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New York, NY 10028***

September 24, 2007

Via Federal Express

Mr. Ronald A. Hopkins
Narragansett Bay Yachting Association
65 Hazard Avenue
East Providence, RI 02914

Re: Appeal of Protest Committee Decisions
The Robert Tiedemann Classic Yachting Weekend
Organizing Authority - Museum of Yachting
Race Committee Support by the New York Yacht Club
July 7-8, 2007

Dear Sirs:

This is SUMURUN's response to letters submitted on behalf of ALERA by Mr. A. Knight Coolidge dated August 30, 2007 and September 10, 2007, and by Mr. Terrence McGlinch dated September 5, 2007; a letter on behalf of AMORITA by Mr. Jed Pearsall dated September 4, 2007; and an undated letter from Mr. John B. Bonds, the Chair of the Protest Committee.

INTRODUCTION

We were disappointed to see the disparaging comments and unsupported allegations of misconduct contained in AMORITA's submission. Such *ad hominem* attacks are wholly inappropriate and offensive to the Corinthian spirit of our sport. AMORITA's erroneous and unfounded references to unrelated racing events are also plainly improper and irrelevant, and must be disregarded.

AMORITA also seems to believe that mere disagreement with the Protest Committee's decisions constitute unsportsmanlike conduct. On the contrary, SUMURUN's purpose in lodging this appeal is to preserve the spirit of sportsmanship

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in competitive racing. It was a blow against sportsmanship when the Protest Committee proceeded with a hearing after SUMURUN retired from the race to aid fellow sailors. A protest hearing is intended solely to determine competitive standing in a racing event. As SUMURUN had retired from the race, there were no issues of competitive standing for the Protest Committee to resolve.

Contrary to the exhortations of ALERA and AMORITA, it is the role of a court, not US Sailing, to adjudicate liability for damages in the event of collision.

JURISDICTION OF THE PROTEST COMMITTEE

In its submission on appeal, the Protest Committee acknowledges that SUMURUN retired, but states it was necessary to proceed with a hearing because SUMURUN would not admit breaking a Rule. Nothing in the Racing Rules of Sailing ("Rules") requires such an admission as a prerequisite to retiring. Rule 44.1 mandates retirement where, as here, serious damage occurred. Indeed, Rule 44.1 recognizes that retirement *is* the requisite penalty in the event of serious damage.

AMORITA's interpretation of Rule 44.1 is also contrary to the plain wording of this Rule. AMORITA's construction ignores the disjunctive "or" which distinguishes injury or serious damage on one hand, from gaining an unfair advantage by breach of a rule on the other. Such an interpretation also undermines the fundamental principle that a vessel involved in a serious accident must stop and render aid regardless of any rule violation, must necessarily retire in such a situation, and therefore cannot finish the race.

The Scoring Rules also confirm that a protest committee has no jurisdiction once a vessel retires. These Rules make clear that the sole objective is the ranking of vessels entered in a race. The retirement in this instance was communicated to the Race Committee which should have scored SUMURUN as DNF. Alternatively, when SUMURUN retired without finishing, a DNF should have been posted. Rule A4.2, as well as the Sailing Instructions, required the Race Committee to score the SUMURUN as DNF. The Protest Committee acted improperly by insisting that SUMURUN admit a rule violation. Because SUMURUN had previously retired out of choice and necessity, the protests should have been dismissed. No hearing was necessary or appropriate.

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In these circumstances, the Committee had no authority to consider the protests of ALERA and AMORITA. By improperly proceeding with a hearing, the Committee engaged in a futile exercise of fault-finding in violation of Rule 68.

By adopting the prescriptions to Rule 68, US Sailing specifically has pronounced that "A boat that retires from a race or accepts a penalty does not, by that action alone, admit liability for damages." Rule 68(a) further mandates that, "No Protest Committee or US SAILING appeal authority shall adjudicate any claim for damages."

US Sailing thus recognizes that adjudication of liability for damages is the sole function of the courts, not protest committees.

