

PANERAI CLASSIC REGATTA – COWES 2018 - PROTEST COMMITTEE DECISIONS

PROTEST COMMITTEE: Sonia Mayes, Mufti Klang, Bryan Willis (chairman)

As at 18-Sep-18 14:18

Protest #1, Race Committee v A DAY AT THE RACES
Class 3 race 1 15th July 2018

Dai Pritchard, the Race Officer, presented the protest claiming A DAY AT THE RACES had not installed the tacker device as required by Sailing Instruction 27.3.

27.3 Before Racing:

(a) Competitors shall securely mount the unit to their yacht as per the supplied instructions. [DP]

(b) The charged unit must be fitted to the yacht before leaving the dock and during racing each day. [DP]

Barrie Martin, representing A DAY AT THE RACES accepted that he had not installed the tracker as he had been running late and had time only to sail from the mainland directly to the start line. He had phoned the race office to report this.

Decision on Protest:

The protest is upheld. DAY AT THE RACES infringed SI 27.3

The penalty is at the discretion of the Protest Committee.

Dai Pritchard gave the view that there should be a penalty but did not quantify what it should be.

Barrie Martin gave no opinion as to penalty.

Taking into consideration the circumstances, the Protest Committee decided an appropriate penalty would be 1%

Decision on Penalty:

A DAY AT THE RACES to have her elapsed time increased by 1%.

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Protest #2, PHANTOM (Class 1) owned by Brian Scrowcroft, represented by Simon v LUTINE OF HELFORD (Class 2) represented and owned by James Youngman
Race 3, 16th July 2018

VALIDITY

As there was serious damage, PHANTOM was not required to hail 'protest' nor display a flag, and the protest was ruled as valid. [61.1(a)(4) ... if as a result of the incident ... there is ... serious damage that is obvious to the boat intending to protest, the requirements of this rule do not apply to her...]

FACTS FOUND

LUTINE and PHANTOM were sailing to windward on starboard tack, with LUTINE about 100 yards to leeward. LUTINE tacked and sailed a short distance close-hauled on port tack. She intended to bear away behind PHANTOM. The helmsman put the helm down but finding the boat did not respond, called for the mainsheet to be eased several times. However, the boat failed to respond sufficiently and the bow of LUTINE hit PHANTOM amidships, causing serious damage.

PHANTOM's crew had looked under the foot of the mainsail and noted the position of LUTINE on starboard tack. The next time she looked, LUTINE was on port tack very close when a collision was inevitable.

Just before the collision, PHANTOM luffed slightly.

PHANTOM accepted that had she seen LUTINE earlier she may have been able to avoid her.

LUTINE accepted that she infringed rule 10 by failing to keep clear.

CONCLUSIONS

When LUTINE tacked on to port tack, there was sufficient room for her to complete her tack and keep clear of PHANTOM by bearing away behind her.

It was impractical for PHANTOM to keep a constant look-out.

When PHANTOM checked and saw LUTINE on starboard tack 100 yards to leeward, it was reasonable for PHANTOM to conclude that should LUTINE tack there was sufficient room for LUTINE to pass under her.

In spite of PHANTOM's statement that she may have been able to avoid contact had she seen LUTINE earlier when she was approaching on port tack, PHANTOM complied with her obligation under rules 14(a) and 16.2 to hold her course until it was clear that LUTINE was not going to be able to keep clear. When LUTINE failed to bear away as she intended, it was then impossible for PHANTOM to avoid contact.

RULES APPLICABLE

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- 10** When boats are on opposite *tacks*, a *port-tack* boat shall *keep clear* of a *starboard-tack* boat.
- 14 (a)** A boat shall avoid contact with another boat if reasonably possible. However, a right-of-way boat ... need not act to avoid contact until it is clear that the other boat is not *keeping clear* ...
- 16.2** ... when ... a port-tack boat is keeping clear by sailing to pass astern of a starboard-tack boat, the starboard-tack boat shall not change course if as a result the port-tack boat would immediately need to change course to continue keeping clear.

RULES INFRINGED

LUTINE broke rules 10 and 14, but retired in recognition of her infringement.

PHANTOM broke no rules.

DECISION

The protest is upheld, but as LUTINE retired, no further penalty is applied.

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Nab Tower race 2, 17th July 2018.

