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DECISION ON APPEAL, # 05-04
TUTTO BENE vs *VUJA DE*
Vallejo Race, April 30, 2005
Host: Vallejo Yacht Club

September 3, 2005

SUMMARY OF SITUATION:

VUJA DE (*VD*) and *TUTTO BENE* (*TB*) were approaching the turning mark at the entrance to Mare Island channel. Both boats were sailing downwind on a port jibe with *VD* ahead and to leeward of *TB*. *TB* was going faster as they arrived at the two-length zone of the mark, which was to be rounded to port. The next leg would be a close reach on port tack. The boats were overlapped as they started to round the mark and contact occurred between the bow of *TB* and the aft port side of *VD*. After contact *VD* spun to the left and also contacted the mark. A valid protest was filed by *VD*.

A hearing was convened on May 25, 2005, at which there was approximately two hours of testimony. After another two hours of deliberation, the hearing was recessed. The hearing was reconvened the following week with only two of the original PC members, at which an additional witness for *VD* was heard. Procedural irregularities were discussed, and they were either met or waived. The hearing was then completed.

FACTS FOUND BY PC:

1. Wind velocity was 10 to 12 knots, and there was a flood current of about 2 knots.
2. Both boats approached Mark #1 on port tack under spinnaker.
3. The mark was to be left to port by both boats.
4. The flood current was setting both boats into the mark, with *VD* sailing by-the-lee at significantly slower speed than *TB*, which was overtaking from clear astern.
5. The helmsman of *VD* hailed "no overlap" at the two boat-length circle, while the tactician at the stern of *TB* hailed "overlap" and requested "room at the mark."
6. *VD* altered course sharply to port as she passed the mark to assume a spinnaker reach toward the finish line.
7. The course change was unanticipated by *TB* which was forced to alter course to starboard in an attempt to avoid a collision. She could not turn to port without hitting the mark or an obstruction inside the mark.
8. At the time the imminent collision became apparent to *VD*, it was impossible for her to make any maneuver that would help avoid the collision.
9. A collision occurred between the bow of *TB* and the aft port hull of *VD*, just forward of the stern.
10. The impact caused *VD* to spin up into and make contact with the mark.

CONCLUSION OF PC, RULES THAT APPLY, AND DECISION:

1. If there is reasonable doubt that an overlap exists at the two-length zone, rule 18.2(e) requires the second boat to presume that she does not have an overlap. Rule 18.2(c) then requires her to keep clear even if she thereafter acquires an overlap.
2. Rule 18.2(d) applies and nullifies the requirement of rule 16, therefore giving *VD*, the right-of-way boat, the right to alter course abruptly without warning or need to give the other boat room to keep clear.
3. *TB* failed to keep clear and is therefore disqualified.
4. At the moment a collision became apparent to *VD* (after altering course to port at the mark) there was nothing she could reasonably do to avoid the collision. Her move to round the mark was predictable and she had a reasonable expectation that *TB* would maneuver to keep clear. As she had no reasonable chance to avoid the contact, *VD* shall not be penalized under rule 14.
5. *VD* violated rule 31.1 when she touched the mark but shall be granted redress for not doing a penalty turn as the cause of the touch was through no fault of her own.

BASIS FOR APPEAL BY *TUTTO BENE*:

1. *VD*'s abrupt and unannounced course alteration to port at the mark left *TB* no course of escape to avoid the collision.
2. The PC did not understand the importance of Rule 14 and consequently failed to apply it correctly.
3. The PC mistakenly interpreted the last sentence in Rule 18.2(d) to not only turn off Rule 16.1, but to also void *VD*'s responsibility to avoid contact under Rule 14.

DECISION:

Although PC misstated the text of Rule 18.2(e), it is nevertheless acceptable for them to apply this rule in view of the conflicting testimony that they were unable to resolve. Thus Rule 18.2(c) is applicable, and *TB* was obligated to keep clear of *VD* during the rounding. *TB* failed to do so, and the PC correctly ruled that *TB* is disqualified for breaking Rule 18.2(c).

The PC also misstated the text of Rule 18.2(d) in that while Rule 16 does not apply, Rule 14 is still applicable to both boats and they must each "avoid contact with another boat if reasonably possibly." The main purpose of the rules of Part 2 is to avoid contact between boats. The facts found state that *TB* was approaching the mark at a significantly faster speed than *VD*, and that the direction of the current was setting both boats into the mark. *TB* should have anticipated that she would clearly have an inside overlap on *VD* by the time the boats reached the mark, and that contact was a reasonable possibility. *TB* failed to take action to avoid this situation when it was reasonably possible to do so, and consequently *TB* also broke Rule 14.

As *TB* overlapped *VD*, traveling faster on the inside, *VD* should have realized that *TB* was not keeping clear as she was obligated to do, and that contact and damage was likely. When *VD* arrived at the mark, she should have taken action to avoid *TB* and protested. Instead she altered course toward the mark, which resulted in contact and damage. *VD* broke Rule 14.

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

Thomas V. Allen, Jr. Chairman

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