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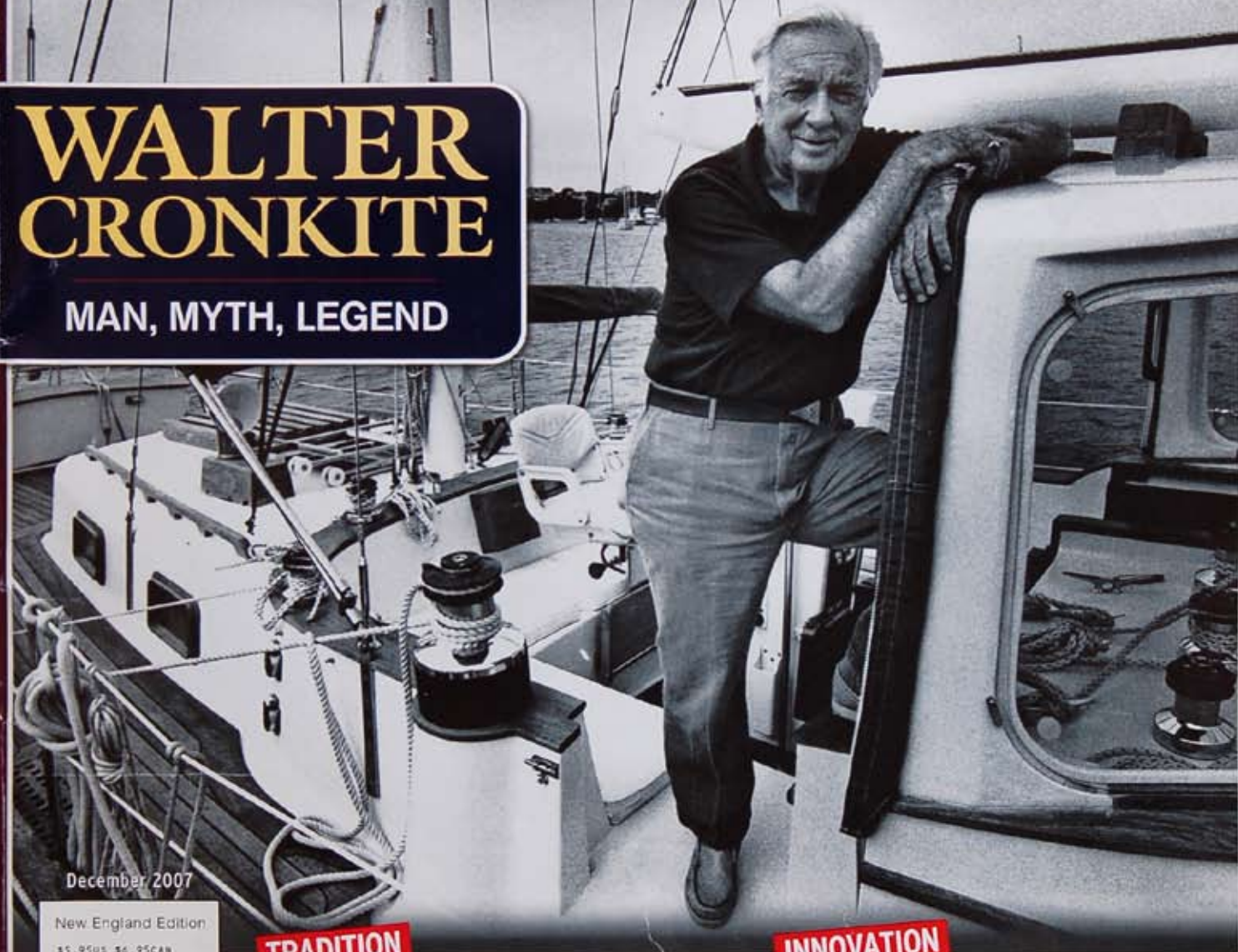
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December 2007

New England Edition

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# Sinking strains the Corinthian spirit

Race committee rejects appeal of ruling that found Sumurun at fault when it ran over a New York 30

By Douglas A. Campbell

SENIOR WRITER

The gentlemanly name-calling got rather harsh before the case was decided in the collision that this summer sank Amorita, a 102-year-old Herreshoff New York 30, on Rhode Island's Narragansett Bay.

The owners of Amorita called the helmsmanship exhibited by the owner of Sumurun, who had run them down in a classic yacht regatta, "reckless" and "arrogant." A representative of Alera, a third boat involved in the accident, chimed in: "Sumurun's actions defy the boundaries of good sportsmanship." In response, Sumurun's owner said his foes' comments were "inappropriate and offensive to the Corinthian spirit of our sport."

In the end, it was the Narragansett Bay Yachting Association that declared the winner of this posturing match. Sumurun's owner, A. Robert Towbin, had appealed to the NBYA, asking it to reverse a ruling by a regatta protest committee. That committee disqualified Sumurun, finding the boat had violated a racing rule, which led to the mayhem that sank Amorita. But the NBYA appeals committee, in a Sept. 26 ruling, rejected Towbin's protest and upheld the disqualification.

Moreover, because Sumurun had voluntarily withdrawn from the race following the collisions, Towbin claims that the protest committee, manned by three judges certified by US Sailing, the national governing body of sailboat racing, had no right to hear the protests filed by the crews of Amorita and Alera. And when it did, it applied the rules incorrectly.

