



Report on Protest Hearing

Date of Hearing: Sunday 13th January 2019

Venue: BMYC Club House

Introduction

During club racing on the morning of Sunday 13th January an incident occurred between yachts Mad Max and Baradal. Following this, both yachts lodged protests.

Overview

Mad Max alleged that when passing the #4 mark of the course, Baradal had infringed Rule 18 (Mark-Room). Baradal alleged that after passing the #4 mark of the course Mad Max had infringed Rule 11 (Windward Boat Keeps Clear) resulting in their need to alter course to avoid a collision. A panel was convened on the afternoon of the Sunday; both protests were considered at the same hearing. A race committee observer was also present. None of the panel or the observer had witnessed the incident; on the day none had raced in the same class as the protesting yachts. The panel heard accounts from the skippers of Baradal, Mad Max and an independent witness.

Description of Events - Baradal

Baradal and Mad Max had sailed downwind under spinnaker to the #4 mark. Baradal had dropped their spinnaker before the mark and had given room for Mad Max to pass the mark inside of them. Although Mad Max had not dropped their spinnaker, after passing the mark the boats had turned upwind in order to sail to the next mark (#2). Baradal had called 'up' to Mad Max. Mad Max had then turned downwind (during which the helm of Baradal had physically been covered with Mad Max's spinnaker). Baradal was then forced to turn downwind to avoid a collision. When asked how far past the mark the boats had been when the boats turned upwind, Baradal estimated a minimum of 1 boat length past the mark but that they were still unable to properly turn up at around 2 boat lengths past the mark.

Description of Events - Mad Max

Baradal and Mad Max had sailed downwind under spinnaker to the #4 mark. Baradal had dropped their spinnaker early and allowed Mad Max to approach the mark, but not to round it (this had not been noted on the protest form). When asked where the boats were in relation to the mark, they stated that they had been alongside the mark, where they dropped their spinnaker. Baradal had turned up while they were still alongside the mark and Mad Max could not turn up without hitting the mark.

Description of Events - Independent witness

The witness had been on board yacht Redeye. Redeye were not racing that day but were out sailing. The witness stated that he was aboard Redeye looking forward when he saw the incident occur. When asked how far from Mad Max and Baradal Redeye had been, he estimated that Redeye had been approximately 300 yards behind Mad Max and Baradal. When asked to describe what he saw, he stated that Mad Max had sailed round the mark with spinnaker up and was clearly past the mark on an upwind course and with an "upwind spinnaker" when the incident occurred.

When asked how far past the mark the boats were when the incident occurred he estimated at least 1 boat length past. When asked to describe how yacht Baradal had behaved, he stated that he saw Baradal bear away and that they clearly could not sail their course.

Findings of the Panel

Taking all the above into account the panel came to the following conclusions:

1. Baradal and Mad Max had sailed past the #4 mark and had turned upwind before the incident occurred. As such Rule 18 does not apply. The protest from Mad Max was therefore dismissed.
2. After the mark Baradal and Mad Max had both turned upwind. As the leeward boat, Baradal had rights over Mad Max (Rule 11) which Mad Max had infringed by turning downwind thereby forcing Baradal off course in order to avoid a collision. The protest from Baradal was therefore upheld.

Outcomes of the Hearing

1. Mad Max was disqualified.
2. Both parties were informed of the decisions after the hearing.
3. Article 17.5 of the BMYC Sailing Instructions (General) prescribes: “In the event a boat is disqualified as a result of a protest hearing the boat shall be scored using the scoring abbreviation “DNE” (Disqualification Not Excludable)” – Accordingly, Mad Max was scored using the scoring abbreviation DNE.

AJ 14Jan19