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DECISION ON APPEAL, Appeal # 04-03
Etchells #1157 vs Etchells #1221
Etchells North Americans, 2004
Race #4, September 21, 2004
Host: Richmond Yacht Club

January 5, 2005

SUMMARY OF SITUATION:

Several Etchells were approaching the starboard mark of the leeward gate in the first downwind leg of Race #4. As four boats prepared to round, 794 had been inside and rounded first; and 547 rounded second, clear astern of 794. 1157 attempted to round next, but 1221 became overlapped inside 1157 and contact occurred between 1157 and 1221, causing damage. Both 1157 and 1221 promptly hailed protest, displayed flags, and filed valid protests.

The PC conducted a hearing following the race, and as a result of the facts found concluded that 1221 broke rule 18.2(c) and that 1157 broke rule 14. Both boats were disqualified. 1157 filed an appeal contending that the PC misapplied rule 14 and that 1157 should not be disqualified.

FACTS FOUND BY PC:

1. Near the end of the first downwind leg, 1221 was clear astern of 1157.
2. When 1157 reached the two-length zone around Mark 3S, there was doubt as to whether or not 1221 had obtained an inside overlap on 1157.
3. 1157 slowed his boat to allow two boats inside of him to round ahead.
4. 1221 believed that he had obtained an inside overlap on 1157 and hailed for room.
5. There were many boats in the vicinity, an irregular choppy sea, about 15 knots of wind, and many hails being made by boats in the vicinity of 1221 and 1157 as they approached Mark 3S.
6. When 1157 was abeam of the leeward side of the mark, there were a few feet between her windward side and the mark.
7. 1221 assumed a course to pass between 1157 and the mark.
8. 1157's helmsman said he was focused on the mark and boat 547 which had rounded the mark just ahead. He reported that he did not see 1221.

9. After 1221 committed to passing between 1157 and the mark, 1157 “closed the door” by abruptly luffing from a beam reach to a close-hauled course.

10. Immediately thereafter, 1221 sailing a course about 90 degrees to 1157 collided with 1221 resulting in damage.

CONCLUSIONS AND DECISIONS OF THE PC:

1. Because 1221 had been clear astern as they approached the mark and because there was doubt that she obtained an overlap on 1157 in time, under Rule 18.2(e), the PC concluded that 1221 did not obtain an overlap before 1157 entered the two-length zone.

2. When 1157 was abeam of the leeward side of the mark, it became clear that 1221 was not going to keep clear of 1157 as required by Rule 18.2(c).

3. 1157 could have avoided contact with 1221 if, at that moment, 1157 had held her course or borne off. She did not do so. Instead, she luffed abruptly, and, as a result, was struck by 1221's bow. By luffing abruptly and causing damage, 1157 broke Rule 14.

4. By failing to keep clear of 1157 during the rounding, 1221 broke Rule 18.2(c).

5. Both boats were disqualified.

BASIS FOR APPEAL BY ETHELLS #1157:

#1157 believes that Rule 14 should not apply because (1) 1157 was hit by a boat (#1221) approaching from behind; (2) that 1221 approached the mark at excessive speed with disregard for boats clear ahead; (3) that as 1221 approached the mark she had no idea where 1157 was, (4) that 1221 did not make it clear to 1157 that she intended to round inside 1157; (5) that 1157 did not see 1221 until it was too late to avoid contact.

DECISION ON APPEAL:

Based on the facts found, it is clear that 1221 did not have an inside overlap on 1157 at the two-length zone, and that Rule 18.2(c) was applicable. 1221 therefore did not have the right to round the mark on the inside of 1157 and be entitled to room. However, 1221 subsequently became overlapped inside 1157 while attempting to round the mark on the inside, was not able to keep clear, and contact occurred during the mark rounding. 1221 first erred by trying to round inside 1157 and again by failing to avoid contact with 1157. We sustain the decision of the PC that 1221 should be disqualified for breaking both Rule 18.2(c) and additionally Rule 14.

As the right-of-way boat, for 1157 to be penalized under Rule 14, contact that causes damage must occur [Rule 14(b)]. There is no doubt that there was damage to 1157. However, the right-of-way boat need not act to avoid contact until it is clear that the other boat is not keeping clear or giving room. It is at that point in time, and not before, that the right-of-way boat is obligated to avoid contact if reasonably possible.

As 1157 came to close hauled to pass the mark a few feet off her windward side, there was time for 1221 to either bear off and pass astern of 1157 or turn sharply to starboard and leave the mark to her port side. In either case 1221 could have avoided contact. 1221 did neither, but continued her rounding and hit 1157 at about a 90-degree angle, approximately 11 feet forward of her stern.

When 1157 made her final approach to round the mark, she was sailing a proper course [per Rule 18.2(d)] and avoiding all nearby boats to which she was obligated. Approximately 3 seconds before contact, it became clear that 1221 would not keep clear, and it was not thereafter reasonably possible for 1157 to avoid contact. The disqualification of 1157 is reversed.

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

Thomas V. Allen, Jr. Chairman

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