

MAINE STATE HARNESS RACING COMMISSION

IN RE:

**WILLIAM TRACY &
BENSON MERRILL
CASE NO. 2025-19**

DECISION AND ORDER

INTRODUCTION

On February 24, 2026, the Maine State Harness Racing Commission (Commission) held an adjudicatory hearing on the appeal filed by William Tracy (Mr. Tracy). Benson Merrill (Mr. Merrill) was the driver of Mr. Tracy's horse during the race at issue. Mr. Tracy appealed¹ Presiding Judge Greg Kriby's decision that Mr. Merrill violated Commission Rule Chapter 7 § 54(1)(M) and caused interference to another horse, during the 9thth race at Bangor Raceway on October 19, 2025 (the Race). As a result of the violation, Presiding Judge Kirby placed the horse that Mr. Merrill was driving, which Mr. Tracy owned, from first to sixth place.

Mr. Tracy appeared *pro se* at the hearing. Mr. Merrill did not appear 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, Don Marean, Barry Norris,³ and Chandler Woodcock. Chair Center was the Presiding Officer during the hearing.

Commission Staff Exhibits 1 – 11, which included the video of the Race, were admitted without objection into evidence. Mr. Tracy offered no exhibits. Commission Staff called race

¹ Mr. Tracy 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.

³ Commissioner Norris left the meeting early and participated in the vote regarding violations, as noted below, but not in the vote regarding sanctions to impose.

8. Presiding Judge Kirby testified that the #3 horse, Cofee Can Cash, was driven by Shawn Thayer and # 6, Bush Man N, was driven by Mr. Merrill. At the start of the race, as shown on the video, he observed Mr. Merrill whipping Bush Man N with his right hand before the gate even opened and continuing to do so into the first turn. Going into the first turn, Mr. Thayer established Cofee Can Cash's position in the 2 path and Mr. Merrill was outside of him in the 3 path. He observed, and the Race video showed, that Cofee Can Cash mis-stepped and then retreated. When horses are interfered with, they generally retreat. It was Judge Kirby's opinion that Mr. Merrill's horse hit Mr. Thayer's horse's legs and almost hit Mr. Thayer. After that point, Cofee Can Cash fell behind, and Mr. Merrill went to the front. It was a unanimous decision between himself and the two Associate Judges that Mr. Merrill caused interference to Mr. Thayer's horse.
9. Judge Kirby spoke with Mr. Thayer and Mr. Merrill before making the placing. When he called Mr. Thayer, Judge Kirby asked if he knew why he was calling him, and Mr. Thayer responded that he got "crushed." Judge Kirby's opinion is that Mr. Thayer grabbed up on Cofee Can Cash not because he was bearing out of the turn, but because he had to do so in order to prevent an accident when he was pinched by Mr. Merrill towards the horse on the inside. Judge Kirby testified that it appeared that Mr. Thayer had control of his horse during the Race. He additionally noted that there was no front stretch view for this Race. Two races lacked that view that day and this was one of them.
10. The Race video shows Mr. Merrill's whipping was not restricted to elbow and wrist action only and his arm was raised above the height of his shoulder. Mr. Merrill had a prior USTA violation for whipping on July 25, 2025, for which he was fined \$200.
11. Jeannie Thayer testified that she is the Charter at Bangor Raceway and that she has been charting horses for at least 10 years. She is also licensed as an Associate Judge with the

caused the violation, but it would more likely than not be the outside horse coming into the 2 path instead of vice versa, as that is almost always the case.

15. On cross examination, Mr. Switzer testified that if he was driving Cofee Can Cash, he probably wouldn't have filed an objection or asked for a hearing. In his opinion, this was more than just rubbing wheels, because when wheels are side by side the rubber doesn't burn. Wheels only burn when one wheel is in front of another wheel. He agreed that Mr. Merrill's wheel was ahead of Mr. Thayer's wheel, but only because Mr. Merrill came into Mr. Thayer's path, which was the violation.
16. Mr. Tracy testified that he thought the Judge's decision was unfair, because the front stretch camera was not working during the Race. He also believes that Mr. Thayer should have filed an objection or asked for a hearing if he was "crushed", as that is what Mr. Tracy would want one of his drivers to do. He testified that Mr. Thayer had a hooking wheels violation in the spring session and caused an accident at that time. Mr. Tracy believed that Mr. Thayer was out of control during this Race.
17. Mr. Tracy additionally testified that Mr. Merrill told him that he withdrew his request for a judge's hearing because he thought it might cause repercussions and upset other drivers and owners, and that racing was his livelihood. He also stated that he used Mr. Switzer as a driver a lot of the time.
18. Executive Director Bacon testified that the Notice of Hearing was sent via email to Mr. Tracy and Mr. Merrill and that he spoke with both parties regarding the same and each acknowledged that he received the Notice of Hearing.
19. 01-017 C.M.R. Ch. 7, Section 54(1)(A) makes it a racing violation to "[c]hange either to the right or left during any part of the race when another horse is so near that it causes

24. As a sanction for violating Chapter 7 § 54(1)(A) and (M), the Commission voted that Mr. Merrill's horse was to remain placed sixth. As a sanction for violating Chapter 7, § 54(1)(Q)(2), the Commission voted to impose a \$500 fine and 30-day suspension upon Mr. Merrill.⁵

SO ORDERED,

Dated: March 24, 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.

⁵ By a vote of 4-0, as Commissioner Norris had to leave the meeting after discussing and voting on violations and before discussing and voting on sanctions.