

MAINE STATE HARNESS RACING COMMISSION

In re:)
Daniel Deslandes) **Decision and Order**
Case No. 2023-05)

INTRODUCTION

On July 18, 2023, the Maine State Harness Racing Commission (“the Commission”) held an adjudicatory hearing on the appeal filed by Daniel Deslandes (“Mr. Deslandes”) who is a licensed owner/trainer/driver, license number 20044. Mr. Deslandes’ appeal¹ relates to Presiding Judge Ralph Canney’s decision finding that Mr. Deslandes violated Commission Rule Chapter 7, by committing an act that impeded the progress of another horse during the 9th race at Bangor Raceway on May 31, 2023 (“the race”). For the violation, Presiding Judge Ralph Canney imposed a penalty of a five (5) day racing suspension.²

During the hearing, Mr. Deslandes was represented by Attorney Craig Rancourt. Executive Director Shane Bacon (“Commission Staff”) presented the Presiding Judge’s evidence pursuant to 8 M.R.S. § 263-C(4)(A)(6). Assistant Attorney General Nicole Sawyer advised the Commission during the hearing.³ The following Commissioners were present and participated in the hearing: Chair Harry Center, II, Diane Dunn, Patricia Varnum, Barry Norris, and Don Marean. Chair Center was the Presiding Officer during the hearing.

Over Commission Staff’s objection and at the request of Mr. Deslandes, the hearing was bifurcated into a violation phase and a penalty phase. Commission Staff Exhibits A and 1 – 14, which included the video of the race, were admitted into evidence. Mr. Deslandes’ Hearing Exhibits 3 and 5 were admitted into evidence, and Penalty Phase exhibits 1 and 2 were admitted

¹ Mr. Deslandes appealed pursuant to Commission Rule Chapter 19, § 3(1).

² Pursuant to Chapter 19, § 3(2), the Commission Chair stayed the enforcement of the penalty.

³ AAG Sawyer had not previously advised the Commission on this matter and did not act in advocacy capacity during the hearing.

into evidence.⁴ Mr. Deslandes' hearing evidence included a video of excerpts of the race slowed to 10%, 2%, and still screenshots. The following Commission Staff witnesses testified: Presiding Judge Ralph Canney, Associate Judge Greg Bowden, Driver Walter Case Jr., and Driver Andrew Harrington. Mr. Deslandes testified on his own behalf.

FINDINGS OF FACT

Based on the evidence heard by the Commission at the adjudicatory hearing held on July 18, 2023, the Commission adopts the following Findings of Fact:

1. Mr. Deslandes is licensed as an Owner/Driver/Trainer, license number 20044.
2. On May 31, 2023, Mr. Deslandes was present at Bangor Raceway and participated in the 9th race in his capacity as a licensed driver. Mr. Deslandes drove the horse named Grand Galop Semalu during this race.
3. On the same date and during the same race, Andrew Harrington was driving the horse named Drinka Beer.
4. During the race, Mr. Deslandes left lined his horse, Grand Galop Semalu, towards Drinka Beer and Mr. Harrington.
5. On June 5, 2023, Presiding Judge Ralph Canney determined that Mr. Deslandes violated Chapter 7, § 54(1)(M) by committing an act that impeded the progress of another horse. Presiding Judge Canney penalized Mr. Deslandes by imposing a five (5) day suspension from driving only. Commission Staff Exhibits 1, 2 and 5.

⁴ Pursuant to the Second Pre-Hearing Conference Order dated July 13, 2023, the Commission Chair deferred ruling on the admissibility of Exhibit 4, which was a recording that the licensee's father made of a conversation between himself and a driver in the race, Walter Case Jr., without informing Mr. Case that he was being recorded. During the hearing, Chair Center deferred ruling on Exhibit 4 until Mr. Deslandes presented his case. When given the option to offer Exhibit 4 into evidence along with the testimony of the licensee's father, Mr. Deslandes withdrew Exhibit 4 and did not offer it into evidence.

6. On June 7, 2023, Mr. Deslandes timely appealed Presiding Judge Canney's decision.
Commission Staff Exhibit 9.
7. Presiding Judge Canney testified that the decision to find a violation is made by all three judges involved and that in this case, the judges reviewed the video multiple times. He was able to view the race in quarter-speed, on his computer. Presiding Judge Canney testified that usually, horses don't change positions like Grand Galop Semalu did, meaning bearing towards the left, which is the interior of the track. Horses will generally bear to the right, not the left. Presiding Judge Canney explained that a horse generally doesn't bear to the left unless it is directed to do so by its driver. He testified that after speaking with Mr. Deslandes and Mr. Harrington, the judges determined that Mr. Deslandes pulled on the left line of his horse and drove his horse into Mr. Harrington and Drinka Beer. This caused Drinka Beer to momentarily slow down while moving to the left to avoid being hit by Grand Galop Semalu. The Commission finds Presiding Judge Canney's testimony credible and gives weight to his testimony as he observed the race from the judge's stand which gives a better view of what occurred on the track than the video, which is viewed from straight down the track.
8. Associate Judge Greg Bowden testified that in watching the video he could determine that Mr. Deslandes' horse made contact with Mr. Harrington's horse. He could tell this by the body language of the horse: at first, Gran Galop Semalu's head was straight, but then it made an abrupt turn to the left, which meant that the horse was being steered left. Associate Judge Bowden testified that Mr. Deslandes caused the contact by left lining his horse and that it impeded the progress of Drinka Beer. Associate Judge Bowden did not believe that Mr. Harrington's horse strayed out and caused the contact. The Commission finds Associate Judge Bowden's testimony credible.

