

APPEAL No 2012/2

Rule 63.6

Rule 65

SUMMARY OF THE FACTS

Series: Royal Hong Kong Yacht Club Spring Regatta 5& 6 May 2012, Race 2. (IRC Big Boat)

The protest involved contact during a start line luffing incident involving 3 boats, Gambit, Whiskey Jack, & Talking Heads. Gambit has appealed the PC's decision.

The grounds for this Appeal are that there were a number of mistakes made by the protest committee in the hearing and in completing the form:

- The PC failed to complete a number of boxes on the form
- The PC failed to bring Talking Heads into the protest as a party and deal with a possible rule breach by them as part of this protest and allow them to be questioned in the presence of the other parties.
- The PC failed to state the facts completely
- There is no statement about damage if any.
- The PC's conclusion did not properly deal with the exoneration of WJ because of the presence of TH, with rules identified.
- Their decision was "redress denied", which was wrong as this was not a redress hearing.

In addition it is not clear if the PC informed the parties of their decision properly and if they did not if it was their fault, or simply that the parties had left to go to the prizegiving.

DECISION

Protest hearing to be reopened

GROUND FOR DECISION

The HKSF Racing Rules and Appeals Committee considers there to be several errors in procedure which must be taken into account in a reopened hearing:

Firstly, by failing to bring TH into the hearing, they prevented G from questioning TH's role in the incident and making any representations as to whether WJ should not be exonerated because of TH, Effectively they introduced evidence without giving G the opportunity to question it.

Secondly, by not informing the parties of their decision (if this is indeed the case) they denied G the opportunity to ask for a reopening (whether or not G would have been successful in such a request)

GUIDELINES FOR REOPENING THE HEARING

The hearing should be reopened by the original protest committee. Upon reopening the hearing the protest committee should call TH in as a witness. If they find during the hearing that TH may have broken a rule in this incident they should protest as provided in 60.3 a (2) and proceed as described in 61.1 (c). In addition, if any of the parties have some other evidence they wish to bring, this should be allowed.

HKSF RR&AC
July 2012