The NBYA appeals committee would have none of Towbin's explanation. Citing racing rules by the numbers, the committee writes: "The protest committee was required upon receiving a protest to conduct a hearing ... to find facts ... 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."

The appeals committee then goes on to address what had actually happened on the water during the race. It found that Alera and Amorita were within two boat lengths of the buoy around which they had to turn. "The protest committee's facts found indicate that Alera and Amorita entered the two-boat-length zone, clear ahead of Sumurun," the committee writes.

The racing rules when boats are close to a mark are different than on open water simply because of the tight quarters. In this case, the committee says, the

NBYA appeals committee considered. In a letter sent both to the NBYA and the US Sailing appeals committee, Jed Pearsall, co-owner of Amorita with Bill Doyle, writes: "Sumurun's appeal is a cynical post-hoc attempt to alter the facts in order to avoid liability. It is symptomatic of the arrogant way in which Sumurun has been handled not only in the race in question but also in other events she has entered. Moreover, the faulty recitation of basic facts and denial of responsibility indicates that Sumurun has chosen to disregard elementary standards of sportsmanship and fair sailing."

Pearsall, who like Doyle lives in Newport, R.I., continues: "The only blessing here is that, remarkably, no one was physically injured or killed. It is our sincere hope that US Sailing will look closely at this incident and will act to the highest extent possible within its jurisdiction to prevent future losses as a result of Sumurun's irresponsible handling during sailboat races."

"In regard to this incident," Pearsall writes, "Sumurun, at best, misjudged the speed with which she was overtaking Alera and Amorita. This, coupled with the helmsman's reckless attempt to duck inside the smaller boats to round the mark," led to the collisions that the NY-30s could not avoid. "Sumurun's failure to take responsibility and acknowledge that she broke the racing rules amounts to a violation of good manners and sportsmanship and possible gross misconduct under Rule 69."

Towbin responded that he was "disappointed to see the disparaging comments and unsupported allegations of misconduct contained in Amorita's submission. Such *ad hominem* attacks are wholly inappropriate and offensive to the Corinthian spirit of our sport. Amorita's erroneous and unfounded references to unrelated racing events are also plainly improper and irrelevant, and must be disregarded."

Sumurun's owner and skipper continues: "Amorita also seems to believe that mere disagreement with the protest committee's decisions constitute unsportsmanlike conduct. On the contrary, Sumurun's purpose in lodging this appeal is to preserve the spirit of sportsmanship in competitive racing."

Towbin chastised the protest committee for hearing the protests of Alera and Amorita, calling the decision a "blow against sportsmanship."

"A protest hearing is intended solely to determine competitive standing in a racing event," Towbin adds. "As Sumurun had retired from the race, there were no issues of competitive standing for the protest committee to resolve."

"Contrary to the exhortations of Alera and Amorita," he writes, "it is the role of a court, not US Sailing, to adjudicate liability for damages in the event of collision."

Jessica DiVivo, an attorney representing Amorita's owners, says Towbin's letter was dated two days before the NBYA ruling was issued and that she hadn't been offered the opportunity to respond. While she says she cannot discuss the appeal while the case with Sumurun remains unresolved, she feels compelled to have her clients respond to Towbin's comments about the role of the courts.

"Amorita disagrees" with Towbin's remarks, say Pearsall and Doyle in an e-mail to Soundings. "Amorita's position is supported by the U.S. Appellate Division, which has held that fault as determined by the agreed-upon forum (in this case the protest and appeals committees) pursuant to the Racing Rules of Sailing, is final and binding on the parties." ■



The 94-foot Sumurun ran over and sank Amorita during a classic yacht regatta off Newport, R.I., this summer.

The accident occurred on a beautiful Saturday, July 7, with a brisk southwesterly wind, clear skies and calm seas. The Robert H. Tiedemann Classic Yachting Regatta, hosted by the Museum of Yachting, was under way with six classes of boats starting 15 minutes apart and sailing an 18-mile course around Conanicut Island at the entrance to Narragansett Bay. Amorita and Alera, two original NY-30s designed and built by Nathanael G. Herreshoff in 1905, were in the fourth class and, an hour into the race, approached the windward mark at the southern tip of the island.

In his appeal, Towbin doesn't dispute that he came up fast on Alera and Amorita near the green-and-red bell buoy that was the first mark. Nor does he dispute that Sumurun's bow crunched Alera's transom. However, he claims that, under the racing rules, Alera caused the collision by changing course and failing to give him time to respond. Towbin further claims that Amorita "as the windward boat had an independent obligation to keep clear of Alera and Sumurun but failed to do so, in violation of Rule 11. In the close quarters situation that was developing among the vessels, Amorita was obligated to appreciate the risk of collision and to stand off."

rules required Sumurun to keep clear of the boats ahead of it.

John Bledsoe Bonds, chairman of the protest committee at the regatta, told the appeals committee that Alera's "course deviation following the initial collision was caused entirely by Sumurun's violation of Rule 12." He added that "had [Amorita] been unmolested and not involved in the chain of collisions initiated by Sumurun's violation of Rule 12," the NY-30 would have kept clear of Sumurun.

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

Case closed.

Or maybe not. Lacey Given, US Sailing race administration director, says her organization hasn't received an appeal of the NBYA ruling from Sumurun. She will say no more about the case. Towbin could file an appeal, but his attorney, to whom questions have been referred by Towbin's office, didn't return phone calls.

A hint of the give and take US Sailing can expect if there is an appeal is provided by the comments that