

MOTORSPORT NEW ZEALAND (INC)

DECISION OF THE JUDICIAL COMMITTEE APOINTED BY MOTORSPORT NEW ZEALAND

JUDICIAL COMMITTEE:

- Mr Shayne Harris (Chairman)
- Mr Kelvin Booth
- Mr Raymond Bennett

PARTY CONCERNED

- Mr Oliver Heycoop (Licence No 084549X)

MOTORSPORT NEW ZEALAND REPRESENTATIVES

- Mr Terry Carkeek
- Mrs Raewyn Burke

WITNESSES FOR MOTORSPORT NEW ZEALAND

- Mr Malcolm Glen (Clerk of the Course for the meeting in question)
- Ms Naomi Bray (Competitor Relations Officer for the meeting in question)

1. The Judicial Committee was appointed by Motorsport New Zealand pursuant to Article 118 of the Motorsport New Zealand National Sporting Code (NSC), this is outlined in the Notice of Hearing dated 14 December 2020.
2. The Judicial Committee was tasked with:
 1. Confirming that Car 4 was driven in Race 42 by Oliver Heycoop and that he was not entered into the event, and did not have permission to drive at the event.
 2. If a breach of NSC Article 36 (2), NSC 36 (6), NSC 94 (3), that a penalty be applied to Oliver Heycoop.
3. The Hearing was conducted at the offices of Motorsport New Zealand 102A Kapiti Road, Paraparaumu, and commence at 7.30pm. All parties listed were present except for Mr Heycoop who joined the hearing via Microsoft Teams.
4. The Chairman opened the Hearing at 7.30pm and outline to Mr Heycoop the process for the hearing. The Chairman confirmed with Mr Heycoop that he received the following documents that were sent out with the Notice of Hearing
 - (1) Stewards Decision 1
 - (2) Stewards Report
 - (3) Clerk of the Course decision #11
 - (4) Stetement – Malcolm Glen
 - (5) Statement – Naomi Bray

- (6) Statement – Oliver Heycoop
- (7) Race 42 Results.

- 5. Mr Haycoop confirmed that he had received the accompanying papers.
- 6. The Chairman referred Mr Heycoop to his statement, which was contained in an email dated 26 November 2020 addressed to Raewyn Burke of Motorsport New Zealand.
- 7. Mr Heycoop confirmed that the statement was true, and in his words “everyone knows that it was him driving the car in the race”.
- 8. For completeness that components of Mr Heycoops statement that are relevant to this hearing are:
 - (1) Paragraph 2 “I did indeed attend the MG Classic event with Brock Cooley”
 - (2) Paragraph 6 “ I was surprised when I was given a firm “no” when I enquired about entering the final race. When asking who I believed to be the CRO, and trying to take the matter further I was told I couldn’t enter, even when trying to say that under normal circumstances I was sure I was allowed to enter”.
 - (3) Paragraph 7 “Regrettably I still took the start of the race – on reflection a poor decision on my behalf, and one that the stewards have imposed a fine and licence endorsement on Brock as he was the entrant”.
 - (4) Paragraph 8 “ I understand I have broken rule 37 of the National Sporting Code, and that the matter is under investigation. I should have informed Brock that I had not been given dispensation by the stewards, but instead I kitted up in my race gear, including fireproof underwear and neck restraint, and took the car to the dummy grid”.
- 8. With Mr Haycoop’s acceptance that his statement was true and his admission that he drove in the race, it was the panels view that the requirements of the panel to “Confirming that Car 4 was driven in Race 42 by Oliver Heycoop and that he was not entered into the event, and did not have permission to drive at the event’ where proven. In essence Mr Heycoop pleaded guilty.
- 9. The second matter that the Judicial Committee was tasked with, was to ascertain if there had been a breach of NSC Article 36 (2), NSC 36 (6), NSC 94 (3).
- 10. Article 36 (2) of the NSC states:
 - “(2) Have presented either in person or on their behalf, their Licence and proof of membership of a Member Club at scrutineering or administrative checking prior to the Meeting or Event entered;”
- 11. The Judicial Committee do not believe that this section of the NSC applies, Mr Heycoop was not entered in the event, so the requirement cannot apply.

12. Article 36 (6) of the NSC states:

“(6) At all times obey the instructions of any authorised Official of the Sanctioned Series, Meeting or Event and take any disputes with such Officials to (in the case of a Sanctioned Series) the Series Coordinator, or (in the case of a Meeting or Event) the Clerk of Course or, (where one is appointed) the Competitor Relations Officer;

13. The Judicial Committee are of the view that Mr Heycoop has not breached this section of the NSC. Mr Heycoop through his own admission asked the official (CRO) if he could enter the final race, but was given a very firm NO. By entering the race Mr Heycoop has disobeyed the instructions of the authorised official. But the argument here is if he was required to, he was not part of the meeting or event as he had not entered.

