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NOTICE OF APPEAL
Appeal # 04-02
WINDANSEA vs RACE COMMITTEE
WBRA (Folkboat) Race, May 8, 2004
Host: Bay View Boat Club

October 26, 2004

SUMMARY OF SITUATION:

On May 8, 2004, the Wooden Boat Racing Association had scheduled a two-race day for four fleets of boats: The IOD, the Knarr, the Bird, and the Folkboat classes. The Bird class was scheduled to sail in the first race of the day, only; and the IOD, Knarr and Folkboat classes were each scheduled to sail a second race following the completion of the first race.

The traditional starting sequence for WBRA races has been to start the IOD class first, Knarr second, Bird third, and Folkboat fourth. If one class is not scheduled to race, the start for this class is omitted from the sequence, and the other classes are moved up in the sequence and started sooner. Typically, the starts take place at five or six minute intervals, following the procedure described in RRS 26.

On this date, the course signaled for the Knarr class in the first race of the day was 9.6 nm in length, and the first race for the Folkboat class was 6.8 nm in length. Although the Folkboat class started 10 minutes after the Knarr class, the Folkboats finished sooner because of their shorter course.

There were six boats racing in the Folkboat fleet. When the Folkboats finished, the Knarr class was still racing and it appeared that the first Knarr would not finish for several minutes. Two Folkboats, *WINDANSEA* (#106) and *THEA* (#108), sailed away from the start-finish area, anticipating the Folkboat class start would be delayed because the Knarr class would have to finish first, then restart their second race of the day before the Folkboat class would be able to start their second race.

However, the RC decided that there was time to start the Folkboat's second race before the first Knarr would arrive back at the start-finish line. The RC did so, but only four of the six Folkboats remained in the start-finish area and started the second race. Later, when #106 and #108 returned to the start-finish area, they saw the other four Folkboats mid-way through their second race and realized what had happened. #106 filed a request for redress, in accordance with RRS 62.1(a), and requested that the second Folkboat race be abandoned. At the PC hearing that followed, the PC agreed that redress was appropriate because the RC had not followed some misleading sailing instructions, but the PC awarded average points to #106 and #108, instead of abandoning the race. #106 (*WINDANSEA*) appealed the decision to award average points instead of abandoning the race.

FACTS FOUND BY PC:

1. The wind was westerly at about 15 to 18 knots, and there was a low fog.
2. Folkboats sailed a course in the first race that allowed them finish well in front of the Knarrs.
3. After the first race, #106 (*WINDANSEA*) and #108 (*THEA*) both sailed well away from the start-finish area to allow the Knarrs to finish.

4. PRO Allen Frazer noticed a discrepancy between the YRA Standing SI and the WBRA Calendar, with respect to the VHF channel to be used for communications with the sailboats.
5. Before the start of Race #1, the RC announced on channel 71 they would be using channel 69.
6. At the start of Race #1, Knarr sailors made numerous calls to the RC on channel 69.
7. Before the start of the second race, the RC hailed the Folkboats on channel 69 to get ready to start, and that the fleets would not be starting in the same sequence as in Race #1.
8. PRO Frazer noticed that the Folkboats did not seem to be gathering for a start, so he hailed the fleet again on channel 69 that this was the Folkboat start.
9. At the start signal, there were two Folkboats starting, another was nearby, and a fourth was far way.
10. At the start signal, the PRO considered a general recall, but decided this would confuse the approaching Knarrs.
11. The rules and documents the racers and the RC used as references are ambiguous regarding radio channels and start sequences.
11. Both #108 and #106 expected to start after the Knarrs
12. Some boats may not have had their radios on when the channel announcement was made as this was announced about 20 minutes before the scheduled start of the Folkboats.
13. The YRA Standing SI only mentions the use of the VHF radios as a helpful suggestion.
14. The RC did not fly a code flag L to denote a change in the sailing instructions.
15. Four of the six Folkboats sailed the course correctly, and the other two did not know the second race had started.
16. The WBRA race rule packet contains a total of 16 pages of information, all of which are considered "Rules."

