

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Golden Gate Yacht Club
Plaintiff,
v.
Societe Nautique de Geneve
Defendant,
Club Nautico Espanol de Vela,
Intervenor-Defendant.

Index No. 602440/07

**AFFIDAVIT OF
RICHARD P. F.
SLATER**

RICHARD P. F. SLATER, being duly sworn, deposes and says:

1. I am over the age of 18 and the current Rules Advisor for Golden Gate Yacht Club's racing representative BMW Oracle Racing in its preparations for the 33rd America's Cup as well as its campaign in the 32nd America's Cup. I have also held the position of Rules Advisor in the 30th America's Cup for Cruising Yacht Club of Australia's racing team Young Australia and the 31st America's Cup for Societe Nautique de Geneve's racing team Alinghi.

2. I currently hold the designation of an International Sailing Federation ("ISAF") International Judge and an ISAF International Umpire; designations that carry the responsibility of officiating major international sailing events. I was granted these designations in 2004 and 2003 respectively. I am also one of 13 members of the ISAF Racing Rules Question & Answer Panel whose function is to provide ISAF Member National Authorities and ISAF International Judges, Umpires, Race Officials and Measurers assistance in applying the ISAF Racing Rules of Sailing ("RRS") consistently. I have been on this panel since 2005.

3. When the Golden Gate Yacht Club ("GGYC") was unsuccessful in arranging a multi-challenger event in monohulls with Societe Nautique de Geneve ("SNG") after



GGYC's Notice of Challenge of July 11, 2007, GGYC was compelled to prepare a competing vessel for a potential default match. From the beginning of that design and construction process in Fall 2007, GGYC and its racing team, BMW ORACLE Racing ('BOR'), relied upon SNG's rules and sailing regulations extant at the time of GGYC's Notice of Challenge.

4. These rules are the RRS for 2005-2008. The RRS govern major sailing events in the world, including the Olympics and every America's Cup event in the modern history of the sport. This flows from, among other things, the ISAF constitutional requirement that all 126 of its member nations require yacht clubs within their jurisdiction to abide by the RRS.¹ In compliance with this rule, the Swiss national sailing authority, Swiss Sailing, requires that yacht clubs within Swiss territory, such as SNG, abide by the RRS.²

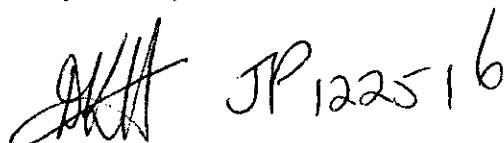
5. Established yacht clubs annually issue a club book which detail any modifications to the standard RRS. By way of example, New York Yacht Club, defender of the Cup from 1857 to 1983, has issued an annual Club Book since the 1840's, and in its most recent Club Book of 2009 it modifies RRS 75 and RRS 78 for the 2009 racing season. Similarly, the Royal Perth Yacht Club, defender of the Cup from 1983 to 1987, Club Book of 2008/9 modifies RRS 44.1, 55 and 63.7 for the 2008/2009 racing season.

¹ See ISAF Constitution ¶ 6(b) ("It shall be the obligation of all members of the Federation ... to carry out and have respect for the rules, regulations and decisions of the Federation."); <http://www.sailing.org/167.php> ("The ISAF currently consists of 126 member nations who are its principle members, and responsible for the decision making process that governs the sailing world.")

² See Swiss Sailing Federation Rules ¶¶ 4; 5(A); 7 available at <http://www.swiss-sailing.ch/fr/desktopdefault.aspx/tabid-45/> (accessed July 9, 2009).



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6. SNG's club book for 2007 does not provide for any modifications to the RRS. Notably, SNG's club book for 2007 does not contain any modification of RRS 51 prohibiting movable ballast or RRS 52 prohibiting non-manual power.

7. GGYC/BOR designed and are nearing completion of a competing vessel that was built to comply with the RRS in effect as SNG's club rules in 2007 when GGYC challenged and began its preparation for the match. If SNG's club rules extant at that time would have allowed movable ballast, GGYC's challenge vessel would have had a radically different design and much improved performance parameters.

8. David Kellett, ISAF Executive Committee member and Treasurer, told me in a telephone conversation on June 9, 2009 that SNG (or its racing team Alinghi) agreed to pay ISAF €150,000 on June 5, 2009 pursuant to a written agreement that also contains certain arrangements concerning the racing rules for the next Cup match and ISAF's role in the next Cup match.

9. Mr. Kellett also acknowledged that while ISAF would be willing to provide GGYC/BOR a copy of the June 5, 2009 agreement but would not do so because SNG has insisted that ISAF not disclose the agreement to GGYC/BOR.

DATED: July 10, 2009



Richard P. F. Slater

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