



Ontario Sailing Appeal #OS2009-05

Accelar vs Solstrum and Snowflake

Accelar and Snowflake are appealing a decision of the protest committee on 22 August 2009 and 18 September 2009 from a race on 22 August 2009 of the Royals Weekend at the Royal Canadian Yacht Club.

Rule 61.1(a) Informing the Protestee

Rule 62.1(a) Redress

Rule 63.5 Validity of the Protest or Request for Redress

ISAF Case 112

If one boat makes an error in sailing the course, a second boat may notify the first that she intends to protest when the error is made, or at the first reasonable opportunity after the first boat finishes, or at any time in between but not later than that.

Summary of the facts

During the race, the race committee signaled a change of course for some classes but not all, by displaying flag C with the class flag(s). The course was not changed for Accelar, Solstrum and Snowflake. Accelar believed that Solstrum and Snowflake rounded the change marks, not the original marks and protested.

The protest committee found as fact that Solstrum and Snowflake had sailed to the change marks and concluded they broke rule 28. It also found as fact that the sailing instructions did not give any instruction concerning a change of course for one class among many and concluded that this was an improper action by the organizing authority that caused confusion about the course the class was to sail. It decided to grant redress by not adjusting the scoring for the race. The protest committee later decided it may have made a significant error and reopened the hearing to reconsider its decision to give redress.

Decision of the protest committee

The protest committee then determined that the change of course had been signalled in accordance with Race Signals using numeral pennants which were identified as the class flags in the sailing instructions. There had been no improper action or omission by the race committee or organizing authority. The protest committee reversed its decision and denied the request for redress.

The protest committee determined the protestor had hailed and displayed a red flag at the end of the race, applied ISAF Case 112 and found Accelar's protest valid.

After reviewing the evidence of the parties, the protest committee concluded that only Snowflake failed to sail the course in accordance with rule 28 and disqualified her from race 2.

Accelar appealed claiming the race in question was race 1 not race 2 and the protest committee failed to disqualify Solstrum. Snowflake appealed claiming the protest committee erred in finding the protest valid and in disqualifying her.

Decision of the appeals committee

Under rule F5, the protest committee provided the finishing times for the three boats that were parties to the protest. Snowflake finished 1 minute, 55 seconds before Accelar and Solstrum finished 1 minute, 32 seconds before Accelar. In her appeal documentation, Accelar states that after finishing, she sailed to the race committee and clarified that the course the class was to sail had not been changed, before hailing protest and displaying her red flag.

If one boat makes an error in sailing the course, ISAF Case 112 says a second boat may notify the first that she intends to protest no later than her first reasonable opportunity after the first boat finishes. Delaying the hail of protest and the display of the red flag until after Accelar finished was not at Accelar's first reasonable opportunity after Snowflake finished, nor was it her first reasonable opportunity after Solstrum finished.

Snowflake's appeal is upheld. Accelar's protest is invalid. Snowflake is to be reinstated in the race. Accelar's appeal is denied.

October 23, 2009

OS Appeals Committee

Mr. Andrew Alberti, SNJ, Chairman

Ms. Kathy Dyer, IJ

Mr. Alex McAuley, IJ

Dr. Mel Preston, SNJ

Mr. Peter Wood, SNJ