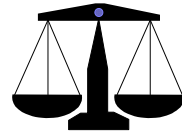




AMERICA'S CUP 32

AMERICA'S CUP JURY JURY NOTICE JN070



Request for Redress by Areva Challenge

Case ACJ028

28th April 2007

To: Challengers and Defender, ACM, Chief Measurer, Regatta Director ("**Parties**")

Request for Redress by Areva Challenge (FRA 93) v. Race Committee

Date of Incident: 27th April 2007, Louis Vuitton Cup Challenger Selection Series Round Robin 1, Flight 11, Match 2

Date of Hearing: Saturday 28th April at 09h00 in Valencia

Areva Challenge Request for Redress in Respect of Alleged Error in not Scoring Areva Challenge as having finished First and in front of Team Shosholoza

Request for Redress

[1] By email sent to the Jury Secretary on 27th April 2007 at 20h43 Areva Challenge lodged a Request for Redress in respect of an alleged error by the Race Committee in not recording Areva Challenge as having finished first in its race against Team Shosholoza.

[2] The Request for Redress and submissions of Areva Challenge was as follows:

"The Incident:

Areva Challenge crossed the finish line at approximately 19:13 and assumed that they had won the race but when they saw a blue flag they were completely confused – as soon as they realized what had happened they flew a red flag and informed the race committee of the request for redress shortly after

At approximately 19:10 Areva Challenge carrying a penalty neared the finishing area, she lowered her spinnaker as she approached the finish line. She rounded up, sailed past the finish bouy, nearly upright, sailed to the course side of the line and bore away. The umpires in accordance with Appenic C5.5 signaled 'on short sound meaning the penalty was complete.

FRA crossing the finish line approximately 5 seconds before RSA.

Approximatley 5 seconds later a blue flag was shown from the.

*At no point did the umpires signal as in accordance with C5.6
C5.6 – Repetitive short sounds mean 'A boat is no longer taking a penalty and the penalty remains'*

Areva Maintains that the RC observer who watched in hazy conditions and indicated that the boat and her mast had not been completely on the course side of the line.

We respectively disagree with this judgment all of our data and video show that FRA did indeed complete the penalty and finish correctly and in front of RSA. We maintain that this was a split second human error on the part of the race committee.

FRA 93 requests redress as she was harmed by incorrect actions of the race committee and requests that she be awarded the point for Race 11 of Round Robin 1.

Applicable Rule(s):

RRS 62.1”

Jurisdiction

[3] The Jury Chairman brought the Party’s attention to the fact that one of the five appointed Jury members (Henry Peter) was not available and that the remaining members of the Jury believed that there was an urgent need to resolve the issue and that resolution could not be reasonably delayed without disrupting the Event (Article 21.1(c) of the Protocol). Both Areva Challenge and the Race Committee accepted that the four members of the Jury present should hear the Request for Redress.

Validity

[4] The Request for Redress was received at 20h43 on 27th April. The time limit for lodging protests was 20h43. Immediately after the incident Areva Challenge displayed a red flag and informed the Umpires, who informed Race Committee, of their intention to lodge a Request for Redress.

Decision on the Validity of the Request for Redress

[5] The Jury decided that the Request for Redress was valid.

Evidence and Submissions

Areva Challenge

[6] Dawn Riley, with the assistance of Katie Pettibone, made submissions.

[7] They submitted that Areva Challenge had, after taking their penalty, sailed completely to the course side of the line and had then finished ahead of Team Shosholoza.

[8] Evidence was given by Dimitri Nicolopolus, the Design Co-ordinator for Areva Challenge. He stated that by applying data from the Areva Challenge yacht and GPS coordinates for the pin end of the line provided by the Race Committee, he had calculated that Areva had sailed completely to the course side of the line and then crossed the finishing line.

[9] Dawn Riley produced video evidence recorded from the live television coverage of the match and stated that it supported the authenticity and accuracy of the data and submissions made by Dimitri Nicolopolus.

Race Committee

[10] Peter Reggio, the Principal Race Officer for the match gave evidence that he was standing on the Race Committee boat approximately an arm's length directly behind the pole displaying the orange flag, sighting through to the pin end of the finishing line. He advised that at all times he had a clear view of the finishing line and that at no point did Areva Challenge completely clear to the course side of the line before crossing the finish line after taking her penalty.

[11] Peter Reggio also played his tape recording of what he visually observed at the time of the incident. The recording included the statement "Areva is not clear, not clear, not clear..." He submitted that the recording accurately reflected what he observed and although the sea conditions were choppy, he could at all times see along the entire length of the finish line. He explained that he focused specifically on the issue of whether the boat sailed completely to the course side of the line. In response to questions he also stated that he does not make such calls lightly and that his approach is that if he has any doubt, his call would be in favour of the Competitor.

[12] Peter Reggio gave evidence that the length of the anchor line on the pin end mark was approximately twice the depth of the water and that the GPS co-ordinates were taken by the mark-laying boat before the finish of the previous match.

Jury Evidence

[13] The Jury introduced additional video evidence that had been obtained from AC Media which had been taken from a media boat on the extension of the finishing line at the pin end. Such video evidence had not been previously viewed by the parties. Dawn Riley submitted that such video evidence supported Areva Challenge's earlier evidence and submissions. Peter Reggio submitted that the video did not change his view given in his earlier evidence.

Conclusion

[14] From the evidence presented, the Jury is not satisfied that AREVA sailed completely to the course side of the finishing line after completing her penalty.

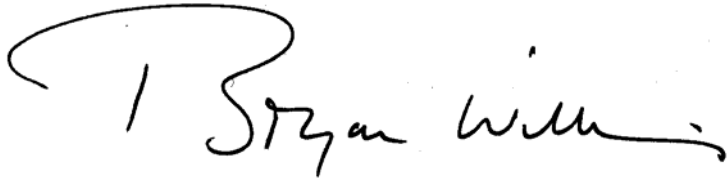
[15] In cases where the Race Committee satisfies the Jury that its procedures were appropriate but its judgement is being questioned, the Jury would require clear and convincing evidence to reach a conclusion that the action of the Race Committee was improper.

[16] The evidence in this case did not meet that standard.

[17] The Race Committee scored the finishing positions correctly and there was no improper action by the Race Committee.

Decision

[18] The Request for Redress was denied.

A handwritten signature in black ink that reads "Bryan Willis". The signature is written in a cursive style with a large, looping initial "B".

Bryan Willis

America's Cup Jury:

Graham McKenzie, Henry Menin, David Tillett, Bryan Willis (Chairman)