Protest #3, GOLDEN FLEECE represented by Michael Wheeler, and

Protest #4, CETEWAYO represented by Peter Jenkins,

Both protested LUTINE OF HELFORD claiming she had infringed SI 10.2(c).

The two protests were held together.

David, representing LUTINE OF HELFORD accepted that on the way back from the Nab Tower, LUTINE sailed south of No Mans Land Fort, and that this did not comply with SI 10.2(c). [Yachts, in whatever direction they are racing, shall not pass ... South of No Man's Land Fort]

David claimed that he had assumed that Sailing Instruction Amendment no.4 stood alone and completely described the course:

It read:

SI 9.3 Nab Tower Race.

(a) For the Nab Tower Race on Tuesday 17 July, the intended course will be: RYS Line Start, pass between No Man's Land and Horse Sand Forts, Nab Tower to Port, Horse Sand Fort to Starboard to Finish on the RYS Line.

He had not realised that SI 10.2(c) would also apply. At a briefing of competitors, the anomaly was raised as a question by another competitor and the Race Officer's replies satisfied the majority, but LUTINE had missed the explanation.

Decision: For the infringement of sailing south of Horse Sand Fort in contravention of SI 10.2(c), the Protest Committee imposes a 'discretionary penalty' as follows: LUTINE to be scored in the race 'worse by eight places' (which results in 'equal last place'). This was calculated on the basis that LUTINE was in sixth place (before taking an advantage over the rest of the fleet by sailing south of No Mans Land Fort), and adding two places as a penalty.

The Protest Committee accepted LUTINE's complaint that she was confused by the wording of the Sailing Instruction Amendment as a Request for Redress.

The Protest Committee understands LUTINE's opinion that yachts might, in the absence of an explanation at the briefing, believe that yachts simply needed to follow the course described in the amendment. The Protest Committee accepts that the Amendment could have been worded in a more helpful way.

However, SI 10 is headed 'NAVIGATION RESTRICTIONS AND OBSTRUCTIONS and stands alone, and must be complied with, in addition to sailing the course described in the Sailing Instruction Amendment.

The Race Committee has made no error, and LUTINE was not without fault in terms of Rule 62.1:

62.1 (a) 'A request for redress ... shall be based on a claim or possibility that a boat's score or place in a race ... has been ... through no fault of her own, made significantly worse by ... an improper action or omission of the race committee...'

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Decision: The Request for Redress is denied.

Protest #5, Request for Redress from DANEGELD (Robert Veale). Nab Tower race 2, 17th July 2018.

DANEGELD 'finished' on the extension of the finishing line, north of 'Alpha' and was scored 'DNF'. Robert Veale accepted that DANEGELD did not sail across the finishing line defined in SI 16.2 ['The Royal Yacht Squadron Finishing Line will be between the RYS main flagstaff and 'Alpha' a large Panerai Yellow Inflatable buoy approximately 500m north of the RYS Main Flagstaff.']

To be considered for redress, a yacht must satisfy the requirements of rule 62.1:

62.1 (a) 'A request for redress ... shall be based on a claim or possibility that a boat's score or place in a race ... has been ... through no fault of her own, made significantly worse by ... an improper action or omission of the race committee...'

Robert accepted that the Race Committee had not made an improper action or omission, and that DANEGELD was not without fault.

Decision: The Request is denied, and the score of DNF confirmed.

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Protest Hearing #6, DIDO (represented by Rebecca Anthony) v BOJAR (represented by Sally)

Before the commencement of the hearing, the Protest Committee determined that BOJAR had taken a 'yellow flag' 2% penalty in respect to this incident. However, Sally, representing BOJAR, pointed out that the incident described on the protest form was not what happened, and that had DIDO 'sailed straight on there would not have been contact'.

The Protest Committee ruled that as a penalty had been taken, the Protest Committee could not hold the protest hearing. BOJAR could have protested DIDO had BOJAR believed DIDO had infringed rule 14 regarding avoiding contact.

The damage on both boats was minor.

DECISION

The hearing will not proceed, and the 2% penalty is confirmed.

The following morning Rebecca and Sally were asked to attend a meeting with the Protest Committee, where the chairman explained that in not hearing the protest, the Protest Committee had made an error. A valid protest must be heard unless it is withdrawn (irrespective of whether or not a penalty has been taken).

