

MAINE STATE HARNESS RACING COMMISSION

IN RE:

**JAMIE GERARD
CASE NO. 2026-MSHRC-9**

DECISION AND ORDER

INTRODUCTION

On August 25, 2026, the Maine State Harness Racing Commission (Commission) held an adjudicatory hearing on the appeal filed by Jamie Gerard regarding the 10th race at Bangor Raceway on July 19, 2026 (the Race). Mr. Gerard appealed Presiding Judge Greg Kirby's decision to not place another horse, # 5 Gabe Hanover, behind # 2 Kount Blaster and # 4 Echos Sharkie (Mr. Gerard's horse) for a lapped-on break at the finish pursuant to Chapter 7, § 60. Instead, Judge Kirby's ruling was that Chapter 7 § 60 did not address breaks caused by interference.

As a result, Judge Kirby referred to Chapter 1, § 2(6) which describes the process for situations not addressed by a rule. That section reads "In any instance where a situation is not covered by the MHRC rules, the Commission will refer to the most recent edition of the United States Trotting Association Rules for guidance on the matter." According to Section 18.10 of the 2026 edition of the USTA Rules which addresses Horse Breaking from Gait, "If interference caused by another driver or horse has caused the horse to be on a break at the finish, the judges may, in their discretion, determine not to set the horse back even if a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish." Judge Kirby decided that because #5 Gabe Hanover had been interfered with which caused him to break, to not place the horse behind # 2 Kount Blaster and # 4 Echos Sharkie (Mr. Gerard's horse).

Mr. Gerard appeared *pro se* at the hearing. 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.¹ The following Commissioners were present and participated in the hearing: Chair Harry B. Center, II, Don Marean, Barry Norris, and Chandler Woodcock. Chair Center was the Presiding Officer during the hearing.

Commission Staff Exhibits 1 – 14, which included the video of the Race, were admitted without objection into evidence. Mr. Gerard offered one exhibit on the morning of the hearing, which were three different versions of the charted Race sheet. Commission Staff objected to the exhibit as late and irrelevant. Hearing Officer Center admitted the exhibits over objection. Commission Staff called the following witnesses: Presiding Judge Kirby, Mike Hall, a long-time ROAP official and USTA official at other tracks, and Jim Dunn, trainer of Gabe Hanover. Mr. Gerard testified on his own behalf.

Pursuant to Commission Rule Chapter 21, § 2, Presiding Judge Kirby's decision was vacated upon Mr. Gerard's appeal, and the burden was upon Commission Staff to persuade the Commission that the Presiding Judge correctly interpreted and applied the Commission's Rules. The Commission considered the matter *de novo*.

FINDINGS OF FACT

Based on the evidence considered by the Commission at the adjudicatory hearing held on August 25, 2026, the Commission makes the following Findings of Fact:

1. Mr. Gerard is a licensed Owner and Trainer, license number 11409.

¹ AAG Sawyer had not previously advised the Commission on this matter and did not act in advocacy capacity during the hearing.

2. Mr. Gerard was the trainer of record and owner for the horse Echos Sharkie, who raced at Bangor Raceway on July 19, 2026, in the Race.
3. Echos Sharkie participated in the Race and finished 6th.
4. All parties agreed that another horse in the Race (#3 JK Objection) interfered with #5 Gabe Hanover, which caused Gabe Hanover to be on a break at the finish. As a result, JK Objection was placed behind Gabe Hanover for interference. No other placings were made. (Ex. 7.) Judge Kirby testified that Ex. 7 was correct.
5. After the Race, Mr. Gerard appealed the Judge's decision to not set back Gabe Hanover behind Echos Sharkie. The Judge's did not change their Decision. (Ex. 3.)
6. Mr. Gerard timely appealed the Judges' Decision to the Commission. (Ex. 4.)
7. Judge Kirby is the only person that can change the charts by calling the USTA. When two other omissions or errors in the chart were brought to his attention, Judge Kirby had them corrected.
8. During the Race, at the finish, Gabe Hanover, who was still on a break, was lapped on by Echos Sharkie and Kount Blaster.
9. Judge Kirby considered placing Gabe Hanover behind the other horses, but after reviewing Chapter 7 §§ 58 and 60, he decided that § 60 did not address interference breaks. Section 58, Placing Offending Horses (Ex. 10) references "interference" 9 times in the rule. Section 60, which addresses breaking, does not mention "interference" at all. (Ex. 11.) After discussing this with the Associate Judges, Mr. Kirby decided to apply USTA Rule 18.10, Horse Breaking from Gait. The USTA Rule explicitly applies to what happened during this race – Gabe Hanover was interfered with by another horse that caused him to be on a break at the finish and contending horse on its gait, Echos Sharkie, lapped on the hind quarter of Gabe Hanover at the finish.

