



**YACHT RACING ASSOCIATION  
QUARTERS 35S, FORT MASON  
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DECISION ON APPEAL, Appeal #10-03  
INFINITY US41212 v SWEETSPOT 46921  
Vallejo Race  
Vallejo YC, 2 May 2009

30 July 2010

**SUMMARY OF SITUATION:**

At approximately 9 minutes before INFINITYs and 14 minutes before SWEETSPOTs starting signals, a collision occurred between the boats. Both boats experienced damage and a crew member on INFINITY was injured. Neither boat started at their respective starting signal.

INFINITY filed a protest after the race via fax. A hearing time and place was set by the protest committee but neither party attended.

**FACTS FOUND BY THE PROTEST COMMITTEE:**

1. Protest filed by INFINITY.
2. Protest form filed 5/5/ 2009 – Deemed acceptable.
3. Notice of protest sent out notifying that a hearing was to be held.
4. Sailing Instructions indicate time and date of hearing – 5-28-09, 19:00hrs @ Vallejo Yacht Club.
5. Race Committee waited in excess of one (1) hour for participants to arrive – neither the protestor nor the protestee appeared at the hearing.

**CONCLUSIONS OF THE PROTEST COMMITTEE:**

(No conclusions were included in the decision.)

**DECISION AND APPLICABLE RULES:**

No parties to the protest appeared for the hearing – the race committee therefore choose to drop the proceeding due to lack of participation and information from the involved parties.

Rule 63.3b – If a party does not come to a hearing the protest committee may nevertheless decide the protest or request...

Rule 68b – A protest committee shall find facts and make decisions only in compliance with the rules. No protest committee or US Sailing authority shall adjudicate any claim for damages.

**BASIS FOR APPEAL BY INFINITY:**

INFINITY's appeal is based on claims that:

- they were not notified of the time and place of the hearing as required by RRS 63.2;
- they had the right to be present at the hearing as stated in RRS 63.3;
- the Protest Committee failed to promptly inform the parties of their decision as required by RRS 65.1.

**DECISION OF APPEALS COMMITTEE:**

The Protest Committee (PC) properly notified the competitors of the time and place of the original hearing which gave them sufficient time to prepare as required by RRS 63.2. Neither party was denied the right to be present

as required by RRS 63.3 although neither party attended the hearing. The PC is required under RRS 63.1 to hold a hearing for all protests received unless it allows a protest to be withdrawn. That is not the case here. In this case, the PC believed that they could not reach an informed decision based solely on the written protest.. The PC erred by failing to: determine the validity of the protest as required by RRS 63.5; gather facts as required by RRS 63.6; make a decision per RRS 64; and inform the parties as required by RRS 65. The fact that the only information available at the time was contained in the written protest is not a reason to fail to meet the requirements of the RRS. If either party was dissatisfied with the resulting decision, they would have had the right to request that the hearing be re-opened under RRS 66 or to appeal as allowed in RRS Part 5 Section D and Appendix F.

Therefore, under RRS Appendix F6, the AAC directs the PC to schedule a hearing and to reach a decision regarding the protest as required by the RRS.

All parties are reminded that the decision of the PC is solely an application of the Racing Rules of Sailing. We call attention to the US SAILING prescriptions to RRS 68, which address determination of liability for damages or injury, and to the preamble to RRS Part 2, which may limit the imposition of scoring penalties.

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

A handwritten signature in black ink, appearing to read "John Christman". The signature is stylized and written in a cursive-like font.

John Christman, Acting Chairman (email: [john@christman.org](mailto:john@christman.org))

copy VYC Protest Committee, Mr. Gordon Smith, Chairman, (email [oakline30@yahoo.com](mailto:oakline30@yahoo.com))  
INFINITY (Brad Copper), (email: [bcopper@marvell.com](mailto:bcopper@marvell.com))  
SWEETSPOT (James Forni), (email: [madforni@yahoo.com](mailto:madforni@yahoo.com))  
Appeals Committee Members, via email