

UIM Appeal Board

Decision

Concerning the Appeal of
Mr. Bard Eker and Mr. Steve Curtis

- Appellant -

against
the Race Jury Decision from 14.08.2005 at Trondheim to penalize boat
no. 1 with two yellow cards

On the basis of the documents, the UIM Appeal Board, body
Kimon Papchrisoptoulos, Chairman
Per Benson, Member
Harry Fabritius, Member
decided unanimously at 09.09.2005:

The appeal is not upheld.

Grounds

The appeal is invalid due to infringement of rule 405.05 which determines that all appealfees must be received within ten days from the date when the notice to appeal was received by the U.I.M. Secretariat.

The U.I.M. office received the notice of intention to appeal on 14th August 2005.

The Appellant gave the bank order for the appeal fees at 24th of August 2005. At 25th August 2005 the U.I.M.'s bank received a SWIFT message announcing the transfer of the appeal fees. The amount of 3.815,00 EUR was credited on U.I.M.'s bank account by 26th of August 2005 with value date 26th August.

The Appellant submitted a confirmation of his bank dated 25th of August stating that the payment was made at 24th August 2005 with value date 24th of August.

According to rule 405.05 the term for the receipt of the fees expired at 24th August 2005. In accordance with past decisions the U.I.M. Appeal Board finds it not sufficient that the Appellant gives the bank order within the term stipulated by rule 405.05. Furthermore the fees must be received by the U.I.M. i.e. it's bank within this term. The earliest moment to consider the receipt is the date of the receipt of the SWIFT Message by the bank. This was after the expiry of the relevant term so that the Appeal Board can leave it open, if receipt of the fees is to be considered at the 25th (SWIFT message) or 26th of August (credit note).

The U.I.M. Appeal board stated in a past decision, that delays based on unusual long bank traffic may in exceptional cases be excused. Such an exceptional case can not be found here due to the fact, that one or two days are a usual term for bank traffic and the Appellant must give his bank order early enough to ensure the receipt of the fees within the terms stipulated by the rules.

(Signatures of the Appeal Board Members)