

MAINE STATE HARNESS RACING COMMISSION

IN RE:

JAMIE GERARD
CASE NO. 2025 MSHRC 2
HUNTER LOFTHUS
CASE NO. 2025 MSHRC 3

DECISION AND ORDER

INTRODUCTION

On June 24, 2025, the Maine State Harness Racing Commission (Commission) held an adjudicatory hearing on the appeals filed by Jamie Gerard (Mr. Gerard), owner/trainer, and Hunter Lofthus, owner/trainer/driver (collectively the Licensees). The Licensees' appealed¹ Presiding Judge Greg Kriby's decision that Mr. Lofthus violated Commission Rule Chapter 7 § 54(1)(M), by committing an act that impeded the progress of another horse during the 6th race at Bangor Raceway on May 11, 2025 (the Race). Presiding Judge Kirby imposed a penalty of either a \$200 fine or a two (2) day racing suspension, to be chosen by Mr. Lofthus.

The Licensees 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.² The following Commissioners were present and participated in the hearing: Chair Harry B. Center, II, Patricia Varnum, and Chandler Woodcock. Chair Center was the Presiding Officer during the hearing.

Commission Staff Exhibits 1 – 15, which included the video of the race, were admitted without objection into evidence. The Licensees did not offer any exhibits. Commission Staff called

¹ The Licensees appealed pursuant to Commission Rule Chapter 19, § 3(1).

² AAG Sawyer had not previously advised the Commission on this matter and did not act in advocacy capacity during the hearing.

Presiding Judge Kirby as a witness. The Licensees testified on their own behalf. Michael Girouard, another driver in the Race, also testified telephonically.

FINDINGS OF FACT

Based on the evidence heard by the Commission at the adjudicatory hearing held on June 24, 2025, the Commission adopts the following Findings of Fact:

1. Mr. Gerard is a licensed Owner and Trainer, license number 11409.
2. Mr. Lofthus is licensed as an Owner/Driver/Trainer, license number 21603.
3. Mr. Gerard was the trainer of record for the horse Hunting Angels, who raced at Bangor on May 11, 2025, in the Race.
4. Mr. Lofthus was the driver of #2 Hunting Angels, who raced at Bangor on May 11, 2025 and another horse, #3 Sportsnest, was driven by Michael Girouard.
5. On May 11, 2025, after consulting with the associate judges, Presiding Judge Kirby determined that Mr. Lofthus violated Chapter 7, § 54(1)(M) by committing an act that impeded the progress of another horse, specifically Sportsnest when approaching the ½ mile mark. Presiding Judge Kirby penalized Mr. Lofthus by imposing a penalty of either a \$200 fine or a two (2) day racing suspension, to be chosen by Mr. Lofthus. Hunting Angels was placed from 2nd to 6th for the violation.
6. Because it was a chaotic race, the Judges did not discuss the violation with the Licensees before making the placings and issuing the penalty.
7. On May 11, 2025, the Licensees requested a Judge's hearing. A consolidated hearing was held on May 16, 2025. Presiding Judge Kirby did not change his ruling.
8. On May 19, 2025, the Licensees timely appealed Presiding Judge Kirby's decision.
9. The decision to find a violation is made by the Presiding Judge Kirby and the two Associate Judges (AJs). After Presiding Judge Kirby discussed this matter with AJ

Mosher and AJ Johnston, they unanimously determined that Mr. Lofthus impeded the progress of Sportsnest, who was driven by Mr. Girouard. The basis for this decision is that when Mr. Lofthus was approaching the ½ mile mark, he was half in the 1 path and half in the 2 path, and was not filling the gap. Before the 1/2, Presiding Judge Kirby observed Mr. Girouard laying back in his sulky to set the horse back, and then had to tap Sportsnest to get him to go back again since its progress was impeded by Mr. Lofthus and Hunting Angels. Presiding Judge Kirby's opinion is that there does not need to be contact for an impeding violation.

10. There were other violations involving other horses and drivers during the Race, and other placings that occurred as a result. Because of how busy the race was, Presiding Judge Kirby and the AJs did not speak with the Licensees or Mr. Girouard before issuing the violation.
11. Mr. Lofthus had driven Hunting Angels for a few weeks and had driven a lot with the other drivers in the Race. This Race was an amateur race³ and recently, the week prior, there was a bad wreck in the same spot of the track which occurred during an amateur race with many of the same horses. Mr. Lofthus was trying to avoid another situation involving an accident.
12. When he was approaching the ½ mile mark, Mr. Lofthus felt Mr. Girouard move off the rail and felt that Mr. Girouard was trying to flush him out.⁴ He would have liked to wait until later in the race to move his horse, but decided to move 1st over.

³ An amateur race involves horses that are driven by drivers who are not professionals, but instead part of an amateur driving club. All other aspects of the race are the same.

⁴ "Flushing out" is when a driver behind the horse in front of him that's the live cover to be able to draft. The first horse to pull out has no cover.

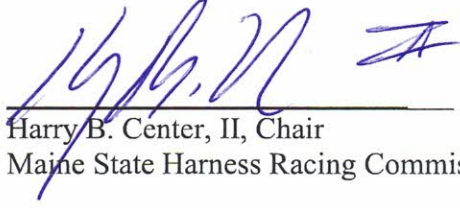
13. Although he acknowledged that it was a busy race, Mr. Gerard felt that had the judges spoken with Michael Girouard, they would not have made the same decision.
14. When Mr. Girouard was approaching the ½ mile mark, he decided to move inside and take the spot that Mr. Lofthus had just evacuated. Although Mr. Girouard wasn't trying to flush out Mr. Lofthus, Sportsnest did not do well in the turns, which is why he had to lean backwards in his sulky to try to get back to the rail before another driver did. Mr. Girouard did not believe he was impeded by Mr. Gerard or Hunting Angels.
15. 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

16. Based on the findings of fact above, the Commission unanimously concluded as a matter of law that the evidence did not show that Mr. Lofthus violated Chapter 7, §54(1)(M), and he did not impede the progress of Sportsnest, driven by Mr. Girouard. Mr. Lofthus believed he was being flushed out by Mr. Girouard, who then attempted to make his way back to the rail, as that is where he thought his horse would perform best.
17. The Licensees' appeal is granted, and the violation and penalty imposed remain vacated.
18. This Commission's decision, reflected by its vote during the hearing, was stated in the record pursuant to 5 M.R.S. § 9061.

SO ORDERED

Dated: July 15, 2025



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

[NOTICE OF APPEAL RIGHTS ON FOLLOWING PAGE]

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.**