

INTERNATIONAL SAILING FEDERATION

Decision of the Reviewing Authority in the Appeal of

Mr George Iverson

v

The International Star Class Yacht Racing Association (“the Star Class”)

At its annual meeting in November 2003 the ISAF Council resolved

That the Executive Committee appoint a reviewing authority to act until the General Assembly adopts the proposed changes to Articles 81, 83, and 84. The reviewing authority shall consider all appeals in respect of matters referred to in the proposed changes to Articles 81, 83, 84, Regulation 19.5.5 and new regulation 19A. The reviewing authority shall be comprised of members of the Review Board as the Executive Committee shall appoint and shall have all the powers and duties of the Review Board in relation to such appeals. The same parties as proposed in Article 84 may make appeals to the Court of Arbitration for Sport from decisions of the reviewing authority in the same way.

The Executive Committee duly appointed a Panel consisting of three members of the Review Board, John Roome, Chairman, Hans-Kurt Andersen and Arturo Delgado, to hear Mr Iverson’s Appeal against the Star Class.

The Hearing was held at the ISAF office in Southampton on the 11th February 2004. Mr Iverson was represented by his Attorney Mr G. Macy Nelson, and was present in person. The Star Class was represented by its Attorney Mr Daniel Wyss. Mr Iverson and Mr Pietro d’Ali gave evidence during the Hearing.

Mr. Iverson’s appeal was against the decision in 2001 of the Star Class to amend the existing weight rule of the Class.

The Star Class had amended its Class Rules in 1999 by introducing a weight rule. The amended Class Rules (including the weight rule - “the old rule”) were in effect at the Olympic Games in Sydney 2000. In 2001 an amendment to the old rule was made (“the new rule”) and was approved by ISAF. It came into effect in 2002 and will apply at the Olympic Games in Athens 2004. The new rule effectively encourages less heavy crew and allows heavier skippers.

The reason given for the Amendment stated

“The present weight formula has proved to serve the Star Class well in previous years. However, the problem of high crew weights still exists and causes several well-known problems and disadvantages to our Class, especially in the present position as the only Olympic male keelboat. The adjustment of the weight formula aims both to bring the crew’s weight down to a reasonable level and also to reduce the weight gap between crews. All in order to increase competition, give more teams the required weight to win, enlarge the pool of crews, attract youth and sailors from other classes, and bring back health to Star sailors.”

For the appellant, it was urged and evidence produced that he was adversely affected by the revised weight limit formula, and it was specifically argued

1) that the amendment was invalid under 18.2 of the Star Class Rules which states

“No amendment can be passed which would render ineligible a yacht or an active member whose eligibility has been established under existing rules and whose status could not be changed to conform with the proposed amendment.”

Mr Iverson is a large man of six foot five and a half inches in height. He currently weighs 270 pounds and it was stated (although not admitted by the Star Class) that he could not reduce his weight below 255 pounds. He is a long-standing Life Member of the Class and successful owner of Star boats. He prefers to crew and has never helmed a Star in a competition. He had hoped to qualify to sail in the Olympic Games.

The Panel has considerable sympathy with the appellant who, along with other heavy crew, has been adversely affected by the change in the weight formula. The Panel does not consider however that the amendment goes so far as to render him ineligible to compete, “ineligible” being defined in the Oxford dictionary as “disqualified”. It is clear that he can continue to crew (albeit at a comparative disadvantage) with a lighter helm, or he can elect to helm.

2) that the amendment made under 18.1 had not been carried by the requisite 2/3 majority of those voting. The numbers had been 506 For, 221 Against, and 33 who had returned their ballot papers but had not voted either For or Against this amendment. In counting the votes, the Class had disregarded the ballot papers on which no vote was recorded on this item. On this basis the amendment had passed with a majority of 69.60%. It was argued that the 33 papers should have been taken into account and that since they had not recorded a vote For they should be treated as having voted Against. If this was correct the majority would have been 66.58%, just less than the 2/3 majority required.

The Panel considers that the Class was correct in disregarding these 33 votes as the members had not voted “on the amendment”. The amendment had therefore been duly carried.

3) that under the second part of rule 18.2 the amendment had required “a 3/4 vote of the total voting strength of the active membership” since it was an amendment “retroactively affecting active members’ or fleets’ existing rights”.

The Panel considers however that the amendment did not have “retroactive” effect, i.e. that it did not affect matters which occurred in the past.

Decision

The Panel unanimously decides that the amendment was validly made in accordance with the Rules of the Star Class and was approved by the ISAF Council. The Panel therefore dismisses Mr Iverson’s appeal.

The Panel wishes to add that it is glad to note that discussions are continuing within the Class to determine whether there may be an improved weight rule by which they can achieve their objectives.