



Ontario Sailing Appeal #OS2009-02

Hobie 16 109867 vs Hobie 16 16 and Hobie 16 111822

16 is appealing a decision of the protest committee on 22 July 2009 from a race on the same day of the Hobie 16 North American Championship at CORK in Kingston.

Rule 10 On Opposite Tacks

Rule 13 While Tacking

Rule F5 Inadequate Facts; Reopening

ISAF Case 104

Neither written facts nor diagrammed facts take precedence over the other. Protest committees must resolve conflicts between facts when so required by an appeals committee. Once these facts are resolved, a party to hearing may not appeal the facts found.

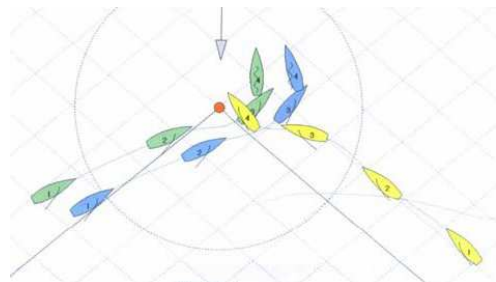
Summary of the facts

(Including revised and additional facts, *in italics*, provided by the protest committee under rule F5)

1. 109867 on starboard approaching the mark about 10 boat lengths from the mark when she hailed don't tack there.
2. 111822 and 16 were on port approaching the mark and tight to the mark.
3. 16 was closest to the mark and one-half boat length overlapped from behind.
4. ~~109876 altered course to avoid 111822 and 16 while they were tacking.~~ *When 111822 pushed the helm to lee, 109876 took avoiding action.*
5. *16 had pushed helm to lee to avoid the luff by 111822.*
6. *16 passed head to wind before 111822.*
7. *When 109876 cleared the transom of 111822, further avoiding action was taken to avoid 16.*
8. *When 109876 cleared the transom of 111822, 16 was past head to wind.*

Decision of the protest committee

The protest committee upheld the protest and disqualified 16 and 111822 for breaking rule 13. The protest committee prepared its own diagram. The next day, 16 requested the hearing be reopened, claiming that there were two separate incidents that should have had two separate hearings. The protest committee denied the request.



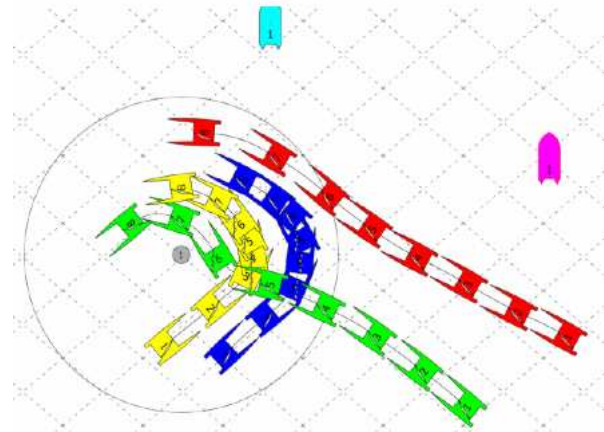
16 appealed, claiming the facts found by the protest committee do not support its conclusion that 16 broke rule 13 or any other rule.

Decision of the appeals committee

The appeals committee noted that the words “while they were tacking” in fact 4 was a conclusion, not a fact, and asked the protest committee, under rule F5, to provide an additional fact or facts relating to what 111822 and 16 were doing when 109876 changed course.

Also under rule F5 and in accordance with ISAF Case 104, the appeals committee asked the protest committee to provide revised or additional facts and/or a diagram to resolve the conflict between the protest committee’s diagram which clearly showed 16 and 111822 on port tack (not beyond head to wind) and its conclusion that the boats were tacking when 109876 changed course.

The protest committee provided revised fact 4, additional facts 5 to 8 and a revised diagram as shown above.



Green = 109876
Blue = 111822
Yellow = 16
Red = PUR340
Teal = RC Mark Boat
Pink = Camera Boat

111822 was on port and broke rule 10 when she luffed because 109876, on starboard, bore away to avoid contact before 111822 had passed head to wind. 16 to windward of 111822, responded to 111822’s luff by luffing. However, 16 continued luffing and passed head to wind, requiring 109876 to further bear away to avoid her before she was on a close hauled course on starboard, breaking rule 13.

Appeal denied. The protest committee’s facts support its conclusion that 16 broke rule 13 and remains disqualified. 111822 remains disqualified for breaking rule 10, not rule 13.

October 30, 2009

OS Appeals Committee:

Mr. Andrew Alberti, SNJ, Chairman
Ms. Kathy Dyer, IJ
Mr. Alex McAuley, IJ
Ms. Janet McDougall, SNJ
Dr. Mel Preston, SNJ
Mr. Peter Wood, SNJ