



**Ontario Sailing Appeal #OS2009-11**

**Albacore Sail #8009 vs Albacore Sail #7166**

Albacore Sail #7166 is appealing a decision by the protest committee on 14 September 2009 from a race on 12 June 2009 during the Friday Night Race Series among OHCC, TISC, Mooredale, JTown, Westwood Sailing Clubs.

**Rule 2 Fair Sailing**

**Rule 62 Redress**

**Rule 63 Hearings**

**ISAF Case 47**

*A boat hailing "all clear" when there is a recall signal by the race committee is not competing fairly and is disqualified.*

**Summary of facts:**

1. 8009 was starting 2 to 3 boat lengths from the RC signal boat.
2. 7166 was starting near the mid-line of about 50 boats.
3. Shortly after the start signal, RC issued one loud sound, displayed the general recall, quickly lowered it, and displayed the individual recall signal.
4. Shortly after the start signal, 7166's helm hailed "all clear".
5. 8009 did not hear the sound and did not look for a recall signal.
6. 8009 heard the "all clear" hail.
7. At the weather mark, 8009 was told it had been OCS and stopped racing.
8. The wind at the start of the race was between 1 and 3 knots.

8009 protested alleging a breach of rule 2 by 7166 and requested redress. 7166 was unable to attend a hearing of the protest on the same night as the race. There were attempts to hold a hearing over the following nearly two months and a hearing was held with both parties present 9 August 2009.

**Summary of decision of the protest committee:**

The protest committee upheld the protest and disqualified 7166 for breaking rule 2. Disqualification for breaking rule 2 is a score that is not excluded (DNE). 7166 appealed, claiming that the protest committee erred in its decision and that the length of time between the race and the hearing was unreasonable.

**Decision of the appeals committee:**

Appeal is denied.

Although there was a delay between the race and the hearing, there was no rule broken.

The helm of 7166 admitted to a hail of "all clear". The hail by 7166 was heard by 8009 which was between 20 and 25 boats away. 7166 should have known that "all clear" could be hailed on occasion by a race committee when there is no recall signal and thus 7166 should have known that other competitors could be confused. ISAF Case 47 states that: 'A boat that deliberately hails "starboard" when it knows it is on port has not acted fairly and has broken rule 2.' The hail in this case similarly does not comply with the recognized principles of sportsmanship and fair play so 7166 broke rule 2.

Once a request for redress has been filed, which it was in this case, it should be heard according to rule 63.1. The protest committee was correct in determining that redress was not appropriate to 8009 as 8009 should have known there was a recall signal by the race committee so her score was made worse but not through no fault of her own.

23 December 2009

**OS Appeals Committee:**

Mr. Andrew Albert, SNJ, Chair

Ms. Kathy Dyer, IJ

Mr. Alex McAuley, IJ

Ms. Janet McDougall, SNJ

Dr. Mel Preston, SNJ

Mr. Peter Wood, SNJ