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DECISION ON APPEAL, # 05-03
DREAMTIME vs *BREAKAWAY*
Vallejo Race, April 30, 2005
Host: Vallejo Yacht Club

September 11, 2005

SUMMARY OF SITUATION:

Approximately 30 seconds before the start of the race, *DREAMTIME* was reaching below the Start Line on starboard tack. *BREAKAWAY* was reaching below the Start Line on port tack. The boats converged toward each other on a collision course. At the last moment, both boats altered course to leeward. A collision followed, causing damage, as *DREAMTIME*'s bow hit *BREAKAWAY*'s port side about five feet forward of the mast. *DREAMTIME* filed a valid protest and a hearing was conducted on May 23, 2005.

FACTS FOUND BY PC:

1. Both boats were reaching on opposite tacks below the start line, about one minute before the start signal, with *DREAMTIME* on starboard.
2. The boats were converging at about 10 knots.
3. Approximately 20 seconds prior to collision, the bowman on *DREAMTIME* hailed "starboard."
4. Boat boats continued to converge without altering course.
5. Some seconds later, the bowman on *DREAMTIME* hailed "come down." (a typo was subsequently corrected by PC)
6. Both boats immediately altered course to leeward.
7. A collision occurred, causing serious damage to both boats, with *DREAMTIME*'s bow colliding with the port side of *BREAKAWAY*, about five feet forward of her mast.

CONCLUSION OF PC AND RULES THAT APPLY:

1. *BREAKAWAY* was required to keep clear of *DREAMTIME*, failed to do so, and broke Rule 10.
2. *DREAMTIME* altered course without giving *BREAKAWAY* time to keep clear and broke Rule 16.1.
3. Both boats had a reasonable opportunity to avoid contact, failed to do so, and broke Rule 14.

DECISION OF PC:

BREAKAWAY is disqualified for breaking RRS 10 and RRS 14. *DREAMTIME* is disqualified for breaking RRS 16.1 and RRS 14.

BASIS OF APPEAL BY *BREAKAWAY*:

1. The PC did not take their job seriously: (a) the PC conducted the hearing one week later than the date published in the Sailing Instructions, (b) the PC did not contact the RC personnel who witnessed the incident, (c) the PC did not deliver a written decision until three weeks after the hearing (contrary to the rules of US SAILING), (d) the oral decision presented at the time of the hearing was different from the written decision, (e) the written facts were different from the oral and written testimony presented at the time of hearing, (f) the written decision was signed by only one member of the PC, and (g) the names of both the protestor and protestee were spelled incorrectly.
2. The PC failed to accept as fact some of the written and/or oral testimony by participants from both boats; in particular, *DREAMTIME*'s alteration of course in attempt to minimize damage and injuries.
3. The PC misinterpreted and misapplied RRS 16.1, including their erroneous conclusion that the two boats could simultaneously break conceptually opposing rules, namely RRS 10 and RRS 16.1.

DECISION ON APPEAL:

After reviewing the various administrative irregularities cited by the appellant, we have concluded they did not materially affect the rights of the parties or prejudice the process or interpretations of the rules.

Appellant is also reminded that although the PC must listen to the testimony of the parties and their witnesses, there are often differences of opinion about what actually happened. The job of the PC is to evaluate conflicting testimony, determine what they believe are the true facts, and then base their decisions on them.

We rule that *BREAKAWAY*, on port tack, failed to keep a proper lookout and to observe her primary duties to keep clear and avoid contact. *BREAKAWAY* did neither and was correctly disqualified under rules 10 and 14.

When it became clear that *BREAKAWAY* was not keeping clear, *DREAMTIME* was required by rule 14 to avoid contact with *BREAKAWAY*, if reasonably possible. *DREAMTIME* made a reasonable attempt to do so by altering course to leeward. However, when *BREAKAWAY* simultaneously altered course to leeward, contact occurred that caused damage. *DREAMTIME*'s course alteration did not break rule 16.1 because she was attempting to fulfill her obligation under rule 14. Although *DREAMTIME*'s attempt to avoid contact was unsuccessful, it was an appropriate and reasonable response. Therefore, *DREAMTIME* did not break either rule 16.1 or 14.

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

Thomas V. Allen, Jr. Chairman

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