14. Article 94 (3) of the NSC States:

“(3) To act or proceed in any fraudulent way or act prejudicial to the interests of any Series, Meeting or Event or to the interests of automobile sport in general”

15. There are two parts to section 94 (3), the first is “To act or proceed in any fraudulent way”, the second is to “act prejudicial to the interests of any Series, Meeting or Event or to the interests of automobile sport in general”.

Fraudulent is defined in the Oxford English Dictionary as:

“obtained, done by, or involving deception, especially criminal deception”.

16. The Committee is of the view that Mr Heycoop has not acted Fraudulently. Whilst Mr Heycoop disobeyed the instructions of an official, his action was not that of someone being deceptive, what he did was in full view of everyone that could see him. He has not falsified any documentation nor was there any criminal element.

17. The second part of 94 (3) is somewhat different. To act prejudicial to the interests of any Series, Meeting or Event or to the interests of automobile sport in general” can be both a subjective or factual assessment.

Prejudicial is defined in the Oxford English Dictionary as:

“harmful to someone or something; detrimental”

18. The actions carried out by Mr Heycoop in driving car 4 in race 42 without entering could have had significant impact.

19. The entry form completed and signed by a person entering a meeting or event contains among other details and indemnity provision. The person entering by signing this indemnity is putting in place certain safe guards for the meeting organisers, officials, other competitors and Motorsport New Zealand by way of its insurance cover. By not completing this process Mr Heycoop has exposed himself and others personally to litigation or liability.

20. This alone in the Committees view meets the test of his actions being detrimental, and potentially harmful to others, therefore prejudicial to the interests of any Series, Meeting or Event or to the interests of automobile sport in general.
21. The Judicial Committee therefore finds that Mr Heycoop has breached article 94 (3) of the NSC.
22. In turning to sanction, the Committee asked Mr Heycoop to make comment on his action.
He told the panel that his initial enquiry to the CRO was based on wanting to drive his father's car.
23. He accepted and understood that he had been told that he was unable to do that.
24. Sometime later in the pits he decided that he would take car 4 for a drive. He saw the event as more of a test day scenario and that his focus was trying to get the car to perform better. Something they had been trying to do for most of the day but without success.
25. When he decided to take the car out for race 42, he said he had a mind blank, just didn't think about the fact he had been declined permission to take our his fathers car and just suited up and took the car out onto the circuit for race 42.
26. Mr Haycoop also questioned why if the officials knew he was out in the car, was he not just black flagged and then it would have been dealt with. The Clerk of the Course for the meeting Mr Malcolm Glen explained that the officials did not know who was in the car until the end of the race, and that there was not enough time to black flag the car.
27. Motorsport New Zealand had nothing further to add.
28. In turning our minds to the appropriate penalty, the Judicial Committee must take into considerations the severity of the actions or the potential severity of the actions of Mr Heycoop.
29. If there had been an incident in race 42 involving Mr Heycoop then there could have been significant consequence for the Officials, other competitors, meeting organisers and Motorsport New Zealand, simply because he should not have been in the race. The Judicial Committee are of the view that the actions of Mr Heycoop were serious or had the potential to be serious.
30. The Judicial Committee therefor rules that My Heycoop be fined \$1500.00 and that his licence be suspended for a period of six months.

During the hearing Mr Heycoop raised what he thinks is an issue with clause 3.4 schedule Z. This clause allows for a change of driver or vehicle up to 30 minutes prior to the commencement of the race. Mr Heycoops point is that at most race meetings the race

commencement times are not published, therefore it is difficult to when the 30 minute period applies.

The Judicial Committee also wants to highlight to MSNZ an issue with the change of driver process in 3.4. The change of driver during the meeting, requires the organiser to give the Entrant their permission. There is no requirement for the Clerk of the Course to be advised. Whilst advising the Clerk of the Course might happen in practice, our view is that it should be mandatory.

A blue ink signature, appearing to be 'Shayne Harris', written in a cursive style.

Shayne Harris
Chairman

A blue ink signature, appearing to be 'Kelvin Booth', written in a cursive style.

Kelvin Booth
Member

A blue ink signature, appearing to be 'Raymond Bennett', written in a cursive style.

Raymond Bennett
Member

Dated 21 December 2020