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DECISION ON APPEAL, Appeal #09-01
J/105 #157 vs J/105 #434
Albert Simpson Regatta, Race #5
Host: St. Francis YC; Date: 7/19/09

September 10, 2009

SUMMARY OF SITUATION:

In Race #5, J/105 #157 (Walloping Swede) and J/105 #434 (Jam Session) were sailing upwind on starboard tack on the last leg of the course toward the finish line. The two boats became overlapped at which time the separation between them was about three boat-lengths. #434 was to leeward and #157 to windward as the boats gradually converged to become side by side.

First, #434 luffed slowly and #157 responded, after which both boats bore off. Twenty seconds later, #434 luffed sharply. As #157 responded to the second luff, they were hit by a puff, #157 heeled over, and #434 simultaneously became upright. Contact occurred between #157's mainsail and #434's shroud.

No damage occurred, no penalty turns were taken, and both boats finished the race.

#434 filed a valid protest and was disqualified in a subsequent protest hearing. #434 submitted this appeal.

FACTS FOUND BY PROTEST COMMITTEE:

1. #157 (windward) and #434 (leeward) were sailing upwind on starboard tack approaching the finish line, with 10' of separation. #157 was less than 5' bow forward.
2. There were three boat-lengths of separation when the overlap was established.
3. #434 luffed and #157 responded.
4. Both boats then bore off.
5. Twenty seconds later 434 luffed sharply.
6. As #157 responded to second luff, they were hit with a puff, #157 heeled over, and #434 simultaneously became upright.
7. Contact occurred between #157's mainsail and #434's shroud.
8. No damage occurred, no penalty turns were taken, and both boats finished the race.
9. Prior to both luffs, #434 was approximately 10' to windward of *Orion* (a third boat) and bow even with them.

CONCLUSIONS, APPLICABLE RULES, AND DECISIONS OF THE PROTEST COMMITTEE

1. #157 failed to keep clear of #434 and broke RRS 11 and 14.

2. #434, when luffing for the second time, failed to give #157 room to keep clear and broke RRS 16.1.
3. By breaking 16.1, #434 compelled #157 to break 11 and 14, and #157 is exonerated under RRS 64.1(c).

Decision: #434 is disqualified.

BASIS FOR APPEAL BY #434:

#434 acknowledges that there was conflicting testimony during the hearing. However, #434 contends that some of the facts found by the protest committee are inconsistent with other facts found. Specifically, if #434 had luffed, when and as described, contact could not have occurred as described. #434 questions whether the conclusions reached by the protest committee are physically possible.

DECISION OF APPEALS COMMITTEE:

AAC reminds all parties that the PC is responsible for determining the facts found. They are in a far better position than the appeals committee to do so because the PC heard the original testimony, presumably asked appropriate clarifying questions, and were better able to evaluate relative credibility of conflicting testimony.

During the seconds just before the sharp luff, we believe the 10' separation between the hulls suggests that #434 could have changed course in either direction without contacting #157. Thus, #157 was keeping clear at that time.

However, when #434 made a sharp luff, it is logical that the gap between the boats would be reduced. #434 should have allowed for the effect of blanketing which was anticipated by both boats. Also, the possibility of a concurrent puff should also have been considered by #434. Thus, the course alteration by #434 was at least a contributing factor to closing the gap and the contact that followed. #434 broke RRS 16.1 by failing to allow room for #157 to keep clear.

We also believe that the conclusions of the PC are physically consistent with the facts found.

Based on the facts found by the PC, we feel compelled to uphold the decision of the PC. The appeal is denied.

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

Thomas V. Allen, Jr. Chairman (email: tomallen2@comcast.net)

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