

## ISAF Racing Rules Question and Answer Service



### Q&A 2010-003

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#### Assumed Facts for Questions 1 and 2:

Boats are approaching the port-hand windward mark on the starboard-tack layline. Some are overlapped. Boat X, sailed single-handed, touches the mark and does not take a penalty. The race committee observes this and lodges a valid protest against boat X.

In the hearing, boat X agrees that she touched the mark, but says that she was compelled to do so because a windward boat did not give her mark-room and did not keep clear. She says that she did not believe she was required either to take a penalty, or to protest the other boat. She does not know the identity of the other boat. The protest committee hears evidence from boat X of an overlap at zone entry inside the unknown boat. There is no evidence available from the race committee or from any other boat as to any overlap by boat X with another boat. The race committee witness cannot exclude the possibility that another boat was nearby and is certain that no boat took a penalty at that mark.

#### Question 1:

In the absence of a protest by boat X against an identified boat for not giving mark-room, is a protest committee entitled to exonerate boat X if it has no grounds for doubting her evidence, but no possibility of confirming that evidence?

#### Answer 1:

Although whenever possible it would be wise to protest a boat that compels you to break a rule, this is not in itself a requirement. However, without a protest and testimony from other boats or witnesses, the protest committee may not be able to conclude, based on its facts found, that another boat involved in the incident compelled you to break a rule. Without such a conclusion, exoneration under rule 64.1(c) would not be available for the boat that claims she was compelled to break a rule.

Normally, a boat should make sure to positively identify the other boat in an incident, however, mark rounding in single-handed classes may be very crowded and it is not uncommon that the competitors lose track of the identity of other boats rounding at the same time. For a protest to be valid, the protestee must be identified, and there are cases when this will not be possible. Hence, without a correct identification of the other boat, a protest has to be found invalid.

In itself, the lack of a protest by boat X and the lack of identification of the unknown boat, does not make it impossible to exonerate boat X. The protest committee needs to find as facts that the incident occurred as described by boat X and normally the protest committee will need to consider more than just boat X's testimony. Without any further testimony as basis for facts found and conclusions, the likelihood of exoneration is not big.

#### Question 2:

If the answer to question 1 is No, does boat X break rule 2?

Answer 2:

It depends. Under the basic principle 'Sportsmanship and the Rules', boat X is expected to enforce the rules. Under rule 2 boat X should compete in compliance with this principle. But boat X may only be penalized under rule 2 if it is clearly established that this principle has been violated.

Assumed Facts for Questions 3 and 4:

Boats are approaching the port-hand windward mark on the starboard-tack layline. Some are overlapped. Boat A, sailed single-handed, is seen by boat B, astern, to touch the windward mark, and not take a penalty. Boat B lodges a valid protest against boat A, referring to rule 31.

In the hearing, boat A agrees that she touched the mark, but says that she was compelled to do so because a windward boat did not give her mark-room and did not keep clear. She does not know the identity of the other boat. Boat B's evidence is that there was indeed another boat that appeared to have failed to keep clear of and failed to give mark-room to boat A. However, boat B is also unable to identify the boat concerned.

Question 3:

In the absence of any identification of the boat that may have caused boat A to break rule 31, is the protest committee entitled to exonerate boat A?

Answer 3:

Yes. Provided the protest committee concludes, based on its facts found, that an unidentified boat did break a rule and compelled boat A to break rule 31, it may exonerate Boat A for breaking rule 31 under rule 64.1(c).

The testimony from boat B that there was indeed a windward boat that appeared to fail to keep clear and to give mark-room, makes it more likely that the protest committee can find sufficient facts to conclude that boat A was compelled to break rule 31.

Question 4:

If the answer to question 3 is No, does boat A break rule 2?

Answer 4:

Not applicable.