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DECISION ON APPEAL, #10-05
MOONSHINE (#8398) v. RACE COMMITTEE
Pacific Cup Race, San Francisco to Hawaii
Host: Pacific Cup YC, July 2010

September 29, 2010

SUMMARY OF SITUATION:

Moonshine was one of about 55 boats that competed in the biennial Pacific Cup race from San Francisco to Kaneohe, Hawaii during July 2010. The boats were divided into seven divisions of which two were double-handed and five were fully crewed. The boats were assigned handicaps by the Pacific Cup YC (the primary organizer). Each boat competed primarily against other boats in her division, but also for other special awards including one called the Latitude 38 Performance Trophy (L-38 Trophy). The division with the smallest boats started first, and the division with the largest boats started last about five days later.

The 2010 Sailing Instructions state that "the L-38 Trophy is awarded to the boat that wins its division, after dropping the bottom 20% of finishers, by the greatest margin using a standard deviation." This trophy is a perpetual and was also awarded similarly in both the 2006 and 2008 editions of this race.

Moonshine won her division (DH1) by a substantial margin and was surprised when it was announced at the prize-giving ceremony that she had NOT won the L-38 Trophy. *Moonshine* sought out a race committee representative to discuss the situation, and later submitted a request for redress. Following a series of email exchanges with a protest committee, *Moonshine's* request for redress was rejected because it was submitted after the time limit had expired. *Moonshine* submitted this appeal.

FACTS FOUND BY THE PROTEST COMMITTEE:

Moonshine was expecting to win the Latitude 38 Performance Trophy at the 2010 Pacific Cup awards presentation based on their interpretation of the trophy and their own calculations.

When the announcement was made on July 23, 2010 1800 HST that another boat was awarded the Latitude 38 Performance Trophy, *Moonshine* sought out the race committee to find out why they did not receive the trophy.

Moonshine was supplied the formula used to award the Trophy on July 25, 2010 time unknown.

Moonshine filed a request for redress on July 27, 2010 23:00:51 PST.

CONCLUSIONS AND RULES THAT APPLY:

Moonshine waited four days from the announcement of the winner to file their protest.

The time limit to file a protest is 2 hours after the incident. In this case the incident is the announcement of the trophy being awarded that *Moonshine* attended.

The protest committee extended the time limit until *Moonshine* was supplied with the calculation formula (July 25, 2010). The PC extended the time limit to the morning of July 26, 0200.

Moonshine waited two days from getting the calculation formula to file.

Rule 62.2 the request for redress shall be in writing and be delivered to the race office no later than the protest time limit or two hours after the incident, whichever is later. The protest committee shall extend the time if there is good reason to do so.

Rule 63.5 at the beginning of a hearing the protest committee shall take any evidence it considers necessary to decide whether all requirements for the protest or request for redress have been met. If they have been met, the protest or request is valid and the hearing shall be continued. If not, the committee shall declare the protest or request invalid and close the hearing.

DECISION OF PROTEST COMMITTEE

Request for redress is not within the time limit of two hours after the incident. No viable reason given for the two days delay in filing the protest. Request for Redress is invalid.

BASIS FOR APPEAL BY *MOONSHINE*:

Moonshine believes that it was not fair to apply the two-hour time limit (RRS 62.2) in this situation, and that its request for redress should NOT be ruled invalid. *Moonshine* notes that the situation relating to this request was complicated and much discussion with the Pacific Cup race committee about the calculation method took place before it became apparent a third party protest committee was needed. *Moonshine* notes further that Rule 62.2 allows the committee to extend the deadline for filing if a good reason exists. *Moonshine* believes there were sufficient grounds to extend the time due to variety of reasons including the following:

- Moonshine* expected to win the Performance Award at the Friday, July 25th Awards' Ceremony. "We did not understand why it went to another boat and asked how it was calculated but no one knew."
- Moonshine* contacted the Pacific Cup Commodore for the formula. He did not know and forwarded *Moonshine's* request to the author who was in California.
- Moonshine* received the formula on Sunday July 27th, in a strange excel format, and eventually made the program work. *Moonshine* examined the formula and discovered it had some issues. First, the SIs were not followed because the bottom 20% of the finishers were not dropped from the calculation. *Moonshine* also believed the formula was not proper use of statistics. Many emails went back and forth over the next 2 days between *Moonshine* and the Pacific Cup Committee member who had written the formula. He stated the Pacific Cup was not going to change their decision and believed their formula and awarding of the Latitude Performance Award to be correct.
- During this time, *Moonshine* met with a Statistics Professor at UC Berkeley who stated that the formula used was not an appropriate statistical method for comparing small non-normal data sets and suggested a more appropriate robust method.
- Moonshine* examined the Pacific Cup web site and noticed that the Pacific Cup Committee had reversed its decision of the Award and named another recipient. Its explanation was that they had not performed the calculation properly. *Moonshine* is unsure of the exact date of the announcement and can not find a date stamp on their site. This announcement happened in the same time frame as *Moonshine's* request for redress and shows that there was an issue with the formula.

In summary, *Moonshine* would like the appeals committee to deem this a valid request for redress and re-open the case. *Moonshine* contends that the PCYC used an improper method of calculating this award for at least three Pacific Cup races. PCYC has stated that a new formula will be used in 2012 that is a better and fairer comparison of performance. *Moonshine* contends that this does not relieve PCYC from the obligation to use fair and proper statistics for calculating the Performance Award for 2010. *Moonshine* believes that the race committee's statistical calculation for the Latitude 38 Performance Award was not an accurate representation of the race results, and that the race committee's calculation was a fundamentally improper use of basic statistics to compare performance of division winners.

DECISION OF APPEALS COMMITTEE (AAC):

There are two issues involved in this appeal: (1) Appellant believes that the PC should not have rejected the request for redress for filing late, and (2) The RC used an inappropriate statistical method for comparing the relative performances of the division winners.

Relative to Issue #1 (late filing), AAC believes the following to be the correct timing of events.

Moonshine finished on Sunday, July 18, at approximately 0330 HST. The next two boats finished approximately 29-30 hours later, and the fourth boat finished approximately 97 hours after *Moonshine* (on July 22, at 0430 HST).

The initial announcement of the award winners took place on Friday, July 23 at approximately 1800 HST after which *Moonshine* requested clarification of how the calculations were made.

The formulas for the calculations, together with clarifying comments, were transmitted to *Moonshine* by an RC representative via email on July 25 at approximately 1550 PDT.

Moonshine submitted her redress request on July 27 at 2300. On July 28, PC acknowledged receipt of the redress request and began an email dialog with *Moonshine* about the time and place of a hearing.

On July 29, the errors in the initial L-38 trophy calculations were corrected, and new results were posted on the PCYC website at approximately 1800 HST. PCYC simultaneously published the correction in a press release (when the RC initially did their calculations, they failed to exclude the "bottom 20%" of the finishers as prescribed in the Sailing Instructions).

On August 2, PC questioned *Moonshine* about her reasons for filing late, to which *Moonshine* responded. PC subsequently decided there was "good reason" to extend the time limit to the morning of July 26 because *Moonshine* had not received the details of the calculations until July 25, but to NOT extend any further.

On August 4, PC finished deliberations, completed the PC form, and transmitted its decision to *Moonshine*.

In reviewing the timing of events (above), AAC notes that PC believed there was "good reason" to extend the time limit for filing to the morning of July 26 so that *Moonshine* would have sufficient time to evaluate the calculations, but there was no "good reason" to extend further. However, RC had made errors in its original calculations which they did not correct until July 29 at 1800 HST, two days after *Moonshine* submitted its redress request. Should the PC have extended the time limit to the morning of July 30, per RRS 62.2?

In this case, *Moonshine's* request for redress does not allege that the calculations were performed incorrectly, but asserts that a better method exists for measuring what the L-38 Trophy is intended to reward. This assertion is moot and is not a valid reason for granting redress as the RC is constrained to using the methods described in the NOR and SIs. If a redress hearing had been conducted the only issue that could have been addressed is whether the calculations were made in accordance with the method prescribed in the NOR and/or Sailing Instructions.

AAC rules that PC acted properly in declaring this request invalid due to late filing, per RRS 62.2. The fact that there may be better methods for evaluating the relative performance of division winners is not a valid reason for granting redress. The RC must follow its own Sailing Instructions.

The decision of the Protest Committee is upheld and 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)

copy: *MOONSHINE*, #8398 (Dylan Benjamin), (dylan_benjamin@yahoo.com)
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