It is apparent from the submissions of ALERA and AMORITA that an adjudication of liability for damages was the very objective they wished to achieve at the protest hearing, and on this appeal. Mr. Pearsall of AMORITA thus urges that SUMURUN "remain solely and completely liable for damages caused in this collision." Similarly, Mr. McGlinch of ALERA urges that SUMURUN "should remain 100% at fault."

RULE 18 DOES NOT APPLY

It is apparent from their submissions on appeal that the other vessels and the Protest Committee have found it necessary to reform the facts to create a mark-rounding situation under Rule 18. At the hearing, however, the Committee did not find that Rule 18 was applicable.

Undoubtedly it has since been recognized that the decisions were in error, as they did not take into account that ALERA bore off and deprived SUMURUN of room to keep clear.

It is abundantly clear from the decisions rendered by the Protest Committee that this incident did not involve a mark-rounding situation. The Committee made no reference to Rule 18 in its decisions. Nor did the Committee make any reference to the two boat length circle, overlaps, or other required elements of a Rule 18 situation.

Moreover, if Rule 18 were applicable, then the Committee could not have logically concluded that ALERA had violated Rule 16.1 and that SUMURUN violated Rule 12.

The findings and conclusions following the hearing cannot now be altered in order to justify the results reached in the decisions. The operative facts on appeal are only those found in the protest decisions. See Rule F.2.1 and F5.¹

APPEAL OF PROTEST NO. 1

ALERA v. SUMURUN

RRS Rule 12 On the Same Tack, Not Overlapped RSS Rule 14 Avoiding Contact RSS Rule 16 Changing Course

Mr. Bonds in his comments apparently suggests that ALERA under Rule 18.2(d) [cited as 18d] had the right to change course. As the Committee previously did not find the mark rounding rules were applicable, the argument as to Rule 18.2(d) necessarily must be rejected.

Under Rule 16.1, when the ALERA bore off she was required to give SUMURUN room to keep clear. ALERA failed to give SUMURUN room and therefore violated Rule 16.1. ALERA was not permitted to change course into the path of SUMURUN unless SUMURUN was given the time and opportunity to keep clear. But for ALERA bearing off into the path of SUMURUN, no collision would have occurred.

APPEAL OF PROTEST NO. 2

¹Mr. Coolidge's letter of August 30, 2007 confirms that during the hearing "there was no suggestion that the incident took place within the two boat length circle." His subsequent attempt to repudiate this statement does not change the fact that this was not a mark rounding incident. Nor can AMORITA's skewed interpretation of unauthenticated and unreliable photographs change the facts on appeal. The reality is that during the hearing the Committee heard evidence from Mr. Coolidge, Mr. Pearsall and other witnesses, and did not find that a mark-rounding situation existed.

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RRS Rule 18.2 C
RSS Rule 16.1
RSS Rule 12

AMORITA's submission on appeal relies on Rule 18.2(c). However, such reliance is misplaced as the Protest Committee did not find that Rule 18 was applicable.

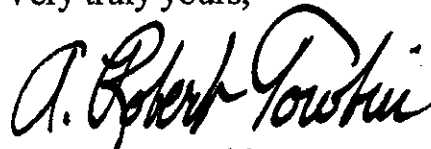
The Committee in fact found no rule violation occurred directly between AMORITA and SUMURUN. Instead, the Committee found that the collision between ALERA and SUMURUN caused the subsequent collisions between ALERA and AMORITA and between SUMURUN and AMORITA. For the reasons stated previously, ALERA's violation of Rule 16.1 caused the collision with SUMURUN. Therefore the Committee erred in finding that SUMURUN caused the subsequent collision with AMORITA.

Moreover, AMORITA as the windward boat had an independent obligation to keep clear of ALERA and SUMURUN but failed to do so in violation of Rule 11. In the close quarters situation that was developing among the vessels, AMORITA was obligated to appreciate the risk of collision, and to stand off.

We respectfully request in the circumstances present here that the protests and decisions be dismissed or reversed.

If you need any additional information or if you have any questions with regard to the above, please do not hesitate to contact me.

Very truly yours,



A. Robert Towbin

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