTEE APPOINTED BY MOTORSPORT NEW ZEALAND, NAMELY:

- Wayne Scott (Chairman)
- Graeme Robertson
- Barry Higham

THE PARTIES CONCERNED

- Bernd Kudrass
- Blair Thorpe (Clerk of the Course)
- John Stewart (Event Scrutineer)

Representing MotorSport New Zealand:

- Raewyn Burke

MOTORSPORT NEW ZEALAND (INC) under the powers set out in Articles 118 to 122 of the National Sporting Code, have considered an application for a Judicial Hearing into the behaviour of Bernd Kudrass during an event held at Euromarque Motorsport Park on 5 May 2024. The meeting was held under a National Race Organising Permit (240100).

BACKGROUND

During a post-accident inspection, it was found that the vehicle logbook (22204) had been stamped by an Event Scrutineer as a “No Audit” despite having outstanding safety defects from the previous event. The Clerk of the Course met with the Event Scrutineer that had stamped the logbook and the Chief Scrutineer.

The Event Scrutineer had assumed from the logbook notations that the outstanding matters had been remedied. One of the noted defects (seatbelt angles) was deemed safety critical. On questioning by the Event Scrutineer Mr Kudrass confirmed that the noted defects had been rectified. The Event Scrutineer had taken Mr Kudrass’s word that the outstanding items had been resolved and stamped the book under that pretext.

However during a post-accident inspection which was conducted by the Chief Scrutineer it was found that those issues had not been rectified. When questioned, Bernd Kudrass admitted to the Chief Scrutineer that he had advised the Event Scrutineer that he had remedied the defects when he had not, as he was planning to do them over the winter.

Mr Blair Thorpe, on behalf of the Race Advisory Commission has requested a Judicial Committee Hearing.

INQUIRY REVIEW PANEL REPORT

An Inquiry Review Panel was established under Article 121(1) of the National Sporting Code.

Under the provisions of NSC Part X Article 121 (4), the Inquiry Review Panel considered the evidence noting the matter at issue is in relation to the Competitor entering the event with known defects to his competition vehicle, breaches the National Sporting Code and placing himself, fellow competitors and event officials at risk.

The Inquiry Review Panel was unanimous in its decision in determining that a Judicial Hearing be convened.

JUDICIAL HEARING

A Judicial Hearing pursuant to the provisions of Part X, Articles 118 to 122 of the National Sporting Code was held at Novotel Airport Hotel, Christchurch on 12 June 2024 at 6.00pm.

Those in attendance were:

- Wayne Scott (Chairman)
- Graeme Robertson
- Barry Higham

- Blair Thorpe (Clerk of the Course)
- John Stewart (Event Scrutineer)

- Raewyn Burke (MotorSport NZ representative) available via Video

- Bernd Kudrass – was not in attendance. Raewyn confirmed that he had received notification and been advised that a video link was available. At the commencement of the hearing he had not contacted her. The hearing went ahead as provided for in NSC 93 (3).

The Judicial Committee was tasked with:

- To consider the false declaration on the competitors entry form.
- To consider the competitor deceiving the event scrutineer around the work that was required to fix the noted issues prior to competing at the next event.
- To consider why the event scrutineer solely relied on the verbal confirmation of the competitor, and not checking the vehicle in question.
- To consider why the matter was not dealt with on the day whilst the competitor was on site.
- Consider any other associated matters as may be identified by the hearing.
- Consider whether there are any recommendations or findings to be made.

DOCUMENTS PROVIDED

- (1) Clerk of the Course Report
- (2) Stewards' Report
- (3) Inquiry Review Request
- (4) Decision of Inquiry Review Panel

HEARING

On opening the hearing, the Chairman outlined the process which would be followed, and noted the tasks the Committee was charged with addressing.

The Committee heard from Blair Thorpe (Clerk of the Course) and John Stewart (Event Scrutineer). A copy of the log book was also viewed. Blair did elaborate on an internal review that Canterbury Car Club had been undertaken with the auditing team including Jason Smith, Chief Scrutineer.

Mr Kudrass was involved in an accident during his first race and it was during the subsequent accident vehicle investigation when he gave different answers to the Chief Scrutineer than what he provided to the Event Scrutineer regarding repairs of defects noted in his vehicle logbook, one of which was a safety critical item, and acknowledged that the matters had not been rectified, and he intended undertaking this work over winter.

FINDINGS

- *To consider the false declaration on the competitors entry form*

The Judicial Committee finds that Mr Kudrass did make a false declaration in relation to the Schedule A eligibility of his vehicle.

Schedule A Article 3(1) provides that it is the responsibility of the competitor to ensure their vehicle complies with the Schedule A and other requirements of the Code, and that the presentation of a vehicle for safety audit shall be deemed an implicit statement of conformity. The Motorsport New Zealand Conditions of Entry includes a vehicle conformance with Schedule A declaration, and that the vehicle will be presented to a Scrutineer in compliance with safety and eligibility requirements.

Further, the Conditions of Entry provides an acknowledgement by the Entrant that any breach of the safety schedule will be subject to penalties “and my agreement by entering this event indicates my acceptance of this undertaking”.

The Judicial Committee finds that Mr Kudrass did provide false and misleading information to the Event Scrutineer.

NSC Article 94(2) provides as to specific behaviour which may be penalised “to do or attempt to do any act or thing which has or is likely to have the effect of facilitating the entry into any Series, Meeting or Event.”

- *To consider the competitor deceiving the event scrutineer around the work that was required to fix the noted issues prior to competing at the next event.*

The Judicial Committee finds that Mr Kudrass did mislead the Event scrutineer by advising that the defects listed in the vehicle logbook had been remedied, when they had not. Due to a lack of clarity or misunderstanding by the Event Scrutineer of the logbook entries, where the vehicle had been permitted to run at a previous event on 10 March, combined with Mr Kudrass’s statement, the vehicle was not audited.

- *To consider why the event scrutineer solely relied on the verbal confirmation of the competitor, and not checking the vehicle in question.*

The Event Scrutineer did not rely solely on the verbal confirmation by Mr Kudrass. Due to a lack of clarity or misunderstanding by the Event Scrutineer of the entries in the vehicle logbook, he believed the listed defects to have been signed off at a previous event on 10 March, and the statement by the competitor supported that position, hence the No Audit decision.

- *To consider why the matter was not dealt with on the day whilst the competitor was on site.*

The Clerk of the Course advised that he did not become aware of the difference in information given by Mr Kudrass until later in the afternoon when the Chief Scrutineer provided him with his scrutineering paperwork. At this time the Clerk of the Course assumed Mr Kudrass would have left the circuit and it would not be possible to proceed with any hearing.

DECISION

The Judicial Committee, following consideration of the information and evidence, decide that:

1. Bernd Kudrass competition licence number 161767X be suspended for 6 months until 11 December 2024.

RECOMMENDATIONS

1. The Technical Department review and establish a clear method of signing off defect entries in log books and ensure that information is distributed to all Scrutineers.
2. That Canterbury Car Club introduce a system where technical defects are brought to the CotC attention in a timely manner and not left until the end of the day when the competitor may have left the circuit.
3. That all CotC's be reminded that they should check, not assume, whether or not a competitor subject to any inquiry or investigation has left the circuit so that they can finalise any issues on the day.

RIGHT OF APPEAL

The Parties are reminded of their right of appeal to the National Court of Appeal in accordance with Part XI of the National Sporting Code.

DATED this 16 day of June 2024



WAYNE SCOTT

CHAIRMAN