

International Dragon Class 2009 Australian Championship Incorporating the Prince Philip Cup & Ted Albert Memorial Regatta

Protest No. 1

Race 1

REOPENING Kirribilli II DAUS 166 & Murka 3 DRUS 92

Hearing at the Royal Sydney Yacht Squadron, Kirribilli on the 7th January 2009 at 16:30 Hours.
Protest Committee: John Kirkjian, Timothy Cox & Chris Harper.

DAUS 166 represented by: David Graney
DRUS 92 was not represented.

FACTS FOUND

1. The protestee did not attend the hearing.
2. The time and date of the hearing was posted on the RSYS Official Notice Board in accordance with RRS 63.2.
3. **The** Protest Committee declared the protest valid in accordance with RRS 61.1(a) (3) As a collision had occurred between DAUS 166 and DRUS 92 causing damage that was obvious to both parties.
4. DAUS 166 was sailing close hauled on starboard tack.
5. DRUS 92 was sailing close hauled on port tack.
6. DAUS 166 and DRUS 92 were sailing on a converging course.
7. DAUS166 hailed "Starboard".
8. DRUS 92 attempted to avoid contact by bearing away to pass astern of AUS 166.
9. Contact occurred between DAUS 166 & DRUS92 resulting in the dismasting of DAUS 166
10. DRUS 92 acknowledge liability for causing the collision and retired from the race in accordance with RRS 44.1(b)

CONCLUSION

1. DRUS 92 a port tacking boat failed to keep clear of DAUS 166 a starboard tacking boat.
2. The damage to AUS 166 was serious.
3. It was not reasonably possible for DAUS 166 to avoid the contact.
4. DAUS166 is entitled to redress RRS 62.1 (b).
5. It was reasonably possible for DRUS 92 to avoid contact with DAUS 166

RULES APPLICABLE:

RRS: 10, 14, 61.1(a) (3), 62.1(b), 63.2, 63.3(b), 64.2 and Appendix A 10 (a)

DECISION:

1. DRUS 92 is to be scored DNF in race 1.
 - a. DAUS 166 is granted average points in race 1 calculated in accordance with Appendix A 10(a)

John C. Kirkjian
Chairman

10 ON OPPOSITE TACKS

When boats are on opposite *tacks*, a *port-tack* boat shall *keep clear* of a *starboard-tack* boat.

14 AVOIDING CONTACT

A boat shall avoid contact with another boat if reasonably possible. However, a right-of-way boat or one entitled to *room* or *mark-room*

- (a) need not act to avoid contact until it is clear that the other boat is not *keeping clear* or giving *room* or *mark-room*, and
- (b) shall not be penalized under this rule unless there is contact that causes damage or injury.

44.1 Taking a Penalty

A boat may take a Two-Turns Penalty when she may have broken a rule of Part 2 while *racing* or a One-Turn Penalty when she may have broken rule 31. Sailing instructions may specify the use of the Scoring Penalty or some other penalty. However,

- (a) when a boat may have broken a rule of Part 2 and rule 31 in the same incident she need not take the penalty for breaking rule 31;
- (b) if the boat caused injury or serious damage or gained a significant advantage in the race or series by her breach her penalty shall be to retire.

61.1 Informing the Protestee

- (a) A boat intending to protest shall inform the other boat at the first reasonable opportunity. When her *protest* concerns an incident in the racing area that she is involved in or sees, she shall hail 'Protest' and conspicuously display a red flag at the first reasonable opportunity for each. She shall display the flag until she is no longer *racing*. However,
 - (1) if the other boat is beyond hailing distance, the protesting boat need not hail but she shall inform the other boat at the first reasonable opportunity;
 - (2) if the hull length of the protesting boat is less than 6 metres, she need not display a red flag;
 - (3) if the incident results in damage or injury that is obvious to the boats involved and one of them intends to protest, the requirements of this rule do not apply to her, but she shall attempt to inform the other boat within the time limit of rule 61.3.
- (b) A race committee or protest committee intending to protest a boat shall inform her as soon as reasonably possible. However, if the *protest* arises from an incident the committee observes in the racing area, it shall inform the boat after the race within the time limit of rule 61.3.
- (c) If the protest committee decides to protest a boat under rule 60.3(a)(2), it shall inform her as soon as reasonably possible, close the current hearing, proceed as required by rules 61.2 and 63, and hear the original and the new *protests* together.

REDRESS

62.1 A request for redress or a protest committee's decision to consider redress shall be based on a claim or possibility that a boat's finishing place in a race or series has, through no fault of her own, been made significantly worse by

- (a) an improper action or omission of the race committee or protest committee,
- (b) physical damage because of the action of a boat that was breaking a rule of Part 2 or of a vessel not *racing* that was required to *keep clear*,
- (c) giving help (except to herself or her crew) in compliance with rule 1.1, or
 - 1. (d) a boat against which a penalty has been imposed under rule 2 or disciplinary action has been taken under rule 69.1(b).

63.2 Time and Place of the Hearing; Time for Parties to Prepare

All *parties* to the hearing shall be notified of the time and place of the hearing, the *protest* or redress information shall be made available to them, and they shall be allowed reasonable time to prepare for the hearing.

63.3 Right to Be Present

- (a) The *parties* to the hearing, or a representative of each, have the right to be present throughout the hearing of all the evidence. When a *protest* claims a breach of a rule of Part 2, 3 or 4, the representatives of boats shall have been on board at the time of the incident, unless there is good reason for the protest committee to rule otherwise. Any witness, other than a member of the protest committee, shall be excluded except when giving evidence.
- (b) If a *party* to the hearing of a *protest* or request for redress does not come to the hearing, the protest committee may nevertheless decide the *protest* or request. If the *party* was unavoidably absent, the committee may reopen the hearing.

64.2 Decisions on Redress

When the protest committee decides that a boat is entitled to redress under rule 62, it shall make as fair an arrangement as possible for all boats affected, whether or not they asked for redress. This may be to adjust the scoring (see rule A10 for some examples) or finishing times of boats, to *abandon* the race, to let the results stand or to make some other arrangement. When in doubt about the facts or probable results of any arrangement for the race or series, especially before *abandoning* the race, the protest committee shall take evidence from appropriate sources.

A10 GUIDANCE ON REDRESS

If the protest committee decides to give redress by adjusting a boat's score for a race, it is advised to consider scoring her

- (a) points equal to the average, to the nearest tenth of a point (0.05 to be rounded upward), of her points in all the races in the series except the race in question;