

UIM Appeal Board

Decision

Concerning the Appeal of
Mr. Doug Hall

- the appellant -

against

the results of the 1100 Hydro Plane World Championship held at
Lake Alfred USA on 25/ 26 October 2008

The UIM Appeal Board convened in telephone conferences on
13.05.2009 and 19.05.2009 Those present:

Kimon Papchrisoptoulos, Chairman
Erwin Lang, Member
Phil Stacey, Member

On the basis of the documents received, of the telephone confer-
ences the UIM Appeal Board decided:

The appeal is not upheld.

Grounds

Facts:

The Appellant participated in the 2008 World Championship of the
1100 Hydroplane Class held in Lake Alfred, USA. He was scored
2nd whereas Mr. Brandon Thirby was scored 1st (rules 108.06 and
319.02 paragraph 3 of the 2008 Circuit rules)

The official result sheet of the two drivers in the four heats of the
World Championship reads as follows:

Doug Hall				Brandon Thirbi				
He- at	Pos	points	Total time	pos	points	Total time	Time diff	Diff %
1	1	400	05.51.55	2	300	06.05.61	00.14.03	
2	Dns		00.00.00	1	400	06.19.90		
3	2	300	02.49.46	1	400	02.46.92	00.02.54	
4	1	400	03.16.32	2	300	03.18.90	00.02.58	
	2	1100		1	1100			

The Appellant claims that in the fourth heat the time gap between himself and Mr. Brandon Thirbi was 11.18 seconds rather than 2.58 seconds as shown on the result sheet. Assuming that heat no. 2 where the Appellant did not start did not count for the results (rule 108.06) he would be 1st of the World Championship according to rule Rule 319.02 paragraph 3 which reads as follows:

“If the course has been changed considerably (as it happened after heat no. 2) between heats, the average speed cannot be used to declare a winner. Then, the total of the smallest time difference in percent to the winning time in each point giving heat is the winner. The decision about different course has to be done at the drivers informed before the last heat.”

The result sheet shows 4.15 pm (26th October 2008) as the time of posting. The Appellant claims it was posted between 4.45 and 4.50 pm. He says he told the timers that the 4th heat times were incorrect but they said they were correct. Then at 5.15 the Appellant wanted to file a protest but he was told by the Race Committee that it was 5.17 by the official watch and therefore too late to protest since the protest period would be 30 minutes according to the regulations of the Advance Regulations.

On 29th of October the Appellant called the UIM Commissioner to ask him how to file an appeal and he was told that UIM would not handle the appeal since the 1100 Hydro would be an APBA class.

Also on 29th of October and obviously subsequent to a respective conversation the Officer of the Day sent an email to the Appellant stating that he checked with APBA HQ on the use of UIM rules for 1100 Hydroplane Class and that they were fine with this as long as it was announced at the drivers' meeting.

The Officer of the Day later testified to the Appeal Board that he told the Appellant in late October that he could file an appeal to the UIM.

The Appellant denies this conversation with the OOD. He says that he tried to ask friends who are familiar with the UIM rules but they were at the UIM General Assembly at that time in Australia. Later when these friends returned he learned from them that he could file an appeal to the UIM and did so immediately.

Mr. Bob Wartinger witnessed in that regard that he could verify from his papers that he discussed the case with the OOD and the UIM Senior Vice President and subsequently informed the Appellant, on 18th of November 2008 that an Appeal could be filed to the UIM.

The Appeal documents have been received on 25th of November 2008 by the U.I.M office.

Rationale:

The appeal is inadmissible.

The Appellant did not protest against the results, what would be a condition for the admissibility of his appeal. A valid protest requires among other things a written protest document to be handed to the Race Secretariat (rule 403.01). It is not enough to criticize a breach of the rules verbally as the Appellant did and even the Appellant does not claim that he filed a written protest.

Off course the Race Secretariat stated that it was too late to file a protest. But if the expiry of the protest period is in question besides the literal issue of the protest a written protest is still condition for the admissibility of the appeal according to rule 405.03.

Furthermore the period for notifying the UIM Office from his intention to appeal was expired. According to rule 405.04 of the Circuit rules the Appellant must notify the UIM office within four days from the receipt of the jury decision or other decision that may be subject to an appeal from his intention to appeal. The Appellant states that he did not know that he could file an appeal to the UIM and that this error was not his fault since the UIM Commissioner informed him wrongly.

The Appeal Board acknowledges that certain extraordinary circumstances may excuse the failure to observe a time limit. Such circumstance might be the fact that the relevant UIM Official wrongfully stated that UIM would not handle the appeal for his class. But such statement, as any other relevant exceptional circumstances cannot annul the time limit at all. It rather postpones the beginning of the time limit to that moment, when the hurdle to file the appeal is abolished or when it starts being the fault of the Appellant that is not (yet) abolished.

In any such case of extraordinary circumstances the Appellant has to make utmost endeavours to get over the hurdle that prevents him from abiding by the time limit. In the case of an error about the rules it has to be considered that it is the general duty of every driver to know the rules of the race in which he participates This includes the knowledge of the protest and appeal rules. The driver must secure himself a rulebook and read it prior to the race and not doing so constitutes a fault that cannot be excused even by wrong information through third parties.

In the specific case the wrong information was given by the UIM Commissioner who should have a good knowledge of the UIM rules. But having the duty to have own knowledge of the rules the driver must not rely in such wrong information the more so as it was blatant wrong in the specific case. Such information may give the driver reason to check the rules and the appeal board leaves it open, if such checking could justify to postpone the beginning of the

deadline for a considerable time period. In order to check the rules the driver may read the rule book, ask friends with better knowledge of the rules or ask the UIM office. If he does not do so as soon as possible he becomes responsible for the time delay.

The fact that his friends who have sufficient knowledge of the rules have been in Australia therefore do not excuse the time delay. The Appellant does not claim that he checked with the rule book himself. Further more he did not call the UIM office what he could have done after the General Assembly on Tuesday 4th of November already. The Appellants point that he did not even know that the World Championship was run under UIM rules could –if at all- only excuse him until 29th of October the latest since at that day the OOD confirmed to him verbally and in his email that the race was run under UIM rules. The Appeal Board has no doubt in the OOD's testimony which was confirmed by the OOD's email to the Appellant which the Appellant submitted to the Appeal Board on 25.05.2009.

Under no circumstances the delay of about one month for the four days dead line could be justified.

Even if one would follow the opinion of the Appellant he missed the deadline because he was informed on 18th of November that UIM was in charge of handling any appeal but entered the appeal documents only by 25th of November i.e. 7 days later which would not meet the 4 day deadline.

Signatures of the Appeal Board Members