

APPEAL	Non NABC+ SIX
Subject	Tempo – Unauthorized Information (UI)
DIC	Su Doe
Event	Senior Pairs
Session	First
Date	July 17, 2006

BD#	26
VUL	Both
DLR	East

2,500 Masterpoints	
♠	6 5
♥	T 4 3
♦	Q 4 2
♣	K J T 7 3

875 Masterpoints		Summer 2006 Chicago, Illinois	580 Masterpoints	
♠	A K J T		♠	7 4
♥	A J 2		♥	Q 9 8 7 5
♦	A J 8 7 5		♦	K T 6 3
♣	4		♣	9 8

2,750 Masterpoints	
♠	Q 9 8 3 2
♥	K 6
♦	9
♣	A Q 6 5 2

West	North	East	South
		Pass	1♠
Pass	1NT ¹	Pass	2♣
Pass ²	Pass	Dbl	Pass
3♣	Pass	3♥	Pass
4♥	Pass	Pass	Pass

Final Contract	4♥ by East
Opening Lead	♦9
Table Result	4♥ by E making 5, E/W +650
Director Ruling	2♣ by S making 2, N/S +90
Panel Ruling	2♣ by S making 2, N/S +90

(1)	Forcing.
(2)	Alleged break in tempo (BIT).

The Facts: The director was called at the end of the auction. West said she bid deliberately in all cases and didn't hesitate. East agreed and didn't notice any BIT. North said that there was a short BIT before the pass of 1♠ and a longer one before the pass of 2♣. See laws 16A2 and 12C2.

The Ruling: The UI (BIT) demonstrably suggested action over inaction. Pass was determined to be a less successful logical alternative (LA). Therefore, the table result was adjusted to 2♣ by South making two, N/S +90.

The Appeal: E/W were interviewed initially. West maintained that she was a deliberate bidder and thought before all bids. She was asked if she would think with a 4-3-3-3 yarborough. She said “No” at first and then changed to “Probably.” Her partner agreed that she was deliberate in all her bids and said she (East) didn’t take any notice or inference from partner’s tempo. West said her initial pass and second pass had the same tempo. Both East and West did not feel that West had indeed had a BIT. So, no score adjustment due to a BIT and subsequent inferences being taken was appropriate. E/W were told that on the issue of BITs that deliberate bidding could not be used as an explanation or excuse. East said she felt that other players would pass with her hand, but she didn’t feel that any special BIT had influenced her decision to bid. North said that there was a short BIT before West’s first pass and a noticeably longer one before the second pass.

The Decision: An examination of West’s hand convinced the panel that a BIT was likely to have occurred.

Three players with about 600 masterpoints were given East’s hand and the auction up to 2♣-pass-pass. Two passed and one bid but said it was close. Since two of three players passed, pass was considered to be a LA, which would have ended the auction at 2♣. The panel further felt that the BIT by West demonstrably suggested action by East and specifically suggested that East show her two-suited hand by doubling. As the BIT by West suggested East’s chosen action and pass was determined to be a less successful LA for E/W, the director’s ruling reverting the contract to 2♣ resulting in plus 90 for N/S was upheld. This was in accordance with laws 16A2 and 12C2.

Players were advised that, in the appeal process, players of similar ability would be interviewed to determine if there were LAs to the chosen action. East acknowledged at the interview that some players would pass with her hand. Therefore, an Appeal Without Merit Warning (AWMW) was issued.

The Panel: Peter Marcus (Reviewer), Harry Falk and Candy Kuschner.

Players Consulted: Three players with about 600 masterpoints.

Commentary:

Gerard You can draw all the analogies you want, this is not Pittsburgh Case One Redux. East's action here (double instead of 2♥) catered to whatever partner held, and West's hand is slam dunk evidence that a BIT occurred (as is all the backing and filling about deliberate tempo.) Plus the table ruling changed the result, so the appellants needed less of a case to avoid the AWMW (the first time they were the defendants, so double jeopardy did not attach.) I could go either way on the AWMW, but the reason for it was dead wrong. Just because peers disagreed about LAs was no reason to award an AWMW. What was really appropriate was a procedural penalty for blatant abuse of UI, which would have resulted in a richly deserved equity adjustment.

- Goldsmith** I agree and wouldn't give a procedural penalty (PP), so I guess that puts my line below which I won't give them at least at 560 masterpoints. "[I'm] a deliberate bidder and [think] before all bids," is another statement which is a waste of breath. Even if it were true, it doesn't matter; if the tempo of one's actions varies from slow to slower, that's still a BIT. Not long ago, a player made a similar claim to me at the table. She ignored my skip bid warning in a sensitive situation saying, "I never hesitate." A few hands earlier, she had gone into two bidding tanks, the shorter of which was about two minutes. No doubt, she fully believes she never hesitates, but she's wrong. There's no reason for scribes even to bother recording such claims.
- Polisner** Law 16A requires an "unmistakable hesitation" in order to rule that UI had occurred. How can it be proper to inspect the partner's hand to determine if there had been a BIT? In an almost identical case in Pittsburgh last year (Judy Kay Wolff), the ruling and decision were that without evidence of a BIT (without looking at the partner's hand), the law did not allow an adjustment. We need to get on the same page. Let's assume that there absolutely was not any UI and East had chosen to balance. No problem - right? Wait a minute, now N/S contend that there was a BIT and the only evidence is the weakness of East's hand. Now the good result gets removed merely because the East hand does not meet some director's and/or committee's idea of what such a hand should have to balance. We will be dealing with a very slippery slope if we go in that direction.
- Rigal** Res ipsa loquitur; the thing speaks for itself! Anyone who balances on this auction is using UI. Clearly suitable for a procedural penalty (PP) as well as an AWMW. Here we have the classic combo: a player from the offending side uses UI [the most 'culpable' offence] and then appeals a director ruling and gets an AWMW. To my mind the panel should use harsher standards when assessing PPs here than if, for example, the other side had been appealing.
- Smith** I wish I knew what South had to say to the director and the panel. Did South agree with North about the BIT? West's hand certainly seems to be a strong indication that she did break tempo, so ultimately I agree with the director and the panel that it probably occurred and the score should be adjusted. In my experience opponents don't call the director in this kind of situation unless something happened, and, I think when a dispute like this arises, it is valid to consider the hand of the alleged hesitator as inferential evidence of what happened. But I'd really like to know what South said, and, in the absence of that information, I do not agree with the AWMW. But I agree that 2♣ by South as the final contract is correct based on the opinions of the polled players. I would like to have seen some analysis of the play in 2♣ by the director and the panel before assigning plus 90.

Wildavsky Good work all around. I might have assessed a procedural penalty in addition. Balancing with that East hand is beyond the pale.

Wolf "An examination of West's hand convinced the panel that a BIT was likely to have occurred." Where was this panel when Judy and Jane needed them? I certainly agree with this decision, BTW this East had much more reason to bid than in Judy's and Jane's case or the one against Judy Radin in Orlando (Case #4).