63.1 Requirement for a Hearing

... The protest committee shall hear all *protests* and requests for redress that have been delivered to the race office unless it allows a *protest* ... to be withdrawn.

Should the protest hearing proceed, and BOJAR were to be found to have broken a rule of part 2, there would be no further penalty, since she took a 2% penalty. However, should DIDO be found to have broken a rule of part 2 (for example rule 14) then she would be disqualified (there are no discretionary penalties for infringements of part 2).

After some discussion, DIDO requested to withdraw her protest. BOJAR was happy for it to be withdrawn, and the Protest committee allowed it to be withdrawn.

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Protest Hearing #7, Class 1, Race no.4, 18th July, Race Committee v WHISPER OF LYMINGTON (represented by Ian Ratnage) & DIDO (represented by Daniel Anthony)
Race committee protested as envisaged by SI 10.4, claiming an infringement of SI 10.1.

Dai Pritchard, the Race Officer, reported to the committee that he had received a report from Associated British Ports, VTS (Vessel Tracking System) in Southampton, that these two yachts had sailed in the moving prohibited zone ahead of a commercial ship longer than 150 metres.

Messrs Ratnage & Anthony accepted that their yachts may have breached SI 10.1.

The Protest Committee ask for submissions as to an appropriate penalty. The Race Officer submitted that DNF would be appropriate; the two representatives made no submission.

DECISION ON PENATY

Recognising that a breach of SI 10.1 is serious and can compromise the ability to hold racing in the Solent, the Protest Committee decided both boats should score equal last place.

The Protest Committee was satisfied that the breaches were inadvertent.

Post hearing note:

The track of the vessel was not available at the hearing

But see SailRacer GPS tracking, Ladies race, 1h 4 m 38s after the start, which could have been the moment of the breach.

On the morning of 18th July the Protest Committee received an email from DIDO

Dido track and calculations.

Please find attached the photos of both tracks from iNavX (dido) and the track from the vessel in question. As you'll see from these tracks and the points taken we're outside the mpz of the vessel. Also attached is VTS notice to marinas in relation to the MPZ. clearly marking 100m.

I'd be therefore grateful if your reconsider the DNC in light of the evidence.

Tim Murdoch (Nav and tactician)

A meeting was convened to give an opportunity to DIDO to satisfy the Protest Committee that (a) it had made an error, and/or (b) there was significant new evidence.

[Rule 66: The protest committee may reopen a hearing when it decides that it may have made a significant error, or when significant new evidence becomes available within a reasonable time]

At the meeting, the Protest Committee agreed to obtain a written report from Southampton; and gave an opportunity to DIDO to obtain further details.

The meeting was adjourned until Friday 20th

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20th July 1137 received message from **VTS Watch Manager | Associated British Ports**

Approx. 1230 - SAPPHIRE inbound approaching Prince Consort - displaying black cylinder

Yacht 4206L crossed right-to-left <1000m - ship reduced speed - 4206L [WHISPER OF LYMINGTON] then made to tack right-to-left - cross again

Yacht 719R [DIDO] encroaching from starboard - steady bearing approx. point to starboard <1000m

Ship sounded 5 short - both yachts gave way

The meeting was continued.

DIDO accepted she had breached SI 10.1 and withdrew her Request to Reopen.

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Case #8 20th July Race 6 DIDO protested DANEFELD claiming DANEGELD on port tack did not keep clear of DIDO on starboard tack just before the start of the race.

Both yachts were close hauled. DANEFELD on port tack struck DIDO amidships.

DANEFELD's representative at the hearing accepted that the Protest Form accurately depicted what had happened, but emphasised that DANEFELD was trying to bear away, albeit unsuccessfully.

DANEFELD retired. DIDO retired because of the damage sustained.

DANEFELD broke rules 10 and 14.

It was not reasonable for DIDO to avoid contact.

[See protest form for full description]

DECISION

Protest upheld

No penalty applied as DANEFELD retired.

DIDO requested redress.

62.1(b) A request for redress ... shall be based on a claim ... that a boat's score or place in a race ... has been ..., through no fault of her own, made significantly worse by ... physical damage because of the action of a boat that was breaking a rule of Part 2 ...

DECISION re REDRESS

Request was granted: DIDO is to be scored in equal 6th place in race 6th