

**THIS SIDE FOR PROTEST COMMITTEE USE**

Number ..... Heard together with numbers .....

Fill in and tick as appropriate

Withdrawal requested  Signature ..... Withdrawal permitted

Class IRC Fleet CRUISER Race 1 Protest time limit .....

Protest, or request for redress or reopening, is within time limit  Time limit extended

Protestor, or party requesting redress or reopening, represented by .....

Other party, or boat being considered for redress, represented by .....

Names of witnesses .....

Interpreters .....

**Remarks**

No objection about interested party  .....

Written protest or request identifies incident  .....

'Protest' hailed at first reasonable opportunity  .....

No hail needed; protestee informed at first reasonable opportunity  .....

Red flag conspicuously displayed at first reasonable opportunity  .....

Protest or request valid; hearing will continue  Protest or request invalid; hearing is closed

FACTS FOUND PLEASE SEE ATTACHED.

Diagram of boat ..... is endorsed by committee  Committee's diagram is attached

CONCLUSIONS AND RULES THAT APPLY PLEASE SEE ATTACHED

**DECISION**

Protest: dismissed  Boat(s) ..... is (are) disqualified from race(s) .....  
penalized as follows  : .....

Redress: not given  given as follows  : PLEASE SEE ATTACHED

Request to reopen a hearing: denied  granted

Protest committee chairman and other members .....

Chairman's signature [Signature]

Date and time .....

**THIS SIDE FOR PROTEST COMMITTEE USE**

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*Fill in and tick as appropriate*

Withdrawal requested  Signature ..... Withdrawal permitted

Protest time limit .....

Protest, or request for redress or reopening, is within time limit  Time limit extended

Protestor, or party requesting redress or reopening, represented by Gambit, Gideon Mowser .....

Other party, or boat being considered for redress, represented by .....

Names of witnesses Tristan Stewart (ABC); Russ Parker (RHKYC) .....

Interpreters .....

**Remarks**

No objection about interested party  .....

Written protest or request identifies incident  .....

'Protest' hailed at first reasonable opportunity  .....

No hail needed; protestee informed at first reasonable opportunity  .....

Red flag conspicuously displayed at first reasonable opportunity  .....

Protest or request valid; hearing will continue  Protest or request invalid; hearing is closed

**FACTS FOUND** Today's hearing is a continuation of a hearing initially held on 7<sup>th</sup> January 2010, chaired by an international jurist. The committee were members of Royal Hong Kong Yacht Club (RHKYC). Based on the facts found, they considered that they did not have jurisdiction to hear the redress request and recommended that a joint protest committee comprising a member each from RHKYC and Aberdeen Boat Club (ABC). The result is the committee for this hearing.

RHKYC and ABC agreed that to foster better racing they would combine some races in the RHKYC Uin-na-Mara Series (UNMS) and the ABC Waglan Series (WS).

The organizing authority for the UNMS Race 1 was ABC and the race officer (RO) was provided by ABC.

The RO, unable to attend, issued a statement prior to this hearing that he had clear instructions that ABC race instructions would prevail. There was no instruction to take account of UNMS instructions.

Eight boats entered UNMS by registering their entry with RHKYC.

UNMS NOR and SI 1.2 stated "The Prescriptions of the Hong Kong Sailing Federation will apply, together with:

- The IRC Rules Parts 1, 2 and 3 (IRC),
- the Hong Kong Cruiser Owners' Association (COA) HKPN handicap system,
- the Offshore Special Regulations for Category 4 races,
- the Uin-na-Mara Series 2009-2010 Notice of Race and these Sailing Instructions, and
- for Race 1 only, the ABC Waglan Series NOR & Sailing Instructions.

Succeeding items in the above list will take precedence."

Despite NOR and SI 1.2, the UNMS SI refers to Race 1 in paragraphs 5, 6.1, 10, 15.1 and 15.6. References to Race 1 throughout the UNMS SI could be interpreted to mean that UNMS SI might apply to Race 1.

