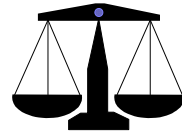




# AMERICA'S CUP 32

## AMERICA'S CUP JURY JURY NOTICE JN040 Jury Decision ACJ016



29<sup>th</sup> June 2005  
3 pages

To: Challengers and Defender  
Copies: ACM, Chief Measurer, Regatta Director, Media Centre

JURY HEARING ACJ016 29<sup>th</sup> June 2006 10h00 local time in Valencia

REQUEST FOR REDRESS: +39 Challenge (ITA 59) v Race Committee

### **The Request for Redress**

[1] By letter dated 28<sup>th</sup> June 2006 +39 Challenge requested redress under the Racing Rules of Sailing ("RRS") Rule 62.1(a).

[2] They submitted that the overall standings published by the Regatta Director at the conclusion of the Round Robin part of Act 12 were incorrect due to a mistake in applying Appendix C 11.1(e) of the Racing Rules of Sailing ("RRS")

[3] They further submitted that Act 11 forms no part of this "event" (Act 12) and that therefore RRS C 11.1(e) does not apply. They submitted that there is an unbreakable 3-way tie that should be resolved by a sail-off or draw in accordance with RRS C 11.3(a).

### **Jury Quorum**

[4] The Jury Chairman noted that there are currently 4 members of the Jury which satisfies the quorum requirements of Article 21.1(c)(i) of the Protocol (Amendment Number 11).

### **Validity of Protest**

[5] The Request for Redress was received at 19h40 on the 28<sup>th</sup> June 2006 which was prior to the expiry of the time limit for lodging protests.

[6] As +39 Challenge would not be aware of the points score until after the finish of all races on the 28<sup>th</sup> June, the Jury determined that there was no requirement to display a red flag and the Request for Redress was valid.

## **Submissions**

### **+39 Challenge Submissions**

[7] Luca Devoti and Ian Walker presented submissions, including a written memorandum signed by Stefano Feltrin (+39 Challenge General Counsel) which provided 39 points in support of their Request.

[8] They submitted that the Race Committee improperly broke the three-way tie among +39 Challenge, Areva Challenge and Team Shosholoza by applying RRS C11.1(e). They submitted that RRS C11.1(e) should not apply because Act 12 is a 'stand alone' event having no previous stages.

[9] They further submitted that the word "event" is not defined in the RRS and should be used in the sense ordinarily understood in nautical or general use.

### **Race Committee Submissions**

[10] Dyer Jones (Regatta Director) submitted that it was proper to apply RRS C11.1(e) to resolve the tie and that the word "event" in that rule has the same meaning as "Event" as defined in Article 1.1(m) of the Protocol.

[11] Dyer Jones further submitted that section 1.3 of the Notice of Race ("NoR") for Act 12 provides that words defined in Article 1 of the Protocol have the same meaning as in the NoR. He advised that the NoR has resulted from a consultative process involving the Challenger Commission and the Defender. The Race Committee intended that RRS C11.1(e) should apply as a means of breaking ties in these circumstances.

[12] Dyer Jones also submitted that in the Race Committee's opinion, the Pre-regattas are all part of one "Event".

### **Team Shosholoza Submissions**

[13] Dee Smith submitted that they considered the series of Pre-regattas as being all part of the one "Event" and the Jury should not now change this position. They supported the submissions of the Race Committee.

### **Areva Challenge Submissions**

[14] George Clyde submitted that they supported the request by +39 Challenge. He contended that RRS C11.1(e) does not apply to the breaking of this 3-way tie. He further submitted that all the Pre-regattas were a series of separate unrelated events.

### **Other Submissions**

[15] No other Parties made submissions.

## Conclusions

[16] A summary of the Conclusions and the Decision were given orally at the close of the hearing.

[17] The word 'event' is defined in the Protocol to include all Pre-regattas.

[18] Although the word 'event' is not defined in the Racing Rules of Sailing (RRS), in terms of the series of Pre-regattas, having regard to the nature and format and linkage between the regattas, the single entry fee, the single Organising Authority, and the cumulative scoring system, the Jury interprets the word 'event' in RRS C11.1(e) to have the same meaning as 'Event' as defined in Article 1.1(m) of the Protocol.

[19] There was a three-way tie amongst Team Shosholoza, Areva Challenge and +39 Challenge, with none having beaten the seven highest scoring Competitors, and all having beaten the two lowest scoring Competitors. Thus there was an unbreakable tie in terms of RRS C 11.1(a) though (d).

[20] The Race Committee was correct in applying RRS C11.1(e) and using the results of Act 11 to break the tie in favour of Team Shosholoza, and using RRS C11.1(a) to break the remaining tie between Areva Challenge and +39 Challenge.

[21] There was no improper action or omission of the Race Committee.

## Decision

[22] The Request for Redress is denied.

[23] The results published by the Regatta Director are confirmed.

A handwritten signature in black ink that reads "Bryan Willis". The signature is written in a cursive style with a large, sweeping initial 'B'.

Bryan Willis

America's Cup Jury:

Graham McKenzie, Henry Menin, David Tillett, Bryan Willis (Chairman)