



**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 # 05-02  
*ALCHEMY* (#275) vs *BRICKHOUSE* (#634)  
J/Fest Regatta, Race #5, April 3, 2005.  
Host: Encinal Yacht Club

August 6, 2005

**SUMMARY OF SITUATION:**

At the end of the first weather leg, *BRICK HOUSE* (J/105 #634) rounded very close to the weather mark. *ALCHEMY* (J/105 #275) was nearby and observed the rounding of #634. #275 thought that #634 hit the mark. #275 hailed protest and displayed her protest flag. #634 did not respond. The RC observed the protest flag at the finish line. After the race, #275 filed a protest. Later in the day, a protest hearing was held and #634 did not appear at the hearing. At the hearing, #634 was disqualified for hitting the mark.

The next day, #634 saw the race results and discovered she had been disqualified from Race #5 as a result of a protest by #275. #634 contacted #275 and stated that she had not hit the mark. As a result, #275 told #634 she would withdraw her protest. #275 contacted the PC Chair and asked to withdraw her protest. A few days later, the PC Chair told #275 that she could not withdraw her protest at this stage (per the rules); and that #634 would have to file an appeal.

**FACTS FOUND BY PC:**

1. #275 observed that #634 hit the weather mark.
2. #634 did not exonerate herself.
3. #634 was not present at the hearing.

**CONCLUSIONS OF PC AND RULES THAT APPLY:**

1. #634 hit the weather mark and did not perform a penalty turn.
2. RRS #31.1 is applicable.

**DECISION OF PC:**

#634 is disqualified.

**BASIS FOR APPEAL BY #634:**

1. #634 has declared in writing that she did not hit the mark.

2. Two days after the regatta, #275 declared in writing that she now believes that #634 did not hit the mark and she asked permission to withdraw her protest.
3. #275 was too far away to adequately see the rounding of #634, and also #275 was in a position such that the mark blocked the view of #275.
4. #634 never heard the hail, never saw a protest flag, and was not informed of the protest.
5. #634 contends that #275 was beyond hailing distance, and further that #275 failed to inform #634 of her protest at the first reasonable opportunity, per RRS 61.1(a).
6. #634 and her crew were at the Club for over an hour after the race during which time there was ample opportunity for either #275, the RC, or the PC to advise #634 of the protest, but #634 was not informed, as required by RRS 61.1(a)(1).
7. #634 believes the protest was not filed during the filing period, and that the time of the protest hearing was not posted in accordance with the Sailing Instruction #19. Consequently, #634 was not able to represent herself at the hearing.
8. #634 believes the Club and/or the PC were negligent in failing to advise #634 of the scheduled hearing or the results of the hearing, and that they only did so after #634 complained to the EYC Commodore on the day following the regatta about an apparent scoring error.
9. #634 believes that considering the circumstances, PC could have re-opened the hearing as provided in the second sentence of RRS 63.3(b), and that PC Chair erred in rejecting the request to re-open.

#### **DECISION ON APPEAL:**

After repeated unsuccessful attempts, both written and oral, to obtain clarification of certain documents from both the RC and the PC, the Appeals Committee has concluded that (1) this protest was not submitted during the protest filing period [thus failing to comply with Sailing Instruction 19.1], and (2) #634 was not informed by #275 of her intent to protest [as required by RRS 61.1(a)]. The Appeals Committee rules that this protest should have been ruled invalid for the above cited reasons and not heard. The decision of the PC is reversed, and #634 shall be re-scored in the original position in which she finished.

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

Thomas V. Allen, Jr. Chairman

copies: Jeffrey Zarwell, EYC PC Chair, 268 Bush Street, #4024, San Francisco, CA 94104  
Tony Shaffer, EYC Race Director, 1206 Broadway, Alameda, CA 94501  
*ALCHEMY* (Thomas Struttman), w/ attachments (216 Cheval Lane, Walnut Creek, CA 94569)  
*BRICK HOUSE* (Peter Lane), w/o attachments (187 St. Thomas Way, Tiburon, CA 94920)  
Appeals Committee Members, w/o attachments (via YRASFB Office)