



Report on Request for Redress

Date of Hearing: 6th March 2016

Venue: BMYC Clubhouse

Introduction

Mad Max had registered a request for redress arising from alleged actions on the part of the race officer in running a spring series race on 28th February 2016.

Overview

On the day of the race:

- i) The race programme called for 2 races to be run; being races 2 and 3 of the spring series;
 - a) Details of course labelled race 2: CB-Start; BMYC1S; BMYC6S; BMYC2S; CB-Finish.
 - b) Details of course labelled race 3: CB-Start; BMYC1S; BMYC6P; BMYC4P; BMYC1P; BMYC6S; BMYC2S; [GATE; BMYC1S; BMYC2S] Repeat last 3 [Bracketed] until finish.
- ii) BMYC race control boat (MV Admiral Jack) failed to start due to a flat battery; the race officer elected to run the racing from his own yacht.
- iii) the first start was delayed by some 36 minutes to 11:06hrs.

Description of Events (Mad Max)

The member representing Mad Max (plaintiff) submitted a revised document to that used in registering the request for redress; the Panel rejected the revised document on grounds that this submission was offered outside of the time-frame for submission.

The plaintiff stated that on the day of the race Mad Max had encountered a rigging problem whilst waiting for the race to start; the crew made repairs to the rigging; as a result, no crew member had remained on-station to monitor voice communication on the race frequency (marine band VHF radio).

On completion of repairs Mad Max approached the race management boat asking "What's Happening" to which the race officer replied "4 minutes". Mad Max did not seek further clarification.

Mad Max sailed the course labelled race 2; Mad Max, leading the field, rounded BMYC6 to starboard, heading toward BMYC2; as the crew looked back they noticed the remainder of the fleet had rounded BMYC6 to Port, heading toward BMYC4. Mad Max retraced her path toward the previous mark (BMYC6) thinking to unwind an incorrect rounding, then resumed course toward BMYC2.

Mad Max crossed the finish line; but, did not receive a finish signal. On enquiring why no finish signal was offered Mad Max crew were informed they had sailed an incorrect course and that the course labelled race 2 had been Abandoned. The plaintiff cited BMYC sailing instructions which state races will be run in sequential order.

The plaintiff stated redress sought, being an award of first place.

Description of Events (Race Officer)

On arriving at the race area the yacht substituted for the race control boat had encountered a problem whilst anchoring; this added to the delays encountered in discovering the flat battery on the default race management boat leading the race officer to the decision that time did not permit running 2 races.

The race officer decided they would run just the one race via the longer course labelled race 3.

The race officer made a verbal announcement via VHF radio on the race frequency stating that the longer, race 3, course was to be sailed; this announcement was made on 3 occasions. The race officer requested course confirmation from competing yachts; two yachts, Jeneral Lee and Baradal, replied confirming the course to sail mark-by-mark.

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During the start sequence, Mad Max had sailed close to the race control boat, hailing; the race officer had understood Mad Max were enquiring on status of the Start sequence and replied “4 minutes”.

Mad Max went on to cross the start line along with the rest of the fleet.

At time Mad Max rounded BMYC6 the race officer noted that Mad Max had incorrectly rounded the mark and appeared to be sailing an incorrect course. The race officer attempted, on two occasions, to hail Mad Max via VHF radio on the race frequency to raise awareness of the course to be sailed; Mad Max did not reply.

Findings of the Panel

The Panel found:

- i) that the race officer had abandoned the race labelled race 2 and had not provided visual (flag) signals indicating the course to be sailed had changed from the earlier instruction was not a contributory factor on grounds that:
 - a) The race officer had issued a change of instructions regarding the course to be sailed via a means available to all competing yachts (marine band VHF radio on the race frequency) on 3 occasions; further, the course to be sailed had been confirmed by 2 competing yachts via marine band VHF radio on the race frequency;
 - b) it remains the responsibility of competitors to ensure they are able to receive race communications via marine band VHF radio via the race frequency (BMYC Safety Regulations 2016 (Inshore) and BMYC general sailing instructions Article 21.3);
 - c) the crew of Mad Max had failed to monitor race communications via marine band VHF radio via the race frequency;
 - d) at time of approaching the race control boat during the start sequence; knowing they had not monitored marine band VHF radio on the race frequency, the crew of Mad Max had failed to seek confirmation if any verbal instructions had been issued by the race officer (via marine band VHF radio via the race frequency);
- ii) that Mad Max had overlooked a further opportunity to confirm the course to be sailed on realising all other competing yachts had sailed a different course following rounding of BMYC6;
- iii) information gained by the crew of Mad Max after the race had ended would not have affected decisions made by the crew of Mad Max during the race; as such, information gained by Mad Max after the race had ended was deemed inadmissible as justification of earlier actions taken by the crew of Mad Max;
- iv) although the manner in which the race had been run was not ideal, none of the actions of the race officer unfairly inconvenienced Mad Max any more than any other competitor had been inconvenienced; as a result the Panel felt that all yachts competed under common conditions.

Outcomes of the hearing

- 1) Mad Max were the authors of their own destiny; hence, it would not be fair to other competitors to award redress to Mad Max for undesirable outcomes arising from their own decisions. No redress was due to Mad Max.
- 2) The BMYC general sailing instructions allows for substitution of Flag Signals during the start sequence via use of verbal announcements via marine band VHF radio on the race frequency where it is not possible to use flag signals, sample situations are cited in support of such action; however, the Panel found that interpretation of the sailing instructions may lead to a misunderstanding of the intention. The Panel recommend clarifying statements included in the BMYC general sailing instructions such that a ‘literal’ interpretation is possible without ambiguity.
- 3) Although not mandatory; good practice dictates that the race officer should seek, from each competing yacht, confirmation of receipt of instruction where verbal instructions are issued as part of managing a race; such confirmation may be via use of IC Flag Lima and hailing, or, via verbal communication with each competing yacht via marine band VHF radio on the race frequency.
- 4) The Panel noted that club race officer training was to take place at the clubhouse in the near future; the RYA Trainer would be approached to clarify the role sailing instructions play in (i) managing a race, and (ii) competing in a race.
- 5) The Panel will make recommendation to the Organising Authority that guidance notes for the race officer are amended to include procedure regarding actions required of the race officer where (i) the course to sail issued earlier is to be substituted for another course, and, (ii) where a race is not run; I.E. Postponed, NOT Abandoned.