9. Walter Case Jr., another driver in the race, testified that he had the best view of the race due to his position behind both Mr. Harrington and Mr. Deslandes. Mr. Case also watched the video of the race during his testimony. Mr. Case testified that during the race he saw Mr. Deslandes abruptly grab the left line in order to keep Mr. Harrington in, which caused Mr. Harrington's horse to go to the left towards the pylons to avoid being hit. Having to move to the left abruptly impeded the progress of Drinka Beer. Mr. Case testified that Mr. Harrington's horse did not drive into Mr. Deslandes' horse. The Commission found Mr. Case's testimony credible based on the location from which he observed the race while participating in it.
10. Driver Andrew Harrington watched the race video and testified that he was behind the leading horse heading towards the finish line. As Mr. Deslandes was approaching from behind, Grand Galop Semalu made contact, twice, with the wheel of his sulky from behind. Mr. Harrington pointed out that during the video, you could see him reach his left hand down to grab his sulky to avoid falling off of it after he was hit the second time. To avoid being hit again he steered left towards the pylons as another horse was coming up on his right. He testified that this move towards the left impeded his progress during the race. Mr. Harrington testified that during the race, he could see Mr. Deslandes pulling the left line of Drinka Beer. On cross examination, Mr. Harrington testified that his sulky did not hit Drinka Beer's legs and that he did not veer into the path of Mr. Deslandes' and his horse. Mr. Harrington testified that he did not think he was at fault at all. The Commission found Mr. Harrington's testimony credible.
11. Mr. Deslandes testified that he was holding his ground and his lane when Mr. Harrington tried to edge him out of it and Mr. Harrington's sulky hit Grand Galop Semalu's legs. He testified that after this contact, he was unsure if his horse would break or go down on the

track and that is why he moved his horse suddenly to the left, where he thought it was clear. Mr. Deslandes testified that he was trying to avoid contact with Mr. Harrington. Mr. Deslandes testified that he did not impede Drinka Beer's progress as that horse ultimately won the race. Instead, he explained that Mr. Harrington made contact with Grand Galop Semalu and impeded his horse's progress.

12. 01-017 C.M.R. Ch. 7, section 54(1) lists the racing violations. Section 54(1)(M) provides that it is a violation to "commit any act which impedes the progress of another horse."

CONCLUSIONS OF LAW


13. Based on the findings of fact above, the Commission concludes as a matter of law that it is more likely than not that Mr. Deslandes violated Chapter 7, §54(1)(M) by left lining his horse Grand Galop Semalu towards Mr. Harrington and his horse Drinka Beer, causing the contact between Grand Galop Semalu and Mr. Harrington's sulky. Mr. Deslandes' act caused Mr. Harrington to slow down and move towards the pylons to avoid being hit again. Mr. Harrington's move to the left impeded the progress of the horse, despite him ultimately winning the race.
14. The Commission's conclusions were unanimous.
15. Mr. Deslandes' appeal is denied.
16. After hearing argument from Mr. Deslandes and Commission Staff and considering their exhibits that were entered into evidence during the penalty phase of the hearing, the Commission imposed a five (5) day suspension from driving only. The Commission considered that although Mr. Deslandes' driving history showed other violations in the past, none of them were for interference. Commission Staff Exhibits 10-12; Licensee Penalty Exhibits 1-2. The Commission considered Licensee Exhibits 1 and 2 which

showed that other drivers who had caused interference had been penalized with a monetary fine or a three (3) day racing suspension. The Commission determined that Mr. Deslandes' intentionally left lined his horse towards Mr. Harrington, which caused him to almost fall off his sulky onto the active racetrack, which would have been extremely unsafe. Based on the specific facts of this matter, the Commission determined that a five (5) day suspension from driving only is the appropriate penalty in this case.

17. This Commission's decisions, reflected by its vote during each phase of the hearing, were stated in the record pursuant to 5 M.R.S. § 9061.

SO ORDERED,

Dated: August 22, 2023



Harry B. Center, II, Chair
Maine State Harness Racing Commission

APPEAL RIGHTS

Pursuant to 5 M.R.S. §§ 11001-11003, any party that appeals this Decision and Order must file a Petition for Review in the Maine Superior Court within thirty (30) days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon:

- 1. the Maine State Harness Racing Commission,**
- 2. all parties to the agency proceeding, and**
- 3. the Attorney General.**