The WS NOR stated "The series will be governed by the Racing Rules of Sailing 2009-2012 (RRS), the prescriptions of the Hong Kong Sailing Federation (HKSF), the IRC Rules Parts 1, 2 and 3 (IRC-C), Class Rules where they apply, this Notice Of Race and the Aberdeen Boat Club standard Sailing Instructions."

The Class Flags hoisted at the start of Race 1 were the flags specified in UNMS SI 5 and in ABC SI 2.2.3. The RO had been instructed to apply both SI's in this instance, although the RO had also been instructed to apply the ABC SI's to the race.

The RO set for Division A, Course 28 from the ABC SI which had a length of 20 nm. IRC boats raced under Division A.

During the race, the RO independently took a RIB to the marks and determined that the race could be finished and did not shorten the course.

The time limit for Course 28 is stated in ABC SI 2.3.5 as, "In Waglan Series Divisions A & B, if the Leading Boat, as defined in SI 2.3.3 has not crossed the finishing line (or shortened course finishing line) by 16:00 hours, the race will be abandoned."

The time limit is stated in UNMS SI 15.1 as, "**Any** boat not having finished by 1730 on each racing day will be deemed to have retired, except for **Race 1 only**, any boat that fails to finish by 1800 will be deemed to have retired. This changes rule 35." UNMS SI has no provision for abandonment.

No L Notice was issued relating to the time limit in UNMS Race 1.

The first four boats entered in UNMS Race 1 were recorded as finishing with times marked for each. After the fourth boat was marked as finishing at 16.56.23, one of her crew informed the RO that the race should be abandoned and times were not marked for the remaining boats in UNMS Race 1. The RO, in a RIB, informed the remaining boats that the race had been abandoned. The boats then started their engines.

The eight boats entered in UNMS also started UNMS Race 1.

One boat, Yacht O, failed to sail the correct course and retired from UNMS Race 1 and informed the RO. Her retirement was marked by the RO on the results sheet.

Diagram of boat ..... is endorsed by committee  Committee's diagram is attached

**CONCLUSIONS AND RULES THAT APPLY** Due to the references to Race 1 in the UNMS sailing instructions, and due to the flying of UNMS class flags, there was some ambiguity over whether both ABC and UNMS or only ABC instructions applied. The race committees and organizing authorities of ABC and RHKYC omitted amending the sailing instructions to clarify discrepancies in finishing times, shortening, and abandoning of the race, and the RO omitted marking times of finishes for half of the fleet (omissions under Rule 62.1(a) if UNMS instructions also applied). Due to the omissions, there is doubt as to the interpretation of the SI's. All boats in the fleet were affected in the race. Rather than abandoning the race, it would be fair to reinstate the race (Rule 64.2). As finishing times and places are in question, the score for each of the boats that sailed in the UNMS Race 1, except HKG2110 "Yacht O" who retired, having failed to sail the correct course, from UNMS Race 1, is to be adjusted to points equal to the average, to the nearest tenth of a point (0.05 to be rounded upward), of her points in all of the races in the Series except the race in question, that is UNMS Race 1 (Rule A10). HKG2110 should be scored DNF in UNMS Race 1 (Rule A11).....

**DECISION**

Protest: dismissed  Boat(s) ..... is (are) disqualified   
penalized as follows  : .....

Redress: not given  given as follows  : UNMS Race 1 is reinstated. Except for HKG2110 "Yacht O" who retired for failure to sail the correct course, the score for each of the boats that participated in UNMS Race 1 is to be adjusted to points equal to the average, to the nearest tenth of a point (0.05 to be rounded upward), of her points in all of the races in the UNMS except for Race 1. HKG2110 should be scored DNF in UNMS Race 1.....

Request to reopen a hearing: denied  granted

Protest committee chairman and other members Phyllis Chang (RHKYC), John Berry (ABC), Cheung Mei Han (RHKYC) .....

Chairman's signature Phyllis Chang .....  
09:00.....

Date and time 01 February 2010,