



## JAMAICA MILLENNIUM MOTORING CLUB

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June 3, 2019

Re: JMMC Competition Subcommittee (CS) hearing held May 28, 2019, previous finding published May 31, 2019

**Panel:** Stephen Gunter, Rajendra Jadusingh, Thomas Hall.

### **Summary of additional Panel proceedings:**

\* Mr Craig Lue queried the findings of the Panel published on May 31, 2019 with specific regard to the decision that karts which passed Technical Inspection would retain their finish position and not benefit from the exclusion of karts which failed Technical Inspection. Mr Lue maintained that the untested karts should be given the benefit of the doubt and be “moved up” in the official results as applicable, along with the compliant karts.

\* Guidance on the question of Presumption of Innocence and its application to Motor Sport was sought from Mr Norman Minott, past Senior Partner of the firm Myers, Fletcher & Gordon. Mr Minott himself has an extensive background in Motor Sport. Mr Minott submitted his written guidance.

### **Specifics of additional Panel deliberations:**

- The question of Presumption of Innocence was debated; for example, the mandatory inspection of vehicles (whether cars or karts) prior to racing would seem to contradict this presumption. If innocence (i.e. compliance) is presumed, vehicles would only need inspection post-race, yet JKA regulation 4.2.10.E states *“No kart may participate in an Event unless it has been checked by the Scrutineers.”*
- The question of Burden of Proof was debated; JKA regulation 4.2.9 B states *“Entrants must ensure that their karts comply with the conditions of eligibility and safety throughout practice and the race.”* which may seem to indicate that innocence (i.e. compliance) is presumed.
- The point that the onus is on the Officials to conduct the necessary checks was debated; competitors cannot be faulted if Officials fail to properly execute their duties. In this specific case, no competitor refused to present their carburettors for inspection; they were not asked to do so by the relevant Officials.

The following are relevant regulations from the JMMC General Regulations. Regulations previously cited in finding published on May 31 remain applicable.

JMMC General Regulations Article 11.10

### **JMMC Executive Committee: 2018–2020**

**Chairman:** Stephen Gunter; **Vice Chairman:** Marcia Dawes; **Exec. Secretary:** Wendy Dressekie-Gordon; **Treasurer:** Tiffany Bryan

**Directors:** Dmitri Dawkins; Michael Fennell; Monique Gibbs; Neil Williams; Peter Clarke; Rajendra Jadusingh; Rosemarie Jadusingh; Timothy Stewart

**ARTICLE 11.10 RIGHT OF REVIEW**

**11.10.1** If, in Competitions forming part of a Championship, Cup, Trophy, Challenge or Series, if a new element is discovered, whether or not the Stewards have already given a ruling, these Stewards or, failing this, those designated by the JMMC, must meet on a date agreed amongst themselves,

36

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summoning the party or parties concerned to hear any relevant explanations and to judge in the light of the facts and elements brought before them.

**11.10.2** The Stewards shall have the sole discretion to determine if a new element exists.

**11.10.3** The period during which an appeal in review may be brought expires four (4) working days prior to the date of the prize-giving ceremony of the year during which the decision that is liable to review has been handed down, if that decision is likely to have an effect on the result of a Championship, Cup, Trophy, Challenge or Series.

**Conclusions:**

- The JMMC CS has the authority through Article 11.10 of the JMMC General Regulations to review a decision if a new element is discovered, and is conducting the review within the stipulated time period.
- The guidance provided by Mr Norman Minott constituted a new element; his written submission constituted a “relevant explanation”.
- After consideration of the guidance provided by Mr Minott, the Panel revised portions of its previous findings, specifically those sections applicable to karts which passed Technical Inspection and untested karts being “moved up” to fill positions vacated by karts failing inspection.

Under the authority as outlined in the JMMC Article listed above and previously cited in finding published May 31, 2019, the JMMC CS hereby order the following Penalties be inflicted and actions taken. Changes to existing ordered Penalties and actions are highlighted in **bold text**.

- The karts within the Top 3 which failed carburettor float level inspection for Final 1 of the Micro, Mini and Junior classes be so noted on official documents.
- The official results be amended to reflect the inspection failure of the karts within the Top 3 which failed carburettor float level inspection for Final 1 of the Micro, Mini and Junior classes.
- The positions of the karts within the Top 3 which failed carburettor float level inspection for Final 1 of the Micro, Mini and Junior classes be vacated.

- Withdrawal of Final 1 points **and other awards** for all competitors who failed Technical Inspection in Final 1 of the Micro, Mini and Junior classes.
- **All other karts are to be “moved up” to fill finishing spots vacated by the karts which failed technical inspection.**
- JKA to adjust all relevant championship scoring accordingly.
- **JKA to allocate all relevant prizes and awards accordingly.**
- Reprimand of Mr Nicholas Donald for failure to properly communicate official information (inspection failure) to the Clerk of the Course or Stewards.
- Reprimand of the JKA for failure to comply with the JMMC’s request for the Technical Inspection report, although it was in their possession.
- In all future events where karts are tested for technical compliance, at least the Top 6 finishers of each race be tested so as to avoid the question of unknown legality of potential podium finishers should results need to be adjusted after Protest or similar action.



Stephen Gunter  
Co-Chairman  
Competition Subcommittee