

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.

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Appeal Heard at Kensington, PE, October 30, 2024

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BETWEEN:

Joseph Baxter  
APHRC License W79464  
APPELLANT

AND:

Kent Butler  
Senior Racing Judge  
Red Shores Summerside  
Race 11, Oct 06, 2024  
RESPONDENT

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PRESENT:

A panel consisting of Commissioners Lowell Crowe (NS), Jacinta Campbell (PEI), Dawn Hubbard (NB), and Stefan Decoursey (NB) convened to hear the appeal. Mr. Decoursey chaired the appeal but did not vote. Cindy Doucette, Administrative Assistant and Financial Officer, and the Director of Racing Mitch Murphy appeared for the Commission Administration. Mr. Butler represented himself as did Mr. Baxter.

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

Both Mr. Baxter and Mr. MacPherson filed appeals. As the decision on one appeal would affect the outcome of the other, the Appellants and Respondent agreed to hear the appeals together.

#### POSITION OF THE RESPONDENT

Senior Racing Judge Butler testified that Cory MacPherson (24009) the driver of Miss Wicked was found in violation of Rule 303 (1) (5) (9) by the three racing judges during race 11 on October 6, 2024, at Red Shores Summerside.

*Rule 303: A driver shall not commit any of the following acts, which are considered TYPE 1 offenses against the driving rules:*

- (1) Change course or position, or swerve in or out, or bear in or out during any part of the race in such a manner as to compel a horse to shorten its stride, or cause another driver to change course, take his or her horse back, or pull his or her horse out of its stride.*
- (5) Crowd a horse or driver by "putting a wheel under him."*
- (9) Impede the progress of another horse or cause it to break from its gait.*

Butler introduced into evidence the pan camera footage from the race in question. It was tagged as APHRC exhibit 5.

Butler introduced into evidence the front tower camera footage from the race in question. It was tagged as APHRC exhibit 6.

Butler testified that when Fern Hill Indigo, driven by Brodie MacPhee (494E8), made a break, judges immediately lit the inquiry sign. Judges had to make a determination on what caused Fern Hill Indigo to go off stride.

Upon review of the race footage judges determined there was contact between MacPherson and MacPhee. Judges determined that MacPherson and Miss Wicked had bore out to initiate contact with Mr. MacPhee and Fern Hill Indigo who occupied the outside position at that point in the race,

Judges then examined if there was anything that caused MacPherson to bear out.

Good Morning Nova, driven by Jason Hughes (276B79) occupied the position immediately inside MacPherson.

Butler testified that at the time of contact between MacPherson and MacPhee, MacPherson was past Hughes. Judges determined that Hughes bears no responsibility for

the contact between MacPherson and MacPhee. Judges determined that MacPhee bears no responsibility for the contact as he was run into by MacPherson causing his horse, Fern Hill Indigo to break stride.

Butler called Hughes as a witness. Hughes testified that the horse he was driving, Good Morning Nova, did not move up to cause, Miss Wicked, driven by MacPherson, to initiate contact with MacPhee. Hughes testified that MacPherson was past him when he interfered with MacPhee.

#### POSITION OF THE APPELLANT

Baxter used the exhibits introduced into evidence by Butler to support his position before the Appeal Panel. Baxter testified that the front tower view of the stretch drive clearly shows that the interference attributed to MacPherson, the driver of Miss Wicked, was a result of interference caused by Hughes, driver of Good Morning Nova, moving to the right into the path of MacPherson and Miss Wicked. This in turn forced MacPherson and Miss Wicked into the path of MacPhee and Fern Hill Indigo causing Fern Hill Indigo to go off stride.

MacPherson offered testimony to the Appeal Panel in support of Baxter's position. MacPherson indicated that it was a "chain reaction", so to speak. MacPherson testified that when Good Morning Nova moved up into the path of Miss Wicked, MacPherson was forced up into the path of Fern Hill Indigo. MacPherson disputed the testimony of Butler by stating that he was not clear of Good Morning Nova and his position that he was interfered with by Good Morning Nova was evidence of this.

#### DECISION OF THE APPEAL PANEL

The Appeal Panel acknowledged the professional and respectful presentation of both the appellant and respondent.

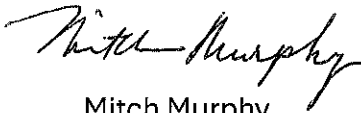
The panel concurred with Butler's position that none of the factors involved in the interference could be attributed to MacPhee.

The remaining question before the Appeal Panel was did Hughes move into the path of MacPherson forcing Miss Wicked into the path of MacPhee and Fern Hill Indigo causing an interference break?

The Panel agreed that the front tower footage provided the best evidence in reaching a decision. The panel noted the close racing, but the majority concurred with Butler that MacPherson was clear of Hughes and held that Hughes was not responsible for forcing MacPherson and Miss Wicked to cause interference on MacPhee and Fern Hill Indigo.

By majority decision, the Appeal of Baxter and the Appeal of MacPherson is denied.

For the Appeal Panel

A handwritten signature in black ink that reads "Mitch Murphy". The signature is written in a cursive style with a prominent initial "M".

Mitch Murphy

Director of Racing

Kensington, November 4, 2024