



**THE YACHT RACING ASSOCIATION of SAN FRANCISCO BAY**  
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DECISION on *REQUEST for CONFIRMATION or CORRECTION*: AAC16-04, Protest Committee  
2016 Wednesday Evening Series, Race #6, June 1, 2016

DECISION on *APPEAL*: AAC16-05, Protest Committee decision IOD#78 and IOD#100 v IOD#82  
2016 Wednesday Evening Series, Race #6, June 1, 2016

May 20, 2017

Mr. Ron Young  
IOD#82

Mr. Paul Zupan  
IOD#100

Mr. Paul Manning  
IOD#78

Mr. Douglas Sloan  
Protest Committee Chair

### **SUMMARY OF SITUATION**

For race 6 of the 2016 Wednesday Night Series (Series) run by St. Francis YC, International One Design IOD#100 and IOD#78 filed protests (Protest #1 and Protest #2, respectively) against IOD#82 alleging that she was “not in compliance” with the Regulations (Fleet-Regs) of the IOD San Francisco fleet (SF-Fleet). The protests alleged that IOD#82 was not eligible to compete because in 2013 she had not complied with a procedural rule set forth in the Fleet-Regs with respect to modifications to the boat. There was no allegation that IOD#82 was not in current compliance with any specific measurement or equipment rule.

The protest committee (PC) heard Protests #1 and #2 together, with an initial and a reopened hearing, and disqualified IOD#82 from races 2, 6, 8, 9 and 10 of the Series. The PC requested confirmation or correction of its decision on August 3, 2016. The Association Appeals Committee acknowledged the request on August 10, 2016. An Appeal of the decision was filed by IOD#82 on August 17, 2016. The Association Appeals Committee acknowledged the appeal on August 25, 2016.

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

It has been the custom of this committee to restate the facts found by the protest committee here. In its decision, the PC found 59 numbered paragraphs of facts totaling more than 2500 words. It is impractical to repeat them here.

## **CONCLUSIONS AND APPLICABLE RULES:**

Likewise, it has been the custom of this committee to restate the conclusions and applicable rules here. The PC decision had 14 numbered paragraphs of conclusions totaling more than 900 words. Again, it is impractical to repeat them here.

## **DECISION OF PC:**

1. IOD 82 shall be scored DSQ for races 2, 6, 8, 9 & 10 of the 2016 Wednesday Evening Series.
2. Per rules 70.2 and 70.3, the Protest Committee will proactively request confirmation of this decision with the National Authority.

## **ASSOCIATION APPEALS COMMITTEE DECISION:**

Regarding races 2, 8, 9 and 10:

No protests were filed regarding races 2, 8, 9 and 10. Under RRS 64.1, a protest committee may only penalize "a boat that is a party to a protest hearing," meaning a hearing of a valid protest. Since there were no protests filed regarding races 2, 8, 9 and 10 and since no hearings could have been held in the absence of any valid protests, the disqualification of IOD#82 for races 2, 8, 9, and 10 is reversed and her score as determined by the race committee is to be reinstated.

Regarding race 6:

Underlying the protests at issue here is a dispute between the WCA and the SF-Fleet as to the status of the Fleet-Regs and whether IOD#82 is eligible to compete in local IOD races. At the heart of the dispute is the question of what are the "class rules" that apply when an IOD sails in races on San Francisco Bay. Paragraph (d) of the RRS definition "Rule" refers to "class rules" without further explanation. We think the term "class rules" means "the rules that apply to a class of boats when racing as a single fleet." Such rules generally cover measurement and configuration issues but might also cover procedural and eligibility issues as well. This is consistent with how the term "class rules" is defined in C.2.1 of *The Equipment Rules of Sailing*.

The rules promulgated by the WCA (found in the Constitution, By-Laws and Class Rules) contemplate that local fleets may adopt "fleet rules" and so such "fleet rules" are to be considered as included within the term "class rules" as used in the RRS. Whether a particular provision of the Fleet-Regs is "valid" and therefore should be considered part of the IOD "class rules" for a race on SF Bay is up to the class bodies (WCA and SF-Fleet) to decide. A protest committee is not an authority on class rules. As such, interpretations of class rules are best referred to the relevant committee of that class. Here the PC decided to substitute its own interpretation of the IOD "class rules" for those of the class and proceeded to resolve an internal dispute of the IOD class. That was improper. Rule 64.3(b) provides a mechanism to direct questions to the governing bodies for the IOD class (WCA and SF-Fleet). The PC should have utilized that rule to send relevant questions to those two bodies and then should have based its decision on the answers it received.

The Sailing Instructions for the Series stated that the Fleet-Regs applied to the Series but such a statement has no real impact on whether the Fleet-Regs applied to race 6. To the extent that the Fleet-Regs are considered valid and thus incorporated into the IOD "class rules" then they apply whether they are referred to or not, since they would be part of the "class rules" under (d) of the RRS Definition "Rule". If they are not "valid" fleet rules, and thus not automatically incorporated into the IOD "class rules," then they almost

certainly would be an improper attempt to “change” the WCA-Class Rules in contravention of RRS rule 87 and thus would not apply.

The protests, and other documents, refer to an October 2013 protest committee decision. In that decision, the protest committee decided that it had no authority to consider the “protest” because it did not involve any race or series under the RRS. In other words, the protest committee decided that the “protest” at issue was not valid. Rule 63.5 says that when a protest committee decides that a protest is not valid then the hearing shall be closed. Accordingly, the only thing to be taken from that decision was that the protest was invalid; any other conclusions written in the decision were improper and should be ignored.

As to race 6, the decision of the PC to disqualify IOD#82 is reversed and the score as determined by the race committee is to be reinstated. The PC is directed to reopen the hearing with respect to the sole issue of whether IOD#82 was eligible to enter race 6. That question is to be referred to the WCA and SF-Fleet to be decided using their internal procedures and the PC is directed to base its decision on the unanimous answer of both bodies. If the two organizations cannot provide a unanimous answer within a reasonable period of time then the PC shall consider IOD#82 to have been eligible and dismiss the protests.

When sending its questions to the WCA and SF-Fleet, the PC should ask for appropriate written documentation in the event that IOD#82 is ruled ineligible. Both the WCA By-Laws and Fleet-Regs seem to contemplate some kind of hearing process with a written decision at the end before a boat can be ruled ineligible to compete in IOD races. Therefore, a written decision seems appropriate. However, ultimately it is up to the governing bodies for the class to decide what the procedures are and what documentation is required.

We note that the Sailing Instructions for the Series require that protests “shall be written on standard US Sailing protest forms.” Protest #1 was not on such a form. However, the SI provision is an attempt to change rule 61.2 without properly referring to the rule being changed as required by rule 86.1(b). Therefore, the SI provision is null and void and Protest #1 is not invalid for that reason.

Best Regards,

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

Cc:  
Tom Roberts  
Art Engel