



**THE YACHT RACING ASSOCIATION of SAN FRANCISCO BAY**  
**1070 MARINA VILLAGE PARKWAY, SUITE 202-G**  
**ALAMEDA, CALIFORNIA 94501**  
**Phone: 415-771-9500; Fax: 415-276-2378**  
**E-mail: [info@yra.org](mailto:info@yra.org)**

## **DECISION ON APPEAL**

Appeal #12-02  
WONDER, #266 vs WALLOPING SWEDE, #157  
Summer Keel Regatta, Race #2  
San Francisco YC, August 18, 2012

3 February 2013

### **SUMMARY OF SITUATION:**

WONDER (#266) and WALLOPING SWEDE (#157) were two J/105 class boats competing in a one-design race, a division of the 2012 Summer Keel Regatta, hosted by the San Francisco YC. An incident occurred during the first upwind leg of Race #2.

WALLOPING SWEDE (WS) was closed-hauled on starboard tack, approaching two close-hauled boats on port tack, which initially appeared to be crossing in front of WS. First, WS encountered JAM SESSION (JS, #434) which tried to cross in front of WS. WS protested JS, who subsequently accepted an After Race Scoring Penalty (ARSP).

Moments later, WS encountered WONDER (W), which tacked to starboard in front of WS. WS protested W for breaking RRS 10. At an Arbitration Hearing that followed, the Arbitrator judged that there were too many boats involved in the incident and referred the matter to a protest committee (PC).

At the subsequent protest hearing, W was judged to have broken a rule and was disqualified for breaking RRS 10.

W submitted an appeal of the PC's decision, citing "facts found" that were inconsistent with acknowledged testimony.

The Appeals Committee (AC) declared that the referenced diagram was incomplete and confusing. The AC requested a new diagram and clarification from the PC. The PC Chair submitted a new diagram which attempted to clarify the boat positions and the PC's rationale for disqualifying W.

The AC declared that the updated diagram was in conflict with the previous facts found. Additionally, the AC determined that the facts found were insufficient to support the conclusions and decision. Accordingly, the AC directed the PC to reopen the hearing and determine additional facts.

A new hearing was held on 19 December 2012. The three original members of the PC were present and were joined by two additional members. Despite numerous attempts to schedule a mutually agreeable hearing time and place, WS was not represented at the hearing. The PC provided a new set of facts and diagram to the AC.

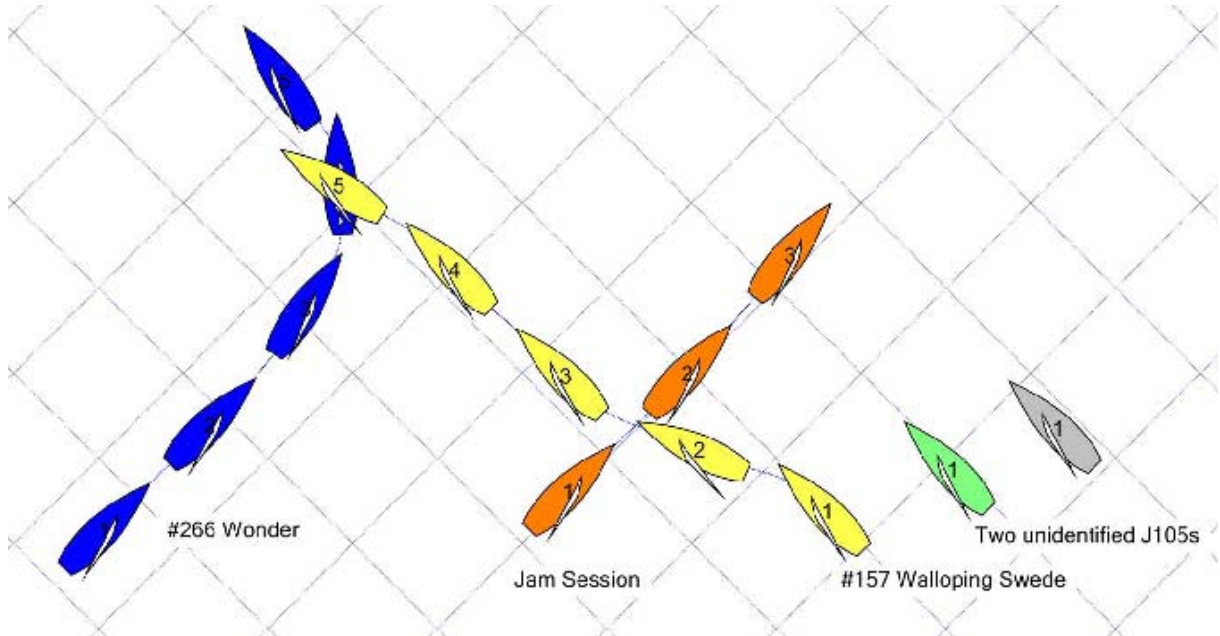
### **FACTS FOUND BY THE PROTEST COMMITTEE:**

