



**YACHT RACING ASSOCIATION
FORT MASON CENTER
SAN FRANCISCO, CALIFORNIA 94123
415-771-9500 - fax 415-276-2378
E-mail = info@yra.org**

DECISION ON APPEAL
Appeal # 04-01
AQUAVIT vs *ADVANTAGE3*
J/105 Race, May 15, 2004
Host: St Francis YC

July 30, 2004

SUMMARY OF SITUATION:

Five J/105s were approaching the leeward gate during the first race of a J/105 Regatta hosted by St. Francis Yacht Club on May 15, 2004. As the boats prepared to round the starboard mark of the gate, four of them were overlapped and contact occurred between two of the boats. Protests were filed by three of the boats in which each alleged the closest outside boat did not allow sufficient room for the inside boat to round the mark. The Protest Committee determined that the three protests related to the same incident, and the protests were considered at a single hearing.

The PC determined that the protest of *ADVANTAGE3* was valid and as a result of the Facts Found concluded that *AQUAVIT* should be disqualified. *AQUAVIT* filed an appeal contending primarily that the protest should have been declared invalid, and that there were insufficient facts found to justify the decision of the PC.

FACTS FOUND BY PC:

1. With respect to validity, PC checked appropriate boxes on protest forms of both *ADVANTAGE3* and *AQUAVIT*, indicating they considered these issues (including timing of hail and flag), before proceeding with a hearing of the incident (see page 2 of each protest form).
2. At the time of the incident, there was 15 knots of breeze and no appreciable current (see PC text).
3. Five J/105s approached the leeward gate, starboard mark, on starboard gybe, with *UNNAMED* inside, then *JUXTAPOSE*, then *ADVANTAGE3*, then *AQUAVIT*, then *AKULA* (see PC text).
4. At three boat lengths, the four inside boats were overlapped, but *AKULA* was clear astern and to leeward of *AQUAVIT* (see PC text).
5. All boats to windward of *AQUAVIT* hailed for room in preparation for rounding (see PC text).
6. Contact occurred between *ADVANTAGE3* and *JUXTAPOSE*, causing damage (see PC text)
7. *ADVANTAGE3* completed a 720 degree penalty turn (see PC text)
8. The diagram of *ADVANTAGE3* was endorsed by the PC. The diagram of *AQUAVIT* was rejected by the PC (see protest forms of *ADVANTAGE3* and *AQUAVIT* completed by PC).

CONCLUSIONS AND DECISIONS OF THE PC:

1. All boats were “about to round” and RRS 18 was applicable (as suggested in Case 94).
2. *AKULA* did not prevent *AQUAVIT* from keeping clear.
3. *AQUAVIT* broke RRS 18.2(a), by failing to give room to *ADVANTAGE3*.
4. *AQUAVIT* is disqualified.

BASIS FOR APPEAL BY AQUAVIT:

1. The PC found no facts to conclude the protest by Advantage3 was valid.
2. The Facts Found by the PC were insufficient to support to support their conclusion.

DECISION ON APPEAL:

The Appeals Committee rules that the fact the PC checked the boxes relating to “the hail” and “the flag” on the protest forms of both *ADAVANTAGE3* and *AQUAVIT* is acceptable evidence of the fact that the PC considered testimony relative to validity and made a reasonable decision on the subject prior to continuing with the hearing.

The Appeals Committee rules that the fact the PC checked the box on page 2 of *ADVANTAGE3*'s protest form endorsing the boat's diagram provides additional facts relevant to the incident. It is also relevant that the PC specifically rejected *AQUAVIT*'s diagram.

Much of appellant's appeal is devoted to the presentation of information that is either inconsistent with the facts found, or not directly related to the issue at hand. Appellant is reminded that the PC is responsible for determining the relevant facts from the testimony of parties involved and their witnesses. The Appeals Committee's responsibility is to evaluate the PC's interpretation of the applicable rules and verify that proper procedures have been followed, but not to consider alleged new facts presented in the appeal document.

The Appeals Committee rules that there were sufficient facts found for the PC to make their decision and sustains the decision of the PC to disqualify *AQUAVIT*.

THE APPEALS COMMITTEE OF THE YACHT RACING ASSOCIATION OF SAN FRANCISCO BAY.

Thomas V. Allen, Jr. Chairman

copy: *ADVANTAGE3* (Will Benedict, 60 Starmont Lane, Danville, CA 94526)
AQUAVIT (Tim Russell, 690 Lamont, Suite 101, Novato, CA 94945)
Protest Committee, St. Francis YC (Cam Gear, Chairman)
Appeals Committee Members