10. Since Gabe Hanover was already interfered with, Judge Kirby felt it would be like a double penalty if he was set back behind Echos Sharkie and the other horse. So, he used his discretion under USTA Rule § 18.10 to not set back Gabe Hanover.
11. During the Race, all the other horses, including Echos Sharkie, were contending horses within the meaning of Chapter 7, § 60.
12. Mr. Hall has been a ROAP² Official for 37 years and has been involved in harness racing that entire time. He has worked at least 12 tracks as an official in at least five states. He is generally considered an expert in the field of harness racing and in interpretation of its rules, particularly the USTA breaking rule, § 18.10. He watched the video of this Race and believed the Judges made the right decision to apply the USTA rule. In Mr. Hall's opinion, there is a difference between a horse going off stride on its own and being caused to break by someone else. If he was an official in this race, he would have decided to not set back Gabe Hanover. Mr. Hall agreed that Echos Sharkie was a contending horse in this race.
13. Jim Dunn is the trainer of Gabe Hanover. (Ex. 3.) He believes his horse would have been no worse than second in the Race if he hadn't been interfered with, and Gabe Hanover wouldn't have been lapped on by any horse in the Race if he hadn't been interfered with. If the judges placed his horse behind Echos Sharkie and the other horse for a lapped on break at the finish pursuant to Chapter 7 § 60, he would have appealed that decision.
14. Mr. Gerard has been involved in harness racing for about 27 years and Chapter 7 § 60 has been in place that entire time. He has been "on both sides" of the rule – i.e. not being set back when his horse was not lapped on, and being set back when his horse was lapped

² Racing Officials Accreditation Program.

- on. In Mr. Gerard's opinion, Chapter 7 § 60 is clear and addresses the situation in this Race. Mr. Gerard agrees that in situations where there is no rule, a Judge could use Chapter 3 § 5(3-1) (Ex. 12) or Chapter 1 § 2(6) (Ex. 13) to turn to the USTA Rule. Mr. Gerard acknowledges that breaks at the wire are not clearly addressed in Chapter 7 § 60.
15. The third paragraph of Chapter 7, § 60 is directly at issue in this situation. It reads "If there has been no failure on the part of the driver in complying with this section, the horse shall not be set back unless a contending horse on his or her gait is lapped on the hind quarter of a breaking horse at the finish."
 16. Chapter 7 § 60 makes no mention of interference and what effect that may or may not have on the breaking horse at the finish. This makes the third paragraph of the rule silent and ambiguous in this situation.
 17. Chapter 3 § 5(3-A)(C) gives Presiding Judges the authority to "decide . . . any contingent matter . . . that is not otherwise provided for in the rules. Chapter 1 § 2(6) provides that in any case where a situation is not covered by an MHRC Rule, the Commission will refer to the most recent edition of the USTA Rules for guidance on the matter.
 18. Section 18.10, Horses Breaking from Gait, of the 2026 edition of the USTA Rules addresses this situation and provides "If interference caused by another driver or horse has caused the horse to be on a break at the finish, the judges may, in their discretion, determined not to set the horse back even if a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish."

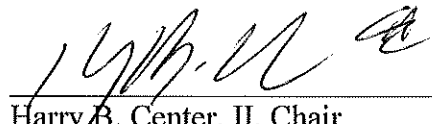
CONCLUSIONS OF LAW

19. Based on the findings of fact above, the Commission unanimously concluded as a matter of law that Chapter 7 § 60 is ambiguous in this situation. As a result, the Presiding Judge appropriately turned to MHRC Rule Chapters 1 and 3, and ultimately to Section 18.10 of

the 2026 USTA Rule for guidance in this situation. The Presiding Judge was within his discretion to determine not to place Gabe Hanover behind Mr. Gerard's horse, Echos Sharkie, as that would have essentially been a double penalty to Gabe Hanover. Mr. Gerard's appeal is therefore DENIED.

SO ORDERED,

Dated: September 22, 2026



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.