



THE YACHT RACING ASSOCIATION of SAN FRANCISCO BAY
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DECISION on APPEAL: AAC 16-02: Express 27, Peaches, #18364 v. SFYC Protest Committee
2016 Invitational Resin Regatta - April 2-3, 2016 - Race #3

July 6, 2016

SUMMARY OF SITUATION

On the weekend of April 2-3, 2016, nine one design classes, including the Express 27 class, were invited to compete in a five race regatta. On Saturday, during the starting sequence for race 3, the Race Committee displayed course signal 1 with the Warning signal for the Express 27 class and then removed that signal and replaced it with course signal 5 at the One Minute signal for the Express 27 class. After the race, Express 27 *GET HAPPY* filed protest #1 alleging all boats except *GET HAPPY* and *SALTY HOTEL* sailed a course shorter than course 1. Express 27 *MOTORCYCLE IRENE* filed protest #3 alleging course 5 was signaled before the start and *GET HAPPY* and *SALTY HOTEL* sailed the wrong course. The Protest Committee heard protests #1 and #3 together. *PEACHES*, another Express 27, was called to the hearing as a witness. The Protest Committee disqualified all boats except *GET HAPPY* and *SALTY HOTEL* in race 3.

US Sailing received a request to appeal the decision of the Protest Committee on April 17, 2016 from *PEACHES* which was forwarded to the Appeals Committee of the Yacht Racing Association of San Francisco Bay the following day.

FACTS FOUND BY PROTEST COMMITTEE:

1. Race 3 Express 27 warning course 1 displayed
2. At P flag course 1 displayed
3. At P flag down, course 1 was removed and course 5 displayed for the next start Knarrs
4. At the start of Express 27 and warning for Knarrs, course 5 displayed

CONCLUSIONS, APPLICABLE RULES, AND DECISION OF PC:

Course 1 to be sailed by Express 27 fleet, "Salty Hotel" and "Get Happy" sailed the proper course, all other Express 27s disqualified Rule 28.2(a)

APPELLANT BASIS FOR APPEAL:

-) *PEACHES* was briefly called as a witness in *MOTORCYCLE IRENE's* protest. *PEACHES* was asked about what she saw and reported that she did not know what the correct course was.
-) Until *PEACHES* became aware of the results of *MOTORCYCLE IRENE's* protest through word of mouth it was not clear which was the correct course for the race.
-) After the event, *PEACHES* came to understand from *MOTORCYCLE IRENE* that both protests were heard as a single hearing.
-) The race committee never informed *PEACHES* she was being protested as is required by Rule 63.
-) *PEACHES* was not provided with the protest against her in writing or with the written decision of the protest committee as required by Rule 63 until requested for this appeal.

-) *PEACHES* was not present during the hearing against her as required by Rule 63.
-) *PEACHES* intent was to withdraw from Race #3 once the correctness of the RC sequence and the correct course were established.
-) The protest committee denied *PEACHES* a hearing and the opportunity to withdraw from race #3 once the correct course had been established.
-) *PEACHES* requests that she be scored RET from Race #3 rather than DSQ.

COMMENTARY FROM PARTIES:

Mr. Larry Levit (boat not identified) commented: "Please note that I retired from the third race that Saturday due to equipment issues."

ASSOCIATION APPEALS COMMITTEE DECISION:

The appeal is upheld. The decision of the Protest Committee is reversed. The scores of boats disqualified by the Protest Committee decision are to be reinstated.

Under rule 71.2 the Organizing Authority and/or Race Committee are directed to appoint a different Protest Committee for a new hearing and decision on protest #1 and #3. In addition, under rule R7.2(b) that Protest Committee is directed to open a hearing to consider redress for the boats in race 3 of the Express 27 class.

Before a boat can be disqualified by a protest committee under rule 64.1 a number of procedural steps need be taken by the protest committee including informing the parties of the time and place of the hearing and at the beginning of the hearing deciding whether all the requirements for the protest have been met. The documents regarding the notification of the parties (a hearing schedule) were lost and unavailable to the Association Appeals Committee. The decision of the PC is incomplete in its determination of validity. In response to a letter from the AAC to resolve questions regarding notification and validity the PC answered that *PEACHES* was both a party and not a party.

The definition of party states a party to a protest hearing is a protestor or protestee. Rule 62.1(a) requires that the protest shall identify the protestee. Identify is not a defined term in The Racing Rules of Sailing; its meaning must be found in the sense ordinarily understood in nautical or general use. One dictionary definition of identify is: to recognize or establish as being a particular person or thing. Section 4 of the protest form for protest #1 says: "entire E27 fleet except Get(illegible) and Salty Hotel". This does not establish a particular person or thing as being protested (the protestee). The AAC holds that *PEACHES* was not identified as a protestee and hence was not a party to the hearing and cannot be disqualified under rule 64.1.

The AAC notes the Protest Committee determined that before the starting signal for the Express 27 class the Race Committee replaced course signal 1 with course signal 5 after the Express 27 warning signal. The Protest Committee should determine whether this action breaks rule 27.1 and decide whether this meets the requirements for redress in rule 62.1(a).

Best Regards,

The Appeals Committee of the Yacht Racing Association of San Francisco Bay
Michael Gross, Chair

Cc:

Vicki Sodaro - Protest Committee Chair

John Rivlin - Appellant

Nancy DeMauro - Organizing Authority Chair

Brendan Busch - Get Happy

Zach Anderson - Motorcycle Irene

Moni Blum - Hang 20

Lori Tewksbury - Hang 20

Jim Gibbs - Express 27

John Kearney - Express 27

Larry Levit - Express 27

Appeals Committee Members:

John Christman

Paul Kamen

Tom Roberts

John Siegel