

IN THE 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, November 16th 2017, 4:30 P.M.

BETWEEN: Adam Merner (Z08475)
APHRC Licensee
PE
APPELLANT

AND: Kent Butler, Senior Judge
Roger DesRoches, Ron Hennessey,
Associates, Judges' Panel SRW,
October 1st, 2017, Race #11
RESPONDENT(S)

PRESENT:

A panel consisting of Chair Frank Balcom (NS), Commissioners, Cheryl Geldart Greer (NB), Keith Gowan (NL), Lowell Stead (PE), Blair Hansen (PE), David Lewis (NS), and Stefan DeCoursey (NB) convened to hear the appeal. Debbie Walsh and Paul Hogan appeared at the hearing for the Administration. Judge Kent Butler appeared on behalf of the Respondent(s). Summoned witness Jason Hughes appeared on behalf of the Respondent(s). Mr. Adam Merner appeared in person and was self-represented. Appellant, Respondent(s) and witness were affirmed by Commissioner David Lewis.

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.

The Chair introduced all those present and then asked both parties if they accepted the jurisdiction of the APHR Commission Appeal Panel of Seven (7) Commissioners; at least one member from each of the participating Provinces of the Commission, 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 Seven (7) Commissioners.

PRELIMINARY MATTERS:

The Chair asked if there were any Preliminary Matters to be dealt with, and there being



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none, the Hearing continued.

POSITION OF THE RESPONDENT JUDGES PANEL:

Judge Kent Butler explained the procedure the Judges followed after it was noticed during the race that Mr. Hughes was inside one pylon going in to the first turn.

After reviewing the film, the Judges believed Mr. Hughes was forced inside the pylon because Mr. Merner came in on him. They confirmed this by speaking with Mr. Hughes.

Jason Hughes testified that he was interfered with and had to check his horse and said "if I kept going I was going to be hit."

In summary, Judge Butler stated that Mr. Hughes was being crowded, and when he was inside one pylon, he did not have room to get outside of it.

END OF RESPONDENT'S SUBMISSION

POSITION OF THE APPELLANT – APHRC LICENSEE DRIVER ADAM MERNER

Mr. Merner stated "Jason's horse is not an easy horse to drive." He went on to say that he was leaving out going to first turn and may have drifted in a bit, "it looks a lot worse than it was." In his opinion, it did not affect the outcome of the race and Mr. Hughes' horse drifts out on the straightaway and in on the turns.

He concluded by saying it was six of one and half a dozen of the other.

END OF SUBMISSION OF APPELLANT APHRC LICENSEE DRIVER ADAM MERNER

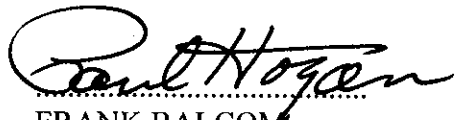
MAJORITY DECISION 5-1 OF THE ATLANTIC PROVINCES HARNESS RACING APPEAL PANEL OF SEVEN (7) COMMISSIONERS, CHAIR NOT VOTING.

After a thorough Appeal Hearing, a review of evidence and post hearing deliberations, your APHR Commission by a majority decision of 5-1 finds as follows:

The Appeal of ADAM MERNER is DENIED

Reason for Decision:

1. Appeal Board members who denied the Appeal believed that Mr. Hughes was impeded going in to the first turn at the start of the race.
2. Appeal Board member who allowed the Appeal was of the belief that Mr. Hughes' horse has a habit of getting his head around.



FRANK BALCOM

Chair

Atlantic Provinces Harness Racing Commission Appeal Panel of SEVEN (7),

DATED AT KENSINGTON, PRINCE EDWARD ISLAND THIS 16TH DAY OF
November, A.D., 2017.

PH/Kensington, PEI, 16/11/17

