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UIM Appeal Board Decision

Decision

Concerning the Appeal of:

Mr. Massimiliano Cremona (*the appellant*)

against

the Race Jury Decision dated 10.06.2007 taken at Janikowo to uphold the disqualification of the appellant from the first three heats of the U.I.M. O - 250 World Championship Janikowo 8/10.06.2007.

The UIM Appeal Board convened a telephone conference on 12th December 2007.

Those present:

Kimon Papachristopoulos, chairman

Erwin Lang, member

Roger Trotman, member

Mr. Massimiliano Cremona, (*the appellant*)

On the basis of the documents received and of the telephone conference the *UIM Appeal Board decided*:

The appeal is not upheld. Driver Massimiliano Cremona remains disqualified.

Grounds

1. The O 250 World Championship race held in Janikowo from 8th /10 June 2007 consisted of four heats.

After the third heat a fuel sample was taken from the appellant and deemed illegal following testing using a Digatron Meter type DT 47 FT. The appellant was disqualified up to (and including) the third heat according to rule 502.08 1.

After the fourth heat, the Technical Officers visited the appellant in order to obtain a further fuel sample for testing. The appellant refused to give that sample at that time. The OOD then again disqualified the

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appellant from all heats up to (and including) the fourth heat and in addition applied temporary suspension according to rule 502.08 3.

//. The appellant protested against his disqualification from the first three heats.

The protest was not upheld.

The appellant appealed against "the technical disqualification imposed upon him during the O 250 World Championship held in Janikowo on 9/10 July 2007 after the third heat".

The appellant claimed that the testing procedure used was not in accordance with rule 508.09. His fuel was tested on Saturday and Sunday with the densimeter which resulted in a result of regularity. The appellant was of the opinion that the Digatron meter was not a suitable device for judging the legality of methanol fuels.

He furthermore stated, that he did not refuse to allow the taking of samples after the fourth heat in general but he did request that the sample should be taken in the presence of the UIM Commissioner who refused to do so. He had however placed his boat in the closed area for the purpose of technical inspection.

The OOD stated that the fuel sample was tested according to the U.I.M. fuel testing guidelines. Furthermore a gas chromatographic test was conducted on a Perkin Elmar Clarus 500 device with FID detector using a more simple method but did not identify any relevant illegal components. In comparison with other competitors fuel samples and the comparison fuel sample the OOD was of the opinion that there may well have been further components in the appellant's fuel sample other than methanol and oil. The OOD furthermore stated that the fuel samples taken from the appellant showed white deposit sediment after being stored for one month.

The appellant subsequently asked for gas chromatographic testing of the fuel sample according to rule 508.10.6.

The Appeal Board was subsequently notified that the retained fuel sample of the appellant had been disposed of since the event, making further gas chromatographic analysis impossible.

///. The disqualification was to be upheld.

The appellant was correct to state, that the Digatron meter was not a suitable device for the judgement of methanol fuel. This was confirmed

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to the Chairman of the Appeal Board by an engineer of the manufacturer of the Digatron Meter by telephone. This engineer explained that the Digatron Meter was designed solely for the testing of gasoline fuels. The testing of methanol fuels produced completely different readings and this was not taken into account during the development of the device. No research had been made by the manufacturer to understand the meaning of the readings produced by methanol fuels.

N.B. The U.I.M fuel testing guidelines regarding the testing of methanol fuels in the same way as gasoline fuels with the Digatron Meter **must be corrected**. The Officers of the race were not at fault by adhering to the published U.I.M. fuel testing guidelines by using the Digatron Meter.

The appellants fuel could not be judged illegal by the Appeal Board as the components of the appellants fuel had not been identified in the gas chromatographic analysis in the first instance and the fuel sample had been subsequently disposed of which was against the provision of rule 508.10 5 according to which the sample must not be opened or disposed unless the U.I.M. inform accordingly. The reported sediment or the different peaks in the results of the gas chromatographic analysis may have indicated the possibility of illegal components but no substantial proof was provided evident. Therefore it must be assumed in favour of the appellant that his fuel was legal.

The disqualification of the appellant for the first three heats is still to be upheld, as the OOD rightfully disqualified the appellant and imposed temporary suspension from the entire event after the fourth heat. The OOD correctly referred (at that moment) to rule 508.10 3. According to this rule 'a second infringement of the fuel rules will lead to temporary suspension from the entire event. Such temporary suspension off course includes the imposition sentence of disqualification from the past heats' rule 508.10 1.

From the OODs point of view the refusal to allow the technical officers to obtain a fuel sample constituted the second infringement of the fuel rule. The first alleged infringement lead to disqualification after the third heat.

Following the above mentioned reasons regarding the legality of the appellants' fuel, the refusal of the fuel sample must be considered as first infringement of the fuel rules.

Non allowance of obtaining a fuel sample by the officers constitutes an infringement of the fuel rules. According to rule 508.09 1 "gasoline fuel

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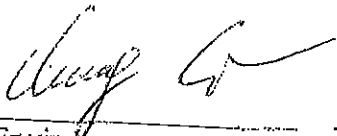
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or fuel oil mixture may be checked at any time..." This is applicable for methanol fuels as well (rule 508.09 2). The infringement of a technical rule by the non allowance of technical scrutinising is in contravention with the spirit of the rule. This spirit is expressed in rule 502.07, 5th paragraph concerning the motor inspection. According to this rule "a driver who refuses his boat and/or motor to be inspected after the race shall be penalized as severely as for a serious infringement of the technical rules." This principle must be valid for any technical inspection in order to prevent circumvention of penalties due to infringements of technical rules by simply refusing the inspection.

The appellants' statement that he did not refuse the sample but that he requested that the sample should be taken in the presence of the U.I.M. Commissioner does not justify a different judgement. This statement is in contradiction to that of the OOD and the Technical Officers that the appellant clearly refused to provide a further fuel sample. Furthermore, the rule as described above obliges the competitor to permit the Technical Officers at any time and place to take a fuel sample. Not allowing them to do so at that moment by stipulating specific conditions such as the presence of the Commissioner meant that the technical officers could not obtain the sample requested at the place and/or at the time determined.

Signatures of the Appeal Board Members

Kimon Papachristopoulos



Erwin Lang

Roger Trotman