



**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 # 05-07
OUI B 5 vs EL OCASO
PICYA Regatta (Big Lipton), July 17, 2005
Host: Golden Gate YC

September 25, 2005

SUMMARY OF SITUATION:

OUI B 5 (OB5) and *EL OCASO (EO)* were involved in a right-of-way incident during the third race of the Big Lipton regatta on July 17, 2005. At the time of the incident, *OB5* allegedly hailed and displayed a protest flag. After the race, both boats returned to the harbor, where the owners discussed the incident and sought out race officials at the nearby host club. The owners discussed the timing requirements for both protest filing and protest hearing with the PRO, and it was agreed that the parties would have 24 hours to file a protest if the dispute could not be resolved informally. The subsequent oral discussions between the owners were unsuccessful in resolving the dispute, so *OB5* returned to the club to submit her written protest. Although *OB5* allegedly could have filed her protest within the default filing period, she was unable to do so because all race committee personnel had left the premises. Later on Sunday evening, *OB5* telephoned the Regatta Chair to advise him of her intent to protest. *OB5* was given a fax number, by which she submitted her protest on Monday morning, July 18. A protest hearing was convened on July 21, 2005, at which time the PC ruled that the protest was invalid because it was filed late. *OB5* has appealed this decision.

FACTS FOUND BY PC:

1. Protest was filed the day after the race.
2. Sailing Instructions state that protest must meet the requirements of RRS 61.
3. Sailing Instructions do not specify a protest filing period, so the default period of "two hours" is applicable, per RRS 61.3.
4. An allegation was made that there was an agreement between the owners to extend the filing period to 24 hours, but the protesting owner was not present at the hearing to testify.
5. It was alleged that the PRO also agreed to the extension of the filing period to 24 hours.
6. There was no posting of the alleged change (extension of filing period) to the Sailing Instructions, consequently the PRO would not have been in compliance with SIs if he agreed to the extension.

CONCLUSIONS OF PC, RULES THAT APPLY, AND DECISION:

PC ruled that the protest was invalid because it was not filed on time, per RRS 61.3. It was not heard.

BASIS FOR APPEAL BY *OUI B 5 (OB5)*:

1. A protest filing period was not specified in either the Notice of Race or the Sailing Instructions.
2. At the time of the incident, *OB5* immediately hailed and displayed her flag.
3. Both boats were docked near the host club within 15 minutes of finishing the race, and promptly met with the PRO to discuss protest procedures relating to the incident.
4. The PRO encouraged the owners to resolve their dispute "at the dock." Also, the PRO and both parties agreed to a time limit of 24 hours for filing a protest.
5. The owner of *OB5* had to catch a flight. There was no protest committee on site. The Sailing Instructions stated that protests would be heard eight days after the regatta, on July 25, 2005.
6. Preliminary results were posted, with "protest pending" designated for *OB5* and *EO*.
7. There was no notice posted regarding the 24-hour time limit because there were no other protests.
8. After discussions with the other boat "at the dock" were unsuccessful, *OB5* went to the host club to submit her protest. It was then approximately one hour forty minutes after the finish of the last race, at which time all race committee personnel had left the premises.
9. On that evening, *OB5* telephoned the Regatta Chair to obtain a fax number to submit her protest, which she did the following morning, within the 24-hour filing period.
10. The Deed of Gift for this event states, in part, "the decisions of the race committee will be final..."... and the entry form states, in part, "I agree to abide by the conditions of the Deed of Gift...", and the SIs state that the regatta is being governed by "...the Declarations of Trust of the respective perpetual cups...."
11. Considering the information presented above, the protest committee should have heard this protest.

DECISION:

Appellant has called our attention to two particularly important items of information: (1) Although the PRO did not have the authority to extend the time limit for filing, the PRO gave both boats incorrect information about the time limit, upon which *OB5* initially acted in good faith; and (2) when *OB5* subsequently reappeared at the Club to submit her protest, still within the originally specified filing period, all race committee personnel had left the premises and there was nobody available to accept her protest form.

The appeals committee rules that this protest shall not be declared invalid for being filed late, and it is remanded to the PC for further consideration; and if otherwise determined to be valid, to be decided on the basis of the facts of the incident as determined by the PC at a properly noticed protest hearing.

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

Thomas V. Allen, Jr. Chairman

copy: *OUI B 5* (John Sylvia), 160 Gilmartin Drive, Tiburon, CA 94920
EL OCASO (Rick Wesslund), 1960 Straitsview Drive, Tiburon, CA 94920
Regatta Chair (Larry Mayne), P.O. Box 5548, Redwood City, CA 94063
PRO (Johnnie Owen), P. O. Box 350, Walnut Grove, CA 95690
Protest Chair (Robert Gray), 3837 La Cresta Street, Oakland, CA 94606