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DECISION ON APPEAL

Appeal #2013-03
NARCISSUS, Knarr #143 v RYC
WBRA 2013 Season Series
27 April 2013 Race #2
Richmond YC, Pt Richmond, CA

15 September 2013

SUMMARY OF SITUATION:

On 27 April 2013, NARCISSUS, #143, and GJENDIN, #111, two Knarr class boats were competing in a one design race, Race #2 on the second race day of the WBRA 2013 Season Series. An incident occurred between the boats at the windward mark that included contact with damage. Each boat filed a protest over the incident. Per Sailing Instruction 13.1, a hearing was held on 13 May, the third Monday following the race, at the Richmond Yacht Club, the sponsoring yacht club. A copy of each counter-protest was provided to each protestor immediately prior to the hearing. Both parties reviewed the counter-protests and indicated that they were ready for the hearing. As the protests were for the same incident, the protests were combined and heard in a single hearing. The protest by #143 was determined to be invalid and the protest by #111 was determined to be valid. During the hearing #143 asked that written testimony from her tactician be considered. The PC decided not to consider this testimony as the tactician was not available to answer questions. The PC concluded that #143 had broken rules 16.1 and 14 and disqualified her. On 16 May #143, in an email, requested a copy of the written decision from the PC. On 20 May #143 repeated her request, raised the issue that they felt they did not have the time to prepare for #111's protest prior to the hearing, and requested that the hearing be re-opened so that the testimony from her tactician could be considered. On 22 May, having received the written decision the day before, #143 repeated her assertion that she did not have the opportunity to prepare for #111's protest and requested that the hearing be re-opened. On 23 May the PC responded stating that they would consider re-opening the hearing should there be significant new evidence and asked that #143 provide details to that effect. The next day #143 responded, repeating their assertion that they did not have time to prepare and that their tactician could be made available for a hearing. The PC, believing that the issue of re-opening was still pending, did not make a specific decision regarding re-opening the hearing. #143 appealed.

FACTS FOUND BY THE PROTEST COMMITTEE:

NARCISSUS v GJENDIN

1. The protestor did not hail 'Protest' at the time of the incident.

GJENDIN v NARCISSUS

1. Wind was 15 knots and current was 2 knots.
2. Boats #111, #143, & #142 were overlapped with #111 to windward and were beating toward the windward mark.
3. #143 was keeping clear of #142 to leeward and #111 was keeping clear of #143 at 5 boat lengths from the mark.
4. As they entered the zone, 143 came up and hailed #111 which kept clear. #143 bore off toward the mark and #111 did also.
5. As they were approaching the mark, #143 hailed #111 and came up rapidly and simultaneously causing contact with #111's port side.
6. #111 attempted to keep clear immediately but could not due to #143's sudden change.
7. Just before the luff that resulted in contact, #111 was keeping clear. (8 Sep 2013 clarification).

8. #143's luff had nothing to do with giving mark room to another boat or getting mark room that they needed (8 Sep 2013 clarification).
9. There was damage to #111.

PC's CONCLUSIONS AND RULES THAT APPLY:

NARCISSUS v GJENDIN

1. Protest is invalid.

GJENDIN v NARCISSUS

1. Protest is valid.
2. #143 as ROW boat failed to give room to #111 under RRS 16.1.
3. #111 did attempt to keep clear with tiller hard over but could not.
4. There was damage to port side of #111.
5. #143's action caused contact under RRS 14

PC's DECISION:

#143 is disqualified.

BASIS FOR APPEAL

#143 appealed believing that because they did not receive #111's counter-protest until shortly before the hearing began they were denied sufficient time to prepare as allowed under RRS 63.2.

DECISION OF APPEALS COMMITTEE:

The appeal is denied. However, the PC's decision is amended to include that #111 broke RRS 11 but is exonerated under RRS 64.1(a).

The Appeals Committee has determined that the appellant had sufficient time to prepare for the hearing as described in RRS 63.2. The appellant's ability to prepare for the hearing was not affected by not knowing that a counter protest had been filed. Additionally, prior to the hearing, after reviewing the counter-protest, the appellant stated that they were ready to proceed without any objection.

The AC also has determined that the last sentence of SI 13.1 does not conform to the requirements of RRS 86.1(b) by changing RRS 63.2 without specifically referring to the rule. SI 13.1 states "Yacht clubs are responsible for sending a copy of the protest to the protested boat along with notification of the time and place of the hearing to the parties to the protest". In this case the time and place of the hearing were already specified by the second sentence of SI 13.1. As the appellant filed a protest over the same incident, the failure to be able to review the counter-protest when informed of the hearing date did not materially affect their ability to prepare for the hearing.

Although not included as an issue in the appeal, in the email thread provided there was a question raised about the number of people on the PC along with the belief that a minimum number of three people is required for a 'full panel'. There are no requirements related to the number of people on a protest committee. A protest may be heard with as few as one member on the PC.

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

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