

BEFORE THE MNZ BOARD

IN THE MATTER OF

MICHAEL PHILLIPS

Hearing: On the papers

Board: S Perry, A Cressey, D Morris, D Craig, T Heaphy

Decision: 2 February 2009

DECISION OF THE MNZ BOARD

Result:

9 months suspension of competition licence to 27/10/09, but penalty suspended on condition that Michael:

- (a) It not subject to any further disciplinary action for misconduct during the suspension period; and**
- (b) Provides 50 hours free rider training to be completed by 25 December 2009.**

Introduction

[1] In our decision dated 28 January 2009, the MNZ Board suspended Michael Phillips (“Michael”) for 9 months until 27 October 2009 for:

- (a) Riding the track backwards; and
- (b) Riding dangerously.

- [2] The Board was aware that Michael was a professional rider for Honda, and it therefore needed to be careful to ensure that the direct and indirect consequences of the suspension did not result in a penalty that was out of all proportion to the gravity of Michael's offending. The Board therefore invited Michael to make submissions about whether any period of his suspension should be suspended.

Michael's Submissions

- [3] By email dated 30 January 2009, Michael responded. He advised that he has a 7 month contract to ride for a team in the British MX Championship. He has personally spent \$20,000 securing this ride, and this money would be forfeited if he was unable to honour the contract. He points out, and the Board accepts, that it is extremely difficult for NZ based riders to secure professional contracts in the United Kingdom and Europe. Because MNZ is affiliated to the FIM, Michael requires clearance from MNZ before he can ride in any event run under the jurisdiction of either the FIM or any of its affiliates. Accordingly, his UK ride would be affected if he was suspended.
- [4] Michael also has a 2 year contract with Blue Wing Honda to ride here in New Zealand. In short, if he was required to serve out his suspension, he would have to withdraw from both contracts. This would cause him extreme hardship, it would tarnish his reputation (perhaps irretrievably), and may end his career as a professional motocross racer. It may also damage the international reputation of NZ riders in general thus making it even more difficult for them to obtain rides, and contracts, in the United Kingdom and Europe.
- [5] To make amends, Michael has offered to provide 50 hours free rider training to MNZ and its members. At current market rates this would be worth around \$5000.

The Board's Decision

- [6] The Board accepts that if Michael was required to serve out the full term of his suspension this would cause him extreme hardship, and that it would produce a result which is out of all proportion to the gravity of his offending. He is a long standing MNZ member with an otherwise unblemished record, and is held in high regard. He has offered to make good his mistake by giving back to MNZ members in an appropriate way; namely by providing 50 hour free coaching.
- [7] In all the circumstances, the Board considers it appropriate and just that Michael's 9 month suspension period be suspended. However, this is done on the following conditions:
- (a) That Michael is not subject to any further disciplinary action for misconduct during the suspension period; and
 - (b) That Michael provides, and completes, the 50 hours free rider training before 25 December 2009 (suitable arrangements need to be made through the MNZ CEO).
- [8] If Michael fails, without reasonable excuse, to fulfill the above conditions, then the 9 month suspension period will be re-imposed and he will have to serve it out in its entirety.
- [9] Lastly, we would like to thank Michael for the responsible, positive, and constructive way that he has dealt with Board through out the disciplinary process, and we wish him all the best for the British MX Championship.