



**YACHT RACING ASSOCIATION
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DECISION ON APPEAL, Appeal # 05-08
EXPEDITIOUS #18478 vs RC (Redress)
Second Half Opener, August 6, 2005
Host: Encinal Yacht Club

January 11, 2006

SUMMARY OF SITUATION:

On August 6, 2005, at the start of the race, *EXPEDITIOUS* was at the pin end of the line on starboard tack, starting aggressively, confident in her position behind the line at the Start signal. After sailing up the course for 15 to 20 seconds, *EXPEDITIOUS* heard a broadcast on VHF channel 66, "18478 OVER EARLY". Channel 66 was the RC designated channel for communicating to the boats. *EXPEDITIOUS* immediately turned back, re-crossed the starting line in the direction away from the course side, and re-started. *EXPEDITIOUS* believes she saw an RC member briefly hold up the X flag and then lower it to indicate that she was clear. *EXPEDITIOUS* continued racing and finished 15 seconds behind the boat immediately in front of her at the finish line.

Later that evening, the *PRO* left a message on the answering machine of *EXPEDITIOUS*, in which he apologized for the error by the RC in calling *EXPEDITIOUS* over early. The *PRO* stated that the RC support boat was only authorized to advise the *PRO* of potential OCS boats on Channel 72, in case the *PRO* was unable to see clearly. The *PRO* stated in his message that *EXPEDITIOUS* was definitely not OCS. The *PRO* advised *EXPEDITIOUS* to promptly file a request for redress, for which he would provide support. The *PRO* estimated that *EXPEDITIOUS* lost a minimum of 45 seconds due to the RC error. Later, the *PRO* confirmed his statements in a written email message to *EXPEDITIOUS*.

Neither the *PRO* nor the skipper of *EXPEDITIOUS* was able to attend the hearing, but both parties were represented. The PC denied the request for redress and a subsequent request to re-open the hearing. *EXPEDITIOUS* subsequently submitted this appeal, which met the filing requirements.

FACTS FOUND BY PC:

1. There were no changes to Rule 29.1 stated in the Notice of Race or the Sailing Instructions.
2. No boats were observed to be OCS at the start.
3. No "X" flag was displayed on the signal boat.
4. No "sound signal" was made from the signal boat.

(Although this "request" was checked (x) as invalid on the protest form, we believe this was a clerical error)

CONCLUSION OF PC, RULES THAT APPLY, AND DECISION:

1. No "X" flag was displayed and no sound signal was made by RC.

2. A hail from a committee boat does not qualify as a "sound signal" with reference to RRS 29.1 (see Case 71).
3. Applicable rules are: 29.1, 30.1 and Case 71.
4. Decision: Redress is not given.

BASIS FOR APPEAL BY *EXPEDITIOUS*:

1. The PC failed to record a very significant fact about which compelling evidence has been presented, namely that an official race committee boat clearly broadcast an erroneous and unauthorized OCS call (an "improper action") on the authorized VHF channel approximately 15 seconds after the start, which ultimately made *EXPEDITIOUS*' score significantly worse through no fault of her own [RRS 62.1(a)].
2. The *PRO* for the race has conceded in writing that the *RC* was guilty of an "improper action" that caused *EXPEDITIOUS* to lose at least 45 seconds at the start of the race.
3. At the time of the start, the weather conditions were so adverse (windy, foggy, etc) that it was impossible to verify for certain whether or not an "X" flag had been displayed from the signal boat by the *RC*. Appellant believes it is fair for him to assume that the *RC* completed the proper procedure (by displaying the "X" flag) considering that *RC* called appellant OCS on the designated VHF channel.
4. The PC failed to take the above into consideration in arriving at their decision to deny redress.

DECISION OF APPEALS COMMITTEE:

Based on the Facts Found by the PC and the subsequent clarification by the parties, the Association Appeals Committee (AAC) concurs that *EXPEDITIOUS* was not OCS and that an individual recall was not signaled by the *RC*.

However, it is clear that an official *RC* boat erroneously hailed (by VHF radio), the sail number of *EXPEDITIOUS* shortly after the start, and that *EXPEDITIOUS* returned and restarted as a result. We rule that this constituted an improper action of the *RC*, that the conditions of redress per RRS 62.1(a) have been met and that *EXPEDITIOUS* is entitled to redress.

As the improper action of the *RC* occurred at the start of the race, the AAC believes that an averaging system would provide the most reasonable form of redress, computed as follows. An average should be based on the results of the regattas actually raced by the four boats that participated in the race for which redress is applicable, rounded to the nearest whole number. This calculation of redress would provide *EXPEDITIOUS* with points equal to two for the race in question.

Should the PC disagree with this method for calculating redress, the AAC directs the PC to respond with a suggested alternative within 15 days. If such a response is not received during this period, the above shall constitute the full decision of the AAC.

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

Thomas V. Allen, Jr. Chairman

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