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DECISION ON APPEAL, Appeal # 05-06
*BERKELEY YC RACE COMMITTEE vs
ALWAYS FRIDAY & LAZY LIGHTNING*
ODCA Race #2, June 4, 2005
Host: Berkeley Yacht Club

September 23, 2005

SUMMARY OF SITUATION:

On June 4, 2005, for the second race of the day, the BYC race committee (RC) signaled course #7 with a T (twice around) for four one-design classes, composed of a total of 24 boats. The RC signal boat was positioned at the starboard end of a Start/Finish Line, with a pin mark (XOC) positioned nearby at the port end of the Line. A windward mark (FOC) was located 1 mile to weather and a leeward mark (BOC) was located 1 mile to leeward of the S/F Line. The course was described as XOC (start), FOC, BOC, XOC (finish), twice around. It was intended that the boats sail around this loop twice, rounding all marks to port.

However, the Sailing Instructions state that "boats shall not cross the Start/Finish Line except when preparing to start, starting or finishing." Seven of the twenty-four boats, among three of the four classes, sailed through the S/F Line to start the second lap of the twice-around course. The seven boats were disqualified by the RC, as RC believed was permitted by the Sailing Instructions. Two of the seven "offending" boats requested redress, citing misleading text in the Sailing Instructions. At a subsequent hearing, the Protest Committee (PC) agreed with the two boats and reinstated all seven of the boats that passed through the S/F Line at the beginning of the second lap. The RC has appealed the decision of the PC.

FACTS FOUND BY PC:

1. The RC signaled the course by a "T" flag (twice around) over the course number ("7"), meaning: XOC, FOC, BOC, FOC, BOC, XOC (all marks to be left to port).
2. A pertinent part of the Standing Sailing Instructions (namely, section 10.2) reads as follows: "RRS 28 is amended to state: Boats shall not cross the S/F Line except when preparing to start, starting or finishing. Additionally, boats observed not sailing the course under RRS 28.1 may be given a DNF without a hearing. This changes RRS 63.1."
3. It is undisputed that *ALWAYS FRIDAY* and *LAZY LIGHTNING* were observed by the RC passing through the restricted S/F Line in violation of the Standing Sailing Instructions.
4. Believing that SSI 10.2 permitted the RC to score a boat as DNF without a hearing for such violation, RC scored the seven "offending" boats accordingly.
5. The Requests for Redress were submitted timely and the two petitioners cited RRS 62.1(a), an improper action of the RC, as applicable. The two petitioners waived a hearing and are relying on their written submissions.

CONCLUSIONS OF PC, RULES THAT APPLY, AND DECISION:

1. The Sailing Instructions, as written, contain flawed language, in particular rule references, and do not authorize the RC to score participants who crossed the S/F Line at the beginning of the second lap as “DNF without a hearing.”
2. The Sailing Instructions are ambiguous, contain conflicting directions, and permit various logical interpretations of how to sail the course.
3. The seven boats that interpreted the Sailing Instructions as requiring all boats to sail through the S/F Line at the beginning of the second lap made a logical interpretation of the instructions and did not gain any benefit by so doing. Consequently, in fairness, these boats should not be penalized.
4. RRS 28, SSI 10.2, and the ODCA course description are relevant.
5. The taut string analogy (RRS 28.1) is satisfied whether or not a boat violates the SSI 10.2 restriction because its language does not purport to make the entire S/F Line a mark of the course except when preparing to start, starting or finishing. Thus, a boat may sail the course and conform to RRS 28.1 even though the boat may violate the S/F Line restriction.
6. PC decided that fairness and justice is served by reinstating (scoring) all boats in the positions in which they originally attempted to finish.

BASIS FOR APPEAL BY RACE COMMITTEE:

1. RC contends that the two petitioners, AF and LL, failed to sail the course correctly because they failed to comply with SSI 10.2 and sailed through the S/F Line during which time it was a restricted area.
2. RC contends that because AF and LL sailed through the S/F Line (as above), RC was justified in scoring the two boats DNF without a hearing, as provided in SSI 10.2.
3. RC contends “twice around” does not imply that boats should start the second lap by again passing through the S/F Line (which is specifically forbidden by SSI 10.2). Instead, after rounding the “last mark” in the first lap, a boat should again proceed to the “first mark” to begin the second lap, and not pass through the S/F Line (which would violate SSI 10.2).
4. RC contends that the purpose of SSI 10.2, to keep the S/F Line clear, is extremely clear and explicit.
5. RC disagrees with PC conclusion that the taut string analogy is satisfied whether or not a boat violates SSI 10.2.
6. RC disagrees with PC conclusion that SSI 10.2 is intended to modify just RRS 28.2, but instead RC believes SSI 10.2 modifies all of RRS 28. Thus, SSI 10.2 makes the S/F Line a mark of the course, and a boat that sails between the ends of the S/F Line does not sail the course correctly, and therefore the RC may score said boat DNF, as specified in SSI 10.2 (without a hearing).

DECISION:

First, SSI 10.2 was intended, in effect, to add an additional section to RRS 28 by describing a restricted area which was NOT intended to be an additional mark of the course, but which must be considered in “sailing the course”. Second, SSI 10.2 adds that if a boat passes through the restricted area it can be scored DNF by the RC without a hearing. We rule that these changes to RRS 28 are permissible changes and were made correctly by referencing RRS 63.1. Thus, RC did not violate “due process,” and it was not necessary for RC to file a protest, give notice and conduct a hearing.

Although there are places in the SSI where alternative text might have made the instructions more clear, the SSI is sufficiently clear that the S/F Line is a restricted area except when preparing to start, starting, or finishing. There is a logical reason to keep this area clear for boats that are preparing to start, starting or finishing; and, particularly considering SSI 10.2, there is no logical reason for a boat to go through this restricted area during the second lap.

Also, SSI 10.2 is consistent with the definition of "finishing" in that if a boat passed through the S/F Line at the beginning of the second lap, she would "finish" (by definition, which can not be changed) before sailing the complete course, and subsequently be disqualified.

The PC's decision is reversed, and the original scoring of the RC is reaffirmed.

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

Thomas V. Allen, Jr. Chairman

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