

## Narragansett Bay Yachting Association

Ronald A. Hopkins  
65 Hazard Avenue  
East Providence, Rhode Island 02914

September 26, 2007

A. Robert Towbin  
1010 Fifth Avenue  
New York, NY 10028

Dear Mr. Towbin,

This is the Appeals Committee's decision on your appeal of the Museum of Yachting's, Robert Tiedemann Classic Regatta's, Protest Committee's decision, held July 7, 2007, in Newport, RI.

Summary:

This appeal concerned boats sailing at or near a mark of the course to be left to starboard, designated as RG "NR" Bell near Beavertail Point. Parties include Sumurun, sail number 14, a 94' ketch; Alera, sail number 1; and Amorita sail number 9, both New York 30's.

The Protest Committee, in valid protests by both NY 30's, ruled in each protest that Sumurun USA14, broke rule 12 and scored her DSQ. Sumurun USA14 appealed, stating in her appeal that the protest committee lacked jurisdiction, incorrectly applied the rules, and that Alera USA1 broke rule 16.1 by changing course in front of her.

Discussion:

In reviewing the rules that apply, we shall discuss each point and the rules that apply to each separately.

- The Protest Committee lacked jurisdiction.

Sumurun in her appeal claimed the Protest Committee lacked jurisdiction to conduct the hearing and disqualify her because she had retired. Sumurun further stated that she broke no rule and did not retire in compliance with rule 44.1, but for other reasons.

A fundamental principal in the sport of sailing, as stated in the preamble to Part 1 of the The Racing Rules of Sailing, "is that when competitors break a *rule* they will promptly take a penalty, which may be to retire." Sumurun retired, but not in compliance with rule 44.1, acknowledging "taking a penalty". Rule 44.1 states, "A boat that may have broken a rule of Part 2 while *racing* may take a penalty at the time of the incident. Her penalty shall be a Two-Turns Penalty unless the sailing instructions specify the use of a scoring penalty or some other penalty. However, if she caused injury or serious damage or gained significant advantage in the race or series by her breach her penalty shall be to retire."

Sumurun further stated she could be penalized no further, as she retired. Sumurun by her own statements did not acknowledge breaking a rule, and dropped out of racing for other reasons. She as a result of this form of retirement, should have been scored "DNF" (Did not finish) which in itself is not a "penalty" as described in the Preamble, or in rule 44.1. While we acknowledge for scoring purposes in this regatta, there is no difference in score between a DNF, a RET (Retired after finishing) or a DSQ (disqualification), each has different implications within The Racing Rules of Sailing.

The Protest Committee received 2 protests from the NY30's with regard to this incident, and was required by rule 63.1 which states in part, "The protest committee shall hear all *protests* and requests for redress that have been delivered to the race office unless it allows a *protest* or request for redress to be withdrawn." A protest by definition is "an allegation under rule 61.2 by a boat, a race committee or a protest committee that a boat has broken a rule."

The Protest Committee was required upon receiving a protest, to conduct a hearing (rule 63.1) to find facts (rule 63.6), and if a protest committee decides that a boat that is a party to a protest hearing has broken a rule, it shall disqualify her unless some other penalty applies (rule 64.1(a))

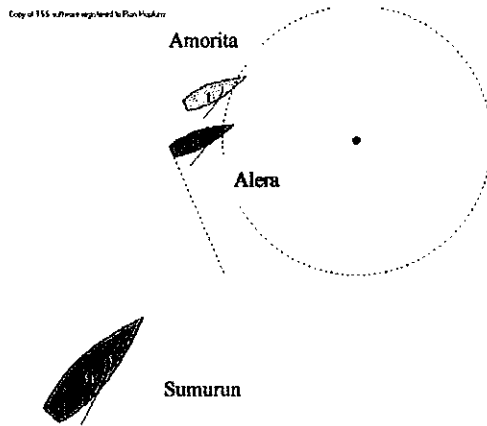
- Rule 44.4 Limits Further Penalty

Sumurun in her appeal cites rule 44.4 as to the protest committee's application of a further penalty, stating that she could not be penalized further, as she retired. However, rule 44.4(b) clearly states that a boat "that takes a penalty shall not be penalized further with respect to the same incident unless she failed to retire when rule 44.1 required her to do so." Sumurun had not "taken a penalty" as described above so the protest committee was correct in its decision to disqualify Sumurun.

