

SECOND APPEAL No 1/2010

SUMMARY OF THE FACTS

Race: Aberdeen Boat Club Waglan Series 2009-2010, Race 9

The original protest hearing for Waglan Race 9 was reopened in December 2010 following a ruling by the HK RR&AC. The facts and decision of the original Appeal are attached.

The Decision of the reopened protest hearing was that the protest was dismissed and that Race 9 remained abandoned.

DECISION

Appeal upheld. The HKSF Appeals committee finds that the Protest Committee erred in its procedures during the hearing, and did not establish sufficient facts for a valid decision to be made.

A protest hearing under rule 64.1 can only result in the dismissal or upholding of the protest. If the protest is upheld, a party to the hearing should be penalized or exonerated.

Penalization may include disqualification of individual boats from the race, but cannot result in abandonment.

To disqualify all boats in the race requires action under rule 60.3 (a) (2), but this was not considered by the PC.

If the protest is dismissed, no boat can be disqualified. A race cannot be abandoned unless redress is considered under rule 64.2.

In both the original protest, and the subsequent appeal, the protest committee did not call a hearing to consider redress, which it could have done under rule 60.3(b). The PC needed to take this step if abandonment of the race was to be considered.

The hearing should be reopened under rule 66 and chaired by an HKSF appointee together with 1 member of the original PC, plus one fresh member.

The reopened hearing should establish, inter alia,

- Whether and how the protesting yachts complied with the requirements of Rule 61.1a (*Informing the Protestee*)
- Whether boats in the race complied with Rule 28.1 (*Sailing the Course*) and the definition of finish in the Rules.
- Whether there was any action or omission by the Race Committee which could be grounds for a request for redress under Rule 62.1a (*Redress*) and if so to hold a hearing to determine whether such redress should be granted and the manner of such redress.

HKSF RR&AC
February 2011