#### **Hearing #1**

1. Wind speed was 17 knots, from 210 degrees.
2. Three boats were overlapped (close-hauled) on starboard tack, with WS in the most leeward position.
3. JS was on port tack (close-hauled), to leeward; and W was overlapped on port tack (close-hauled), to windward of JS.
4. WS was forced to duck JS and W, separately. This "fact" was subsequently clarified to the effect that WS was forced to duck JS; but moments later WS had to alter course to avoid W which had tacked close in front of WS (see clarification by Bryan Kemnitzer, PC Chair, dated November 6, 2012).

## Hearing #2

1. WS was close hauled on starboard tack to leeward and overlapped with two unidentified close hauled starboard tack boats.
2. W was two and a half boat lengths to windward of JS, both close hauled on port tack.
3. WS altered course to leeward by 10 to 15 degrees to avoid contact with and crossed the stern of JS as JS continued to hold her course.
4. WS altered course back to close hauled approximately two boat lengths from W.
5. With WS approaching on starboard, W luffed and then crossed head to wind.
6. WS altered course to leeward to avoid contact with W before W reached a starboard tack close hauled course.
7. There was no contact between WS and W.



### PC's CONCLUSIONS AND RULES THAT APPLY (Hearing #1):

1. WS had to alter course to avoid W, which tacked too close in front of WS, breaking RRS 10.
2. JS accepted an ARSP, at which time WS withdrew her protest of JS.

### PC's DECISION:

WONDER is disqualified.

### BASIS FOR APPEAL BY WONDER:

W alleges that the facts found were not consistent with most of the testimony. In particular, helmsmen and witnesses agreed that W had tacked in front of WS. However, Fact #4 from the original hearing implies that W did not tack but continued on port tack and was ducked by WS, with W sailing a course similar to that of JS.

W also contends that WS altered course prior to the incident and was thus obligated by RRS 16 to keep clear of W. However, because W completed her tack without incident, W decided not to protest WS for breaking RRS 16.

## **DECISION OF APPEALS COMMITTEE:**

In position #2, prior to WS returning to a close hauled course, W was keeping clear of WS. In position #3, shortly after WS had completed her course alteration and prior to W's tack, W was no longer able to keep clear. However, as a consequence of her course alteration, WS was required by RRS 16.1 to give W the room to keep clear. Starting at position #3, W attempted to tack but was unable to complete her tack prior to WS having to alter course to avoid W. As W was not given the room to keep clear prior to the tack, the attempted tack did not change the relationship between the two boats and WS was still required to give W the room to keep clear. WS's subsequent course change to avoid W completed her obligations under RRS16.1. Since WS gave W the room needed to keep clear with her second course alteration, neither boat broke a rule.

The Appeals Committee reverses the decision of the Protest Committee. W's appeal is upheld and W is to be re-instated.

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

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

copy: PROTEST COMMITTEE (Bryan Kemnitzer), (email: [bryan@kbklegal.com](mailto:bryan@kbklegal.com))  
WONDER, #266, (Tom Kennelly), (email: [tom.kennelly@kp.org](mailto:tom.kennelly@kp.org))  
WALLOPING SWEDE (Theresa Brandner-Allen), (email: [sfsailorette@earthlink.net](mailto:sfsailorette@earthlink.net))  
JAM SESSION (Adam Spiegel), (email: [adam.spiegel@gmail.com](mailto:adam.spiegel@gmail.com))  
Appeals Committee Members, via email