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DECISION ON APPEAL, Appeal # 08-02
StFYC RC & J/105 #35 vs J/105 #26
Rolex Big Boat Series, Race #7
Host: St. Francis YC; Date: 9/14/08

November 15, 2008

SUMMARY OF SITUATION

In Race #7 of this regatta, second leg, several J/105s were proceeding north northeast across a shipping channel from Blackaller (Mark #16) toward Harding Rock (Mark #17). The boats were on a port tack spinnaker reach, with J/105 #26 in the lead. At the same time, a large ship was passing through the area, from west to east, with a Race Committee support boat (RIB) positioned near the ship's bow. As the J/105s and the ship converged, the RC RIB hailed and hand-signaled J/105 #26 to pass astern of the ship, but #26 continued to cross in front of the ship. An RC boat noted that there was no emergency signal (five horns) from the ship, no pilot report, and no warning via VHF radio. Protests were filed by J/105 #35 and by the RC, and J/105 #26 was disqualified in a subsequent protest hearing for breaking SI #22 (Interference with Other Vessels). J/105 #26 has appealed this decision, citing erroneous conclusions that are not supported by facts and major procedural errors by the protest committee.

FACTS FOUND BY PROTEST COMMITTEE

1. On leg #2 of race #7, several J/105s were sailing north northeast (Blackaller to Harding) on a port tack spinnaker reach, across the shipping channel, with #26 in the lead. A large ship was proceeding west to east in the shipping channel at the same time.
2. As the J/105s converged with the ship, a Race Committee boat (black RIB) hailed and hand-signaled #26 to pass astern of the ship.
3. J/105 #26 signaled back and continued to cross the ship's bow.
4. There was no emergency signal (five horns) from the ship or pilot report. RC control "Cressey" confirmed "no warning from pilot" on VHF channel 13 (vessel traffic).

CONCLUSIONS, APPLICABLE RULES, AND DECISION OF PC:

J/105 #26 failed to comply with RC hail to alter course to avoid impeding ship traffic and broke Sailing Instruction #22. J/105 #26 is disqualified.

BASIS FOR APPEAL BY J105 #26:

1. The decision of the protest committee was incorrect as it was not based on the violation of a rule defined in the Sailing Instructions or the Racing Rules of Sailing.
2. A related protest by J/105 #35 was invalid, and consequently the protest committee made a procedural error by allowing an interested party (#35) to participate in the RC's protest hearing against J/105 #26.

3. The RC's protest was invalid as it was filed solely in reaction to a protest filed by another competitor (per RRS 60.2).

DECISION:

This appeals committee rules that the section of SI #22 Paragraph #1 that allows a competitor to protest a violation of Rule 9 (inland Rules of the Road) is invalid because it does not conform with the preamble of Part 2 of the RRS. RRS 86.1(b) states that the SI's may not change a rule of Part 2, which SI #22 attempts to do. Consequently, the protest submitted by J/105 #35 is invalid because a competitor may not protest an alleged violation of Rule 9, per the preamble to Part 2.

We rule that the protest submitted by the Race Committee (RC) is valid and in fact mandatory as provided by SI #22, Paragraph #3. We note that the RC protest cites SI #22 (Interference with Other Vessels) as the rule alleged to have been broken. We note that SI #22 Paragraph #1 waives compliance with Rules 60-63 for a hearing involving a Rule 9 infraction, thus the alleged violations of RRS 63.3(a) by the protest committee and RRS 60.2 by the RC are moot.

We interpret SI #22 Paragraph #3 as a warning that if a boat does not comply with the hail of the RC, the RC must file a protest and cause a hearing (in effect, cause a formal investigation) to determine if a boat broke SI #22 (Interference with Other Vessels) or violated Rule 9 of the Inland Rules of the Road.

Failure to comply with the hail triggers a protest and a hearing, but does NOT cause an automatic DSQ of any boat in question. Such an interpretation would stretch language beyond common usage.

At the protest hearing that followed, no facts were found relating to the proximity of J/105 #26 to the ship, or the possibility that #26 may have impeded the passage of the ship. Some facts found suggest that the ship's pilot was not particularly concerned about the proximity of the sailboats.

The decision of the Appeals Committee is that J/105 #26 did not impede the passage of ship traffic, and the decision of the protest committee is reversed. The Race Committee is directed to re-instate #26 and score her in the position she finished for this race.

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

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