

IN 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 20, 2023.

Between: Nicholas Oakes
APHRC Licensee APPELLANT

And: Dylan Allain, Associate Judge
September 9 afternoon at CDP Race 1 RESPONDENT

PRESENT:

A panel consisting of Commissioners, Jacinta Campbell (PE) Lowell Crowe (NS), Dawn Hubbard (NB), Keith Gowan (NFLD) and Dr. James Boswall (PE) convened to hear the appeal. The Vice Chair Stefan DeCoursey conducted the appeal hearing. Cindy Doucette and Acting Director Brett Revington, appeared at the hearing for the Administration. Appellant Nicholas Oakes represented himself, as did the respondent, Associate Judge Dylan Allain.

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.

Stefan DeCoursey introduced all those present and then asked both parties if they accepted the jurisdiction of the APHR Commission Appeal Panel of five (5) Commissioners; 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 five (5) Commissioners.

PRELIMINARY MATTERS:

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

POSITION OF THE RESPONDENT JUDGES PANEL:

Associate Judge Allain described the routine the Judges do during a race and after. It was until after race 4 when Mr. Oakes called asking them to review the stretch drive. At this time the Judges rewatched the race and felt they missed the interference. During the hearing held a few days later with Mr. Oakes they stated they missed the call and that Mr. Oakes recourse would be to appeal the non-placing.

END OF RESPONDENT'S SUBMISSION

POSITION OF THE APPELLANT APHRC LICENSEE Nicholas Oakes

Mr. Oakes, used the pan camera angle in the stretch to show where he felt there was interference. Mr. Oakes illustrated where the interference took place between Mr. Spence and Mr. Barrieau. He also felt that the initial interference started with driver Jason Hughes which started a chain reaction. Mr. Oakes also mentioned that during the hearing that the Judge's admitted they missed the interference violation.

END OF SUBMISSIONS BY THE APPELLANT AND RESPONDENT

Intervener: Dale Spence

Mr. Spence felt that Mr. Hughes closed of the passing lane then abruptly came back outside resulting in interfering with him and forced Dale to pull right to avoid possible contact.

By a 3-2 DECISION OF THE ATLANTIC PROVINCES HARNESS RACING APPEAL PANEL OF Five (5) COMMISSIONERS.

After a thorough Appeal Hearing, a review of evidence and post hearing deliberations, your APHR Commission by a decision of 3-2 finds as follows:

The Appeal of Mr. Oakes **is upheld.**

The original decision of the Judges has been overturned.

Reason for Decision:

1. The Appeal Board members by a decision of 3-2 felt that after watching the video and weighing the deliberations by the appellant and Judge, that Mr. Barrieau was interfered with by Driver Dale Spence.
2. The panel felt, the admission of the Judges was missing the interference verified their decision to place Dale Spence.
3. New order of finish will be.

#1 Bethereinabit	4 th placed 3 rd
#2 No shui Jose	Scratched
#3 Howmac Exclusive	5 th placed 4 th
#4 Howmac Powerball	6 th placed 5 th
#5 Mudslide Lucas	7 th
#6 Reassurance	2 nd
#7 Mr Andreychuk	3 rd placed 6 th
#8 Harry Holmes	1 st

BR For Stefan Decourcey

Stefan Decourcey Vice Chair, APH Racing Commission Appeal Panel of Five (5),

DATED AT KENSINGTON, PRINCE EDWARD ISLAND THIS 24th DAY OF
October, A.D., 2023.

BR/Kensington. PEL