

3. Based on Exhibit H, Mr. Ireland appealed the decision of placing Bruizn from third to fourth place for an extended break, stating that the driver and horse complied with the breaking rule as written.
4. Based on Exhibit H, on December 8, 2021, Mr. Ireland timely appealed the decision to penalize Bruizn.
5. Judge Merrill testified that it was a close call and that the judges viewed the video multiple times to discern what was a break and what was high stepping gait of the horse.
6. Judge Merrill and Judge Malia agreed that at the half, when the horse broke gait, the Mr. Harrington pulled to the outside and lost ground.
7. Mr. Ireland saw that Mr. Harrington pulled back a couple horse lengths following the break.
8. Mr. Ireland was watching from the paddock area and saw the break which he timed at two (2) seconds.
9. Judge Malia sought to be fair and preserve the integrity of Harness Racing.
10. Judge Malia indicated that finding an extended break was a judgment call.
11. The Commission watched the video of the race and concluded that Bruizn's gait along the third turn and back stretch did not constitute a break.
12. The Commission also saw Bruizn was pulled back following the break at the half.
13. The Commission found the testimony of Mr. Harrington credible that he would never put himself or the horse he was driving in the position of continuing to race with a gait that is broken.
14. The Commission found the testimony of Mr. Ireland credible based on the location from which he observed the race.

15. 01-017 C.M.R. ch. 7, section 60 defines breaking as when any horse breaks from its gait in trotting or pacing.
16. When a horse breaks, Section 60 requires the driver to, as soon as clearance exists, take the horse to the outside or where the most clearance exists and pull it to its gait and lose ground.
17. Section 60 provides that it is a violation of the breaking rule if:
 - a. The break is extended, or
 - b. The horse was not taken to the outside or where clearance exists, or
 - c. The horse is not pulled to its proper gait, or
 - d. The horse fails to lose ground as a result of a break

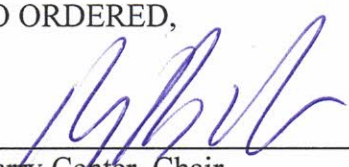
CONCLUSIONS OF LAW

18. Based on the findings of fact above, the Commission concludes as a matter of law that it is more likely than not that Bruizn, the horse in question, did not violate the breaking rule. The Commission concludes that based upon the evidence that it is more likely than not that the break was not extended, that the driver brought the horse to the outside and properly pulled the horse to its gait, and that he lost ground.
19. The Commission's conclusions were unanimous.
20. The Appeal is granted and the penalty vacated. Bruizn is reinstated to third place in the race.
21. This Decision and Order was stated in the record pursuant to 5 M.R.S. § 9061.

SO ORDERED,

Dated:

7-19-2022



Harry Center, Chair
Maine State Harness Racing Commission

SEE FOLLOWING PAGE FOR APPEAL RIGHTS

APPEAL RIGHTS

Pursuant to the provisions of 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 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 each of:

- 1. the MAINE STATE HARNESS RACING COMMISSION,**
- 2. all parties to the agency proceedings and**
- 3. the Attorney General.**