

December 8, 2008

Pierre-Yves Firmenich  
Commodore  
Société Nautique de Genève  
Port Noir  
CH-1223 Cologny  
Switzerland

Dear Commodore Firmenich,

This is to officially inform you that the Golden Gate Yacht Club and the BMW ORACLE Racing team will not submit an entry by December 15 for the regatta that SNG is organizing, which we do not consider a legitimate America's Cup.

Rather, we will now focus our efforts and attention on winning our appeal before the New York State Court of Appeals – clearly the only avenue left open to create a fair and competitive challenge that preserves the integrity, prestige and tradition of yacht racing's pinnacle event in keeping with terms of the America's Cup Deed of Gift.

As you know, the Court has set a date of February 10 for oral arguments and is expected to rule on our appeal by the end of March. Given the stakes involved for the future of the America's Cup, we do not believe a few more months represent an unreasonable delay.

In fact, we find it quite odd that SNG has set an arbitrary registration deadline of December 15 in light of the fact that a Court decision is so close. Indeed, the timing of your whole revived 'preparations' for the regatta – initiated immediately after GGYC filed its opening brief in this Court – is only a transparently blatant attempt to influence the Court. Even so, we were willing to consider entering the event if SNG had given us an opportunity to review the Protocol and compare it against the Ten Point Plan we had proposed to achieve fair rules. Regrettably, SNG did not accede to this reasonable request.

Over the past 17 months, we have made a number of constructive suggestions to resolve the dispute outside of court and get the America's Cup back on track. Yet SNG and your defense apparatus have consistently refused to negotiate with us in good faith. Instead:

- SNG created a sham yacht club to self deal and write your own rules for AC33, which were immediately condemned by seven yacht clubs as 'the worst text in the history of the America's Cup.'
- SNG submitted a secret application to your hand-picked arbitrators to rubber-stamp your sham challenger of record and eliminate GGYC – a serious, independent competitor with the experience and capability to mount a worthy challenge.
- Before the trial court decision in November 2007, SNG unilaterally cancelled the 2009 America's Cup and Team New Zealand sued you for it.
- When we won the November 2007 decision in the trial court, SNG refused to negotiate a mutual consent, multi-challenger America's Cup in monohulls that would have put the Cup back on track for a 2009 event.

SNG's defense apparatus has a track record of excluding top competitors from sailing events when they pose a real threat. Moreover, your recently revived 'preparations' process has not been conducive to attracting a strong field of competitors. We have been excluded from the recent meetings, as has any challenger that declined to sign your non-negotiable nondisclosure agreement, thus creating a conspiracy of silence around a rules meeting of America's Cup competitors unprecedented in Cup history. This is not the inclusive, open, transparent and democratic process required to develop a Protocol that will ensure the full participation of major teams in a fair and competitive America's Cup.

SNG's defense apparatus has tried to convey the false impression that you have relented on some of the more outrageous aspects of the current Protocol. But as far as we know, you continue to insist on such patently unfair privileges as the right to change any of the rules at any time, and to compete against the challengers in most of the challenger selection series races with no scoring consequences to SNG.

Why should we blindly enter the event when SNG and your America's Cup team have proven so untrustworthy and fearful of fair competition?

As we've said before, if we prevail in court as we expect, as Challenger of Record we will once again seek to reach agreement with you on a traditional multi-challenger regatta with fair rules like those that made AC 32 one of the best, most exciting in history.

As our latest Court papers state, '[T]he America's Cup is special—indeed, it is unique in the sporting world—precisely because it is ... a Challenge Cup, begun anew each cycle when an independent and experienced yacht club claims the right to put the Cup's current holder to the test on whatever terms can be negotiated between relative equals—or under the Deed's default match race terms if negotiations fail. A qualified, strong, and independent Challenger of Record is essential to the basic structure of the competition that the Deed envisions.'

SNG and CNEV are entitled to hold a different kind of sailing regatta if you choose. But without several top competitors and major sponsors, without fair rules, without any regard for 157 years of America's Cup tradition, and, most importantly, with your Club's continuing reckless disregard for the Deed of Gift, it won't be an America's Cup. It will simply be an Alinghi Cup, and we see no good reason to participate.

Sincerely,

GOLDEN GATE YACHT CLUB

Marcus Young  
Commodore

by BMW Oracle Racing Media and Sail-World 10:23 PM Mon 8 Dec 2008 GMT