CONCLUSIONS AND DECISIONS OF THE PC:

1. RRS 62.1 (Redress) and RRS A10(b) (Scoring, Guidance on Redress) are applicable.
2. The second Folkboat race was started out of sequence (i.e., the Knarr class was scheduled to start before the Folkboat class), but the Folkboat start procedure itself was signaled correctly per RRS 26.
3. Although no actual rules were broken, ambiguity in the contents of the WBRA Race Packet caused boats finishing positions to be significantly worse through no fault of their own. Actions and omissions by both the RC and the OA were the cause.
4. *WINDANSEA* (#106) shall receive 3 points as her score, and *THEA* (#108) shall receive 4 points. The scores of other finishing boats shall not be changed and duplicate scores shall be given.

BASIS FOR APPEAL BY WINDANSEA (#106):

1. *WINDANSEA* (#106) agreed that redress should be granted, but she believed that the PC chose an inappropriate remedy.
2. *WINDANSEA* (#106) believed that all Folkboats except #113 were affected by the admitted mix-up (error), and that consequently the race should have been abandoned.
3. *WINDANSEA* (#106) offered "additional facts" in her appeal that were not part of the facts found by the PC, namely estimated data relating to the starting times of the other four boats in the race.
4. *WINDANSEA* (#106) cites U.S. Appeal #54, in which the Appeals Committee declared that the RC may not "ignore the sailing instructions," and in which case that race was ordered abandoned.

SUBSEQUENT PROCEEDINGS:

The Appeals Committee was initially concerned that the PC may not have complied with RRS 64.2 in deciding on redress, and requested clarification of this matter in a letter to the PC dated August 11, 2004. The PC responded in writing to the effect that following receipt of this letter, PC attempted to contact each of the (other) competitors by email and telephone, inviting comments about the redress and its fairness. Also, PC solicited their attendance at a future meeting. The skipper of #113, who allegedly started on time and won the race, was the only competitor that attended the meeting (#113 suggested that the scoring should not be changed).

The members of the PC subsequently met again to discuss the questions raised by the Appeals Committee and determined that their original decision seemed the fairest for all competitors. They felt that to abandon the race would be unfair to the four boats that started and completed the race. It was noted that it would be

unfair to take away the first place finish of #113. It also seems unfair not to acknowledge the performance of #105 which allegedly started last (by four minutes) and finished second.

The PC justified their modified version of RRS A10(b) by observing that a strict application of RRS A10(b) would have resulted in two of the four boats that finished the race receiving adjusted scores worse than their actual finish positions (The boat that finished last, #107, allegedly started second).

DECISION ON APPEAL:

The Appeals Committee agrees that the RC started Folkboat race #2 out of sequence, in conflict with the WBRA sailing instructions, and that redress is appropriate.

It is clear that two of the six boats were affected by the RC error, and perhaps as many as four were affected. However, four boats sailed the course and did not formally object to the irregularity in the starting sequence. The two boats that finished first and second were unlikely to improve their circumstances if they successfully objected and if the race was subsequently abandoned. The boat that finished last in the race allegedly started second, and it seems unlikely that he could have successfully argued that the race committee error affected his finishing place. In summary, the only two boats that were motivated to object were #106 and #108, of which one has requested redress. Presumably the four boats that raced had a good time.

The Appeals Committee believes that the circumstances in Appeal #54 are different in that the RC did not follow a clearly written sailing instruction. In our case, we believe the sailing instructions were ambiguous and the RC simply had a different interpretation than the appellant. Therefore, the conclusion arrived at in Appeal #54 (that the race should be abandoned) is not necessarily applicable to our situation.

We believe that the redress proposed by the PC is a reasonable and fair resolution of this problem, whether or not it may be the best resolution. In redress situations it is often not possible to come up with perfect solutions, and we are hesitant in this situation to substitute our judgment for that of the PC. The Appeals Committee sustains the decision of the PC and allows the scoring of this race to stand as recommended by the PC.

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

Thomas V. Allen, Jr. Chairman

copy: *RACE COMMITTEE* (Allen Frazer, Chairman), Bay View Boat Club, 489 Terry Francois St., San Francisco, CA 94107
WINDANSEA (Don Wilson), 633 Woodmont Avenue, Berkeley, CA 94708
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Appeals Committee Members, via YRASFB Office