

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, November 7, 2024

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BETWEEN:

Myles Heffernan

APHRC Licensee 6740X7

APPELLANT

AND:

Derek Folland

Senior Racing Judge

Red Shores Charlottetown

Race 4, Oct 13, 2024

RESPONDENT

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PRESENT: A Panel consisting of Commissioners Stefan DeCoursey (NB), Dawn Hubbard (NB), Jacinta Campbell (PEI), Jay Griffin (NFLD and Labrador), and Glen Rankin (NS) convened to hear the appeal. Mr. Rankin chaired the meeting but did not vote. Cindy Doucette, Administrative Assistant and Financial Officer, and the Director of Racing Mitch Murphy appeared for the Commission Administration. Mr. Folland represented himself as did Mr. Heffernan.

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 course.

There being no objections, the Chair asked if there were any preliminary matters. There being none, the Respondent was asked to proceed.

#### POSITION OF THE RESPONDENT

Senior Racing Judge Folland testified that Myles Heffernan, the driver of Jafetica was found in violation of Rule 303, sections (1), (9), and (10) by the three racing judges during race 4 on October 13, 2024, at Red Shores Charlottetown. Mr. Heffernan finished 4<sup>th</sup>, was placed 5<sup>th</sup>, and was fined \$100.

*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.*

*(9) Impede the progress of another horse or cause it to break from its gait.*

*(10) Change course after selecting a position in the home stretch or swerve in and out, or bear in or out, in such a manner as to interfere with another horse or cause him to change course or take back.*

Folland introduced into evidence the pan camera footage and the front tower camera footage from the race in question. These were tagged as exhibits 5 and exhibit 6 respectively.

Folland indicated that it was 12 degrees C on a fast track during the race in question.

Folland testified that judges lit the inquiry sign when the potential infraction occurred.

Upon reviewing the camera footage immediately following the race, judges concurred that Heffernan was in violation of Rule 303, sections (1), (9), and (10).

Folland testified that Heffernan took the passing lane away from Barrieau during the stretch drive. Folland stated that Muchtooyoungforyou driven by Marc Campbell was 2-3 lengths in the lead at the head of the stretch. Jafetica and Heffernan were sitting in 2<sup>nd</sup> place in the one-hole position prior to passing lane. Folland testified that it was the judges' view that upon reaching the passing lane, Heffernan did a quick shoulder check and saw Barrieau advancing in the passing lane. Heffernan then moved down into the passing lane impeding Barrieau's progress and causing the violation.

Upon questioning from Commissioners, Folland testified that judges had not spoken with Barrieau prior to their ruling nor had Barrieau filed an objection.

## POSITION OF THE APPELLANT

Heffernan testified that the reason for his quick shoulder check was that Tobin's Dream, driven by Barrieau had run up very tight on Heffernan and in fact had bumped his helmet. He did a quick check for safety reasons, not to try and cut Barrieau and Tobin's Dream off.

Heffernan testified that because of the position of his horse at the top of the stretch and just before the passing lane that he was entitled to enter the passing lane. Heffernan testified that he felt that it was his option. He could have chosen to stay in the lane he occupied at the top of the stretch, however, he felt it was also his choice to opt for the passing lane.

Heffernan used both the pan camera footage and the front tower footage to provide evidence that it was always his intention to take the passing lane as he was very tight to the pylons on the 7/8<sup>th</sup> turn. Heffernan also testified that Jafetica performs better when advancing on or passing horses on the inside as opposed to the outside during the stretch drive.

Regardless, Mr. Heffernan felt that he was entitled to enter the passing lane and he exercised that option.

Commissioners asked Heffernan why his horse was not fully in the passing lane until the fair start pole. Heffernan testified that he was not going to pull hard on the left line to get his horse in the lane and affect any momentum.

## DECISION OF THE APPEAL PANEL

The Appeal panel acknowledged and thanked Mr. Folland and Mr. Heffernan for their respectful presentations. Both gentlemen were prepared and presented compelling arguments for the Appeal Panel's consideration.

The Appeal Panel considered the video exhibits entered into evidence and the testimony of the respondent and the appellant.

A majority of the Panel agreed that Barrieau driving Tobin's Dream had entered the passing lane prior to Heffernan and Jafetica. When Heffernan and Jafetica moved to the passing lane, they impeded the progress of Barrieau and Tobin's Dream and were in violation of the Rules.

Therefore, by a vote of 3-1, the Appeal Panel denied the appeal of Mr. Heffernan.

For the APHRC 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