

BETWEEN **BIGGLES RACING TEAM**

Appellant

AND **MOTORCYCLING NEW ZEALAND**

Respondent

AND **JACOB STROUD**

Interested Party

AND **NATHANAEL DIPROSE**

Interested Party

**DECISION OF SPORTS TRIBUNAL
DATED 17 DECEMBER 2020**

Decision The decision was made on the papers

Tribunal Sir Bruce Robertson (Chairman)
 Paula Tesoriero
 Rob Hart

Registrar Mike Selwyn

1. An appeal was filed to the Sports Tribunal by the Appellant, who is the owner of the Biggles Racing Team which includes various motorcyclists, against actions and decisions within Motorcycling New Zealand. There was no contrary view advanced and we are satisfied the Tribunal has jurisdiction in respect of the dispute.
2. The critical issues in the appeal were two decisions of the Judiciary Committee Appeal Panel (Appeal Panel of Motorcycling New Zealand) that concerned Jacob Stroud and Nathanael Diprose (the Interested Parties). They had been participants in races which included riders from Biggles Racing Team.
3. The Interested Parties have been successful in appealing against infringements which had been imposed upon them by stewards. The Appellant seeks to have these decisions by the Appeal Panel overturned because it contended it had a right to be involved in those internal appeals and was denied natural justice.
4. The Appellant argues that the Respondent had failed to comply with Rules 7.3.7(e)(i) and (ii) of Motorcycling New Zealand's Rules (Road) (MNZ Rules (Road)) when it failed to notify the Appellant of the two appeals by the Interested Parties, and that it similarly erred when it failed to notify the Appellant of the results of these appeals, leaving the Appellant to learn of the results by a press release. Had the infractions against the Interested Parties been upheld and not overturned, the Appellant's racer (Jason Hearn) would have won a championship.
5. In addition to seeking to have the successful appeals by the Interested Parties overturned, the Appellant also wants the Respondent's investigation into the Interested Parties to be renewed in order to overcome alleged procedural errors.
6. Jacob Stroud had been issued with an infringement notice over an irregularity in his air filter. The Appeal Panel questioned why this was not followed up at the event. The Appeal Panel determined that there was no provision in the Respondent's Manual of Motorcycle Sport (Manual) or the meeting supplementary regulations for out-of-event technical checks – and that therefore such checks were invalid. Mr Stroud's appeal was successful and the infringement notice was withdrawn.
7. The Respondent's stewards had plans prior to Covid-19 for a technical inspection of the SS300 class to take place during rounds four and five of the NZSBK championship. Due to Covid-19, these rounds were cancelled. An inspection was subsequently performed on Nathanael Diprose's bike outside of a race meeting and he too was issued with an infringement notice. The Appeal Panel determined that inspecting the

bike outside of a race meeting was inconsistent with Rule 7.1.1 of the MNZ Rules (Road) as the technical inspection was not ordered at a race meeting. The Appeal Panel found that the class meeting at round two where the riders were told that they may be subjected to machine examinations was not definitive. The Appeal Panel also found that the inspection did not comply with the Manual or the meeting supplementary regulations, and the appeal was allowed.

8. In the Notice of Appeal to the Sports Tribunal filed 7 October 2020, it was argued that there had been a denial of natural justice in that the Biggles Racing Team had not been advised of, or given the opportunity to participate in, the appeals to the Appeal Panels or advised of the outcome. This appeared to raise a preliminary issue as to whether the Appellant was in fact an interested party.
9. Initial submissions were filed on that point and out of an abundance of caution the Appellant was permitted to continue with the appeal.
10. A number of peripheral matters have been raised and some unfortunate language has been adopted in describing the past, but on careful analysis it was apparent that the critical issue in the case was whether the Motorcycling Appeal Panels were correct when they ruled that the actions of the stewards were outside of their jurisdiction.
11. Each party was invited to file brief submissions on that preliminary point.
12. We are satisfied that at the core of this case are the terms of the Motorcycling New Zealand Rule 7.1.1 which provide in clear and unambiguous words that the stewards' powers only operate within the days of a meeting or until matters raised at a meeting have reached a conclusion.
13. As the Appeal Panels concluded the stewards in each of the cases under review had acted outside that clear limitation. They had no power to do so and the infringement notice and consequential penalties imposed by the stewards were invalid. The Appeal Panels correctly so ruled.
14. What may have been said by officials at some point which was inconsistent with the Rule could have no effect. The fact that other or different actions might have been taken by Motorcycling New Zealand is immaterial.
15. The stewards are creatures of the Rules and can only operate as provided in them.

16. Assuming for the purposes of argument that the Appellant was an interested party and might have been heard there was nothing it could have said or done that would be able to alter the decision taken by each Appeal Panel.
17. The appeal to the Sports Tribunal against the conclusions reached by the Appeal Panels must necessarily be dismissed.

Dated: 17 December 2020



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Sir Bruce Robertson
Chairman