

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 21, 2024

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BETWEEN:

Brady Sweet

APHRC Licensee 0B588

APPELLANT

AND:

Gary Devine

Associate Racing Judge

Red Shores Charlottetown

Race 1, November 3, 2024

RESPONDENT

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PRESENT: A Panel consisting of Commissioners Stefan DeCoursey (NB), Dawn Hubbard (NB), Lowell Crowe (NS), 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. Sweet represented himself as did Mr. Devine.

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

Devine stated that Sweet is an emerging young driver in the sport who has a bright future. He noted that Sweet conducts himself as a professional and is respectful in his dealings with race officials.

Devine testified that Sweet, driving Elroy Shiner, the winning horse in the race, was in violation of Rule 303 (13), during Race 1 at Red Shores Charlottetown on November 3, 2024. Being the third violation of Rule 303 (13) within a calendar year, Sweet was fined \$260.00 and levied a driving suspension of 7 Racing days. All judges were in agreement.

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

*(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.*

Devine introduced the race video (pan camera view) into evidence. It was marked as Exhibit 6. Devine stated the race was conducted over a fast track and there were no weather-related issues.

Fractions for the race were 28.3, 100.2, 130.0, 158.

Devine testified that a second quarter of 31.4 was a violation of Rule 303 (13) as the onus is on the lead horse – Elroy Shiner – to set a pace comparable to the class. Devine further testified that the 2<sup>nd</sup> and 3<sup>rd</sup> quarters were paced in 101.2, while the 1<sup>st</sup> and 4<sup>th</sup> quarters were paced in 56.3 as further evidence of how the 31.4 second quarter provided an unfair advantage to Elroy Shiner.

Devine also provided testimony that racing judges consider input from a Drivers Committee concerning fractions. Generally, when there is more than a 3 second variant between halves and any quarters more than 31.0 seconds, on a fast track and under good conditions, should be subject to review by racing judges.

## POSITION OF THE APPELLANT

Sweet testified that Elroy Shiner is a big strong horse with good gait speed who often races off the front. Sweet testified that he does not carry a stopwatch and in the absence of teletimers, any driver cannot be exact in determining the precise time they arrived at the quarter pole, or the half.

Sweet used the video to illustrate that the horse in the two-hole position was gapped off a length or a length and a half at the quarter pole and at the half.

Sweet testified that if there was any confusion in the race, it should not be attributable to him as there was a gap between Elroy Shiner, as the lead horse, and the horse in second place.

Sweet testified that he was simply trying to win the race.

## DECISION OF THE APPEAL PANEL

The Appeal Panel acknowledged and thanked Mr. Sweet and Mr. Devine for their respectful presentations.

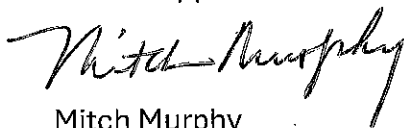
The Panel recognizes that rulings concerning violations of fractions rules are tough calls, and as the rule states many factors must be considered: horse's ability, track conditions, weather, and circumstances confronted in the race.

Track conditions and weather were not an issue in this race. The Panel felt that while there may have been some minor circumstances confronted during the race, they were not given significant weight in the Appeal Panel decision.

The Panel felt that fractions were the concern. The 2<sup>nd</sup> quarter of 31.4 was deemed to be a violation of Rule 303 (13) by a majority of the Appeal Panel.

For this reason, the Appeal is denied.

For the Appeal Panel

A handwritten signature in black ink that reads "Mitch Murphy". The signature is written in a cursive, flowing style.

Mitch Murphy  
Director of Racing