

IN THE MATTER OF AN APPEAL UNDER ENABLING LEGISLATION OF THE LEGISLATURES OF THE PROVINCES OF PRINCE EDWARD ISLAND, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, AND NEW BRUNSWICK ESTABLISHING AN ATLANTIC PROVINCES HARNESS RACING COMMISSION AND UNDER THE RULES AND REGULATIONS OF THE ATLANTIC PROVINCES HARNESS RACING COMMISSION.

Appeal Heard at Kensington, PE, October 18TH 2018, 2:00 P.M.

BETWEEN:

Dr. Mitchell Downey (1095Y7)
APHRC Licensee
NB
APPELLANT

AND:

Bob Wallace, Senior Judge
Roger DesRoches , Cliff Affleck,
Associates, Judges' Panel EPR,
September 1st, 2018, Race #8
RESPONDENT(S)

PRESENT:

A panel consisting of Chair Frank Balcom (NS), Commissioners, Keith Gowan (NL), Lowell Stead (PE), Blair Hansen (PE), David Lewis (NS), Cheryl Geldart Greer (NB), and Stefan DeCoursey (NB) convened to hear the appeal. Debbie Walsh and Paul Hogan appeared at the hearing for the Administration. Senior Judge Roger DesRoches and Associate Judge Cliff Affleck appeared on behalf of the Respondent(s). Appellant Dr. Mitchell Downey appeared in person and was self-represented. Mr. Michael Downey appeared as a witness for the Appellant. Appellant, Respondent(s), and witness were affirmed by Commissioner David Lewis.

The Appeal Hearing was conducted under the provisions of Section 7. 3 of the Atlantic Provinces Harness Racing Rules and Regulations and the procedure for the conduct of the Appeal Hearing was guided by that Section.

The Chair introduced all those present and then asked both parties if they accepted the jurisdiction of the APHR Commission Appeal Panel of Seven (7) Commissioners; at least one member from each of the participating Provinces of the Commission, to conduct the Appeal and to render a written Decision in due time. All parties accepted the jurisdiction of the Atlantic Provinces Harness Racing Commission Appeal Panel of Seven (7) Commissioners.

PRELIMINARY MATTERS:

The Chair asked if there were any Preliminary Matters to be dealt with, and there being none, the hearing continued.



POSITION OF THE RESPONDENT JUDGES PANEL:

Judge Roger DesRoches stated that as the horses raced up the backstretch, there was gapping and Mike Downey in the two-hole started to close the gap between himself and Mr. Trites who was on top. The Judges believed that had Dr. Downey done the same thing, then he would not have run up on his father's back, going off stride, which in turn caused interference to the trailing horses. Judge DesRoches, making use of a print out of Rambling Lily's race lines shows that she has raced very consistent fractions off the front.

Associate Judge Cliff Affleck pointed out on the video that Mike Downey on a couple of occasions going up the backside looked back to see where Dr. Downey was located.

In conclusion, the Judges saw no reason to penalize Todd Trites for a slow pace and that Dr. Downey had a responsibility to take hold of his horse if the pace was slowing. "If Dr. Downey had done the same as his father, then Mr. Mason would not have suffered interference. "

END OF RESPONDENT'S SUBMISSION

POSITION OF THE APPELLANT – APHRC DRIVER DR. MITCHELL DOWNEY

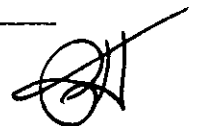
Dr. Mitchell Downey stated that the Judges had read the incident incorrectly and he didn't deviate from his lane and did not purposely run up on his father's back. He said that the pace was definitely slowing.

Michael Downey testified that Father of the Year is a relatively inexperienced horse that was not that experienced at going fast. He said that "Todd was backing up and I moved out, Todd was totally at fault."

A signed letter from Stephen Mason was submitted by Dr. Downey. In it, Mr. Mason said that Mr. Trites was slowing the pace, and this caused the incident.

Dr. Downey concluded by saying that he drives with his head up and handholds in the correct place and where required, has the ability to take hold of his horse, however in this instance it was Mr. Trites who was at fault.

END OF SUBMISSION OF APPELLANT APHRC LICENSEE APHRC DRIVER DR. MITCHELL DOWNEY



MAJORITY DECISION 5-1 OF THE ATLANTIC PROVINCES HARNESS RACING
APPEAL PANEL OF SEVEN (7) COMMISSIONERS, CHAIR NOT VOTING.

After a thorough Appeal Hearing, a review of evidence and post hearing deliberations,
your APHR Commission by a majority decision of 5-1 finds as follows:

The Appeal of DR. MITCHELL DOWNEY is DENIED

Reason for Decision:

1. Appeal Board members believed Dr. Downey's horse did cause interference to the trailing horses.
2. Appeal Board member who allowed the appeal believed there was more at play than Dr. Downey running up on the back of Mr. Downey.


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FRANK BALCOM
Chair

Atlantic Provinces Harness Racing Commission Appeal Panel of SEVEN (7),

DATED AT KENSINGTON, PRINCE EDWARD ISLAND THIS 18TH DAY OF
October, A.D., 2018.

PH/Kensington, PEI, 18/10/18