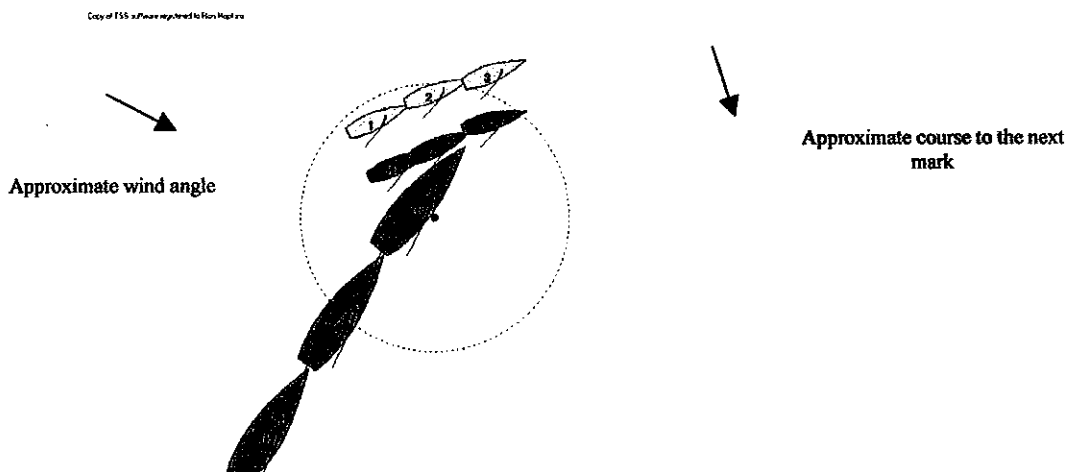
- Alera bore off breaking rule 16.1

[Diagrams produced by the Appeals Committee from Protest Committee facts found]

The Protest Committee's facts found indicate that Alera and Amorita entered the two-boat length zone, clear ahead of Sumurun.

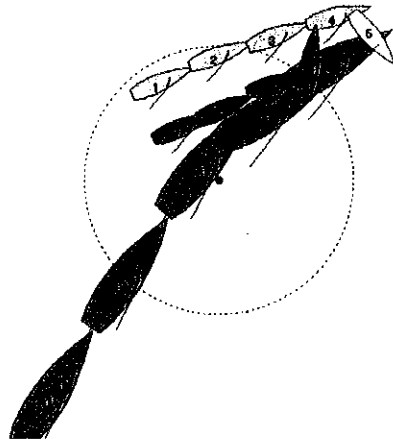


Sumurun, entering faster from clear astern was "keep clear" boat as referred to by rule 18.2 ( c). 18.2 ( c) states, "If a boat was *clear ahead* at the time she entered the *two-length zone*, the boat *clear astern* shall thereafter *keep clear*." The "thereafter" in this rule means during the entire period she was rounding. Rule 18.2 (d) states "when after the starting signal rule 18 applies between two boats and the right-of-way boat changes course to round or pass a *mark*, rule 16 does not apply between her and the other boat." Rule 18 applied between Sumurun as she was still rounding the mark and Alera, who was clear ahead. Rule 16.1 did not apply.



After Sumurun contacted the stern of Alera, Alera was forced into Amorita, subsequently causing Amorita to twist into the path of Sumurun. Sumurun then made contact with the starboard amidships of Amorita, causing her to sink.

Copy of 155 - Photo prepared by Ron Hopkins



**Decision:**

The Protest Committee's decision to disqualify Sumurun, USA14 is UPHELD.

The Appeals Committee agrees that Sumurun broke rule 12, but adds rule 14 and 18.2 ( c).

The Appeals Committee finds that the situation took place at a mark or around a mark, and not "while approaching" as found by the original protest committee, but found the facts and application of the rules consistent and in agreement with the decision.

Alera's change of course into Amorita was caused by the contact with Sumurun, compelling her to break rule 16.1. Alera is exonerated under rule 64.1 (b) for the contact between her and Amorita.

The change of course by Amorita and her breaking of rule 16.1 was caused by the contact with Alera, Amorita did not break rule 14, and her breach of rule 16.1 is exonerated by rule 64.1 (b)

Very truly yours,

Ronald A. Hopkins, Chair  
NBYA Appeals Committee

Cc/ Narragansett Bay Yachting Association

NBYA Appeals Committee

Mr. John Bonds (Chief Judge, Robert Tiedemann Yacht Regatta Protest Committee)

The Museum of Yachting (Organizing Authority, BestLife Classic Yacht Regatta)

Parties to the Appeal

US Sailing, Race Administration Director

---

<sup>1</sup> All terms stated in italic indicate a definition as defined and published in "The Racing Rules of Sailing"