



**Ontario Sailing Appeal # OS2012-09**

**Accelar v Snowflake**

Accelar is appealing the 9 July 2012 decision of a hearing on 3 July 2012 by the protest committee at Royal Canadian Yacht Club from a race on 12 June 2012.

**Rule 63.6 Hearings: Taking Evidence and Finding Facts**  
**Appendix M3.2 Recommendations for Protest Committees**

*The protest committee shall take the evidence of the parties and their witnesses and other evidence it considers necessary. It shall then find the facts and base its decision on them.*

**Facts found by the protest committee**

1. Accelar and Snowflake were on port tack and Cerulean was on starboard tack approaching the windward mark
2. Accelar tacked to starboard to windward of Cerulean
3. Snowflake tacked to starboard to leeward and ahead of Cerulean
4. Accelar was to the outside of other boats rounding the mark
5. Testimony by the parties and witnesses was conflicting in respect to asserted rule violations

**Conclusions and decision of the protest committee**

Assertions by Accelar that Snowflake broke rules 11 and 18 are not considered to be adequately supported by the facts found and the extent of conflicting testimony. The protest was dismissed.

Accelar appealed claiming the protest committee failed to follow Appendix M3.2.

**Decision of the appeals committee**

Appeal denied. The protest committee complied with rule 63.6. It took the evidence of the parties and their witnesses and found facts, including the fact that the testimony of the parties and witnesses was in conflict. The protest committee's conclusion that it was not convinced that Snowflake broke a rule is supported by the facts.

The preamble to Appendix M states that this appendix is advisory only. It also states that no boat or competitor is guilty until a breach of a rule has been established to the satisfaction of the protest committee.

14 August 2012

**OS Appeals Committee:**

Ms. Kathy Dyer, IJ, Chairman

Mr. Alex McAuley, IJ

Mr. Robert Stewart, IJ

Ms. Wendy Loat, NJ

Ms. Katie Nicoll, NJ

Mr. Peter Wood, NJ