

IN THE MATTER OF AN APPEAL UNDER THE ENABLING LEGISLATION OF THE
LEGISLATURES OF PRINCE EDWARD ISLAND, NOVA SCOTIA, 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, September 25, 2024.

BETWEEN:

Kenny Murphy

APHRC Licensee 530G6

APPELLANT

AND:

Kent Butler, Senior Judge

September 10, 2024, Race 13, Red

Shores Summerside

RESPONDENT

PRESENT:

A panel consisting of Commissioners, Keith Gowan (NFLD), and Jacinta Campbell (PEI), and Stefan Decoursey (NB), convened to hear the appeal. As Vice-Chair of the Commission Mr. Decoursey chaired the meeting but did not vote. Cindy Doucette, Administrative Assistant and Financial Officer, and Director of Racing, Mitch Murphy appeared at the hearing for the Commission Administration. Mr. Butler represented himself as did Mr. Kenny Murphy.

The Appeal Hearing was conducted under the provisions of Section 7.3 of the Rules of Standardbred Harness Racing as adopted by the Atlantic Provinces Harness Racing Commission.

The Appeal Hearing Chair, Stefan Decoursey, introduced all present and confirmed with the parties their acceptance of the jurisdiction of the APHRC Panel to hear the appeal and deliver a written decision in due time. There being no objections, the Appeal Panel Chair asked if there were any preliminary matters. There being none, the Respondent was asked to proceed.

POSITION OF THE RESPONDENT

Mr. Butler testified that in the 13th race at Red Shores Summerside on September 10, 2024, Mr. Murphy was the driver of "Sauble Attack" in the non-winners of \$2551 last five class.

Mr. Butler testified that the horse, "Sauble Attack", driven by Mr. Murphy, left from the two hole and went to the lead in a first quarter time of 28.0 seconds. Mr. Butler indicated that this was an acceptable pace to set for this class of horses. The judges ruled that the infraction occurred in the second quarter when the second quarter time was 30.4 seconds, almost three seconds slower than the first quarter. Given that quarter three was paced in 28.3 seconds and the final quarter paced in 28.2 seconds, "Sauble Attack" gained an unfair advantage by failing to maintain an acceptable pace for the class. Senior Racing judge Butler and the two associate judges all agreed that this was a violation of Rule 303 (13). Mr. Murphy was assessed a \$180.00 fine in accordance with the rule.

Rule 303 (13)

"Fail to set or maintain a pace comparable to the class in which he is racing considering the horse's ability, track conditions, weather and circumstances confronted in the race. Maximum fine for a slow fraction regardless of purse is \$500. For a first-time offence in a calendar year, the penalty is 5% of purse, for the 2nd offence in a calendar year, the penalty is 10% of purse, and for a 3rd offence or additional offences, in a calendar year, the penalty is 10% of the purse plus a DRIVING suspension SEVEN (7) racing days and may be required to go a rated mile."

Mr. Butler testified that this rule is important for the industry as it exists to provide fairness for all concerned during a race. Fortunately, this is not a rule that judges must sanction drivers for often but when they feel there is a clear violation, sanctions are required. Mr. Butler also testified that often people will equate Rule 303(13) with Rule 303(7) that states it is an offence to: "Take up or slow up in front of other horses to cause confusion or interference among the trailing horses". Mr. Butler testified that this is a separate violation that was not applicable in this matter.

POSITION OF THE APPELLANT

Kenny Murphy advanced the position that the fractions had to be viewed in the context of the circumstances confronted in the race. He testified that "Sauble Attack" is not a top-class horse and consistently paces miles in the 155-156 range. Mr. Murphy testified that in the race in question that he went to the top at the quarter pole and was leading at the half with other horses starting to advance on the outside. Mr. Murphy testified that the second half of the race was very competitive, and a photo was required to determine the finish order of the first four horses. Mr. Murphy testified that he was not clear who won until he

was told to parade "Sauble Attack". Mr. Murphy disagreed that "Sauble Attack" gained an unfair advantage given how competitive the race was and the requirement for a photo to determine the order of finish for the first four horses.

APPEAL PANEL DECISION

The Appeal Panel had multiple questions for Mr. Butler and Mr. Murphy. The Appeal Panel feels that this rule is important for the industry as it exists to provide fairness for all concerned during a race

After a thoughtful and thorough deliberation of the evidence presented by Mr. Butler and Mr. Murphy the panel voted by a 2-0 decision to grant the appeal of Mr. Murphy and waive the fine of \$180.00. The competitive nature of the second half of the race and the photo finish, involving four horses, to determine the winner of the race was persuasive evidence.

The Appeal Panel wishes to thank Mr. Butler and Mr. Murphy for their courteous and thoughtful presentations.

For the Appeal Panel:

A handwritten signature in cursive script that reads "Mitch Murphy".

Mitch Murphy, Director of Racing

APHRC

Dated at Kensington, PE, this 26th day of September 2024.