

APPEAL	NABC+ SEVEN
Subject	Unauthorized Information (UI)
DIC	Henry Cukoff
Event	Lebhar IMP Pairs
Session	Second Qualifying
Date	March 19, 2009

BD#	4
VUL	Both
DLR	West

Jill Levin	
♠	Q 8 5 4 2
♥	K J 8 6 4
♦	
♣	A 7 4

Jim Krekorian		Spring 2009 Houston, TX	John Onstott	
♠	K J T 9		♠	A 7 3
♥	Q 9 3		♥	A
♦	A K		♦	Q T 9 7 6 5 3 2
♣	Q 9 8 3		♣	T

Jill Meyers	
♠	6
♥	T 7 5 2
♦	J 8 4
♣	K J 6 5 2

West	North	East	South
INT ¹	2♣ ²	4♦ ³	Pass
4♥	Pass	6♦	Pass
Pass	Pass		

Final Contract	6♦ by East
Opening Lead	♠6
Table Result	Made 6, E/W +1370
Director Ruling	N/S Average +, E/W Average -
Committee Ruling	5♦E, making 6, E/W +620

(1)	15-17.
(2)	Majors.
(3)	Announced as transfer to hearts.

The Facts: The director was called at the conclusion of the play of the hand. The facts are as described above.

The Ruling: The director judged that East's unilateral action of bidding 6♦ after a 4♥ bid that makes no sense may have been based on unauthorized information. In accordance with Law 12C1(d), an artificial adjusted score was awarded based on the fact that no rectification could be made that would allow normal play of the hand. Therefore, N/S received an average plus and E/W received an average minus.

The Appeal: E/W appealed the director's decision. North was the only player who did not attend the hearing.

E/W maintained that 4♦ must either be a transfer (their agreement) or strong with diamonds. East said he would always bid 6♦. West said that East might bid 4♠, but then he would bid 6♦.

N/S said that 6♦ was an attempt to clear up a misunderstanding.

The Decision: The committee determined that there was UI that West thought East had hearts. 6♦ is likely to correct that misunderstanding. 4♠ was a logical alternative. After 4♠, the committee felt that West was likely to bid 5♦. Then East might pass or bid 6♦. The committee judged that 5♦ was both likely and at all probable. The committee considered whether West might bid 6♥ on some auctions, forcing East to correct to 7♦, but judged the possibility not even at all probable. The committee saw no reason to invoke Law 12C1(d). Therefore, the result for both sides was adjusted to 5♦ by East, making six, E/W +620, per Laws 16 and 12C1e.

The committee found that the appeal had merit.

The Committee: Aaron Silverstein (Chair), Jeff Aker, Peter Boyd, Chris Moll and John Lusky.

Commentary:

Goldsmith The right score adjustment is far from easy, but one thing is clear: East violated Law 73 by not carefully avoiding taking advantage of the UI. East didn't make any argument that he had carefully considered the situation and concluded that 6♦ was the right action. This is clearly established by the lack of a footnote indicating a long BIT before East's second call. In fact, it seems pretty clear that he did what he thought was most likely to avoid a catastrophe. That earns him a 1/4 board procedural penalty (PP).

Which results are likely or at all probable? Would 4♠ have been key card for hearts? Or just a cue bid? If it's a cue, West will bid 5♦ and East might pass. But bidding again is possible. Maybe he should consider bidding 6♦. West won't pass that. If it was key card, West would bid 5♣. East might try to stop in 5♦, which asks about the ♥Q and will get a 5♠ reply. Now there's no way for E/W to stop below a grand and will likely end up in 7NT doubled. Over 4♥, is 4NT key card for diamonds? If so, it's a reasonable choice. Will West think it's key card for hearts? If so, he bids 5♠, and authorized information tells East the auction is off the rails. He might pray that partner has no ♣K and does hold the ♦K, in which case 5NT might get him to 6♦ making. Or he might just hope that 6NT has play. It seems unlikely but possible that North will find a club lead. Alternatively, is 4♥ key card for diamonds? Then 5♦ is required. Will that end the auction? West will be very suspicious because of his diamond holding. What will then happen? Hard to say.

I think 7NT doubled down two is at least at all probable, so that's what I'd give E/W. I don't think it's likely, so N/S gets minus 620.

It seems harsh to give E/W a terrible result and a PP, but once East bid 4♦ showing hearts, E/W are probably booked for a disaster. They might complain that the director/committee "gave" them this disaster, but he/it didn't---East's severe misbid did. Once a player is determined not to have carefully avoided taking advantage of UI, the laws instruct that his side gets the worst of it.

Does the appeal have merit? If plus 620 was better than average minus, then yes, since it's reasonable for E/W to think they are due plus 620.

Otherwise, no.

- Polisner** Where was the appeal without merit warning (AWMW) and a procedural penalty for blatant use of the UI?
- Rigal** Quite the cause célèbre of the event till we come to our heroines' next visit to the committee room...
The committee had a nightmare decision to work out what was going on but I think they came to a reasonable decision in a situation where any ruling would have earned them hatred and contempt from someone! Not sure I like the director's abnegation of responsibility but it would have been appealed whatever they did.
- Smith** This is a very interesting case and an important one. First of all, the directors' law reference and stated reason for the adjustment don't match. Law 12C1(d) is a new law that states: "If the possibilities are numerous or not obvious, the Director may award an artificial adjusted score." I think it is meant to apply when no one score rises to the level of "likely" (for the non-offending side) or "at all probable" (for the offending side). Of course, it is possible in any case to decide that there is an "at all probable" result but no single "likely" result so this law may often only be applied to the offending side. As the committee points out, guessing the outcome after a 4♠ bid by East instead of a 6♦ bid is not easy or obvious even though to the committee it was possible within the probability constraints of the law. In any case, the phrase quoted by the directors that no rectification could be made that would allow normal play of the hand is supposed to refer to cases in which something happens in advance to prevent play of a board from being completed. For instance, an auction has begun and North has 12 cards and East has 14 including an ace that belongs to North. Or a pair fails to skip and plays most of a board it has played before (or duplicated) against a pair who can no longer play it. So the directors' ruling was legally valid if the determination was made that there were too many possible outcomes available to find that any one had a substantial chance of occurring, but not if it was used instead as a reason to make an "equity" ruling by the back door. I strongly suspect that the directors intended the law citation to be correct and they just carelessly misquoted the text from the wrong part of the law.
- Having said that, I'm not sure I agree with the basis for the ruling by both the directors and by the committee. Yes, there was unauthorized information from the announcement by West. But there was also extremely strong authorized information available to East to let him know what was going on. He just bid 4♦ naturally in an auction where a vulnerable opponent showed the majors. His partner bids 4♥ into his singleton ace. Are we really supposed to think that he is cue bidding in support of diamonds? Wouldn't any experienced player in this situation be more than just a little bit aware of the possibility that partner thought our 4♦ bid was a transfer? So can there really be any doubt what partner thinks is going on? I don't think so.

Smith Continued:

So what does the law say about a situation where a player has both authorized and unauthorized information on the same hand? Law 16 has been clarified and reorganized from previous editions of the Laws. The current Law 16A states (among other things) that a player may use information in the auction or play if “it derives from the legal calls and plays of the current board (including illegal calls and plays that are accepted) and is unaffected by unauthorized information from another source.” It seems to me that the phrase “unaffected by unauthorized information from another source” cannot mean that whenever any unauthorized information exists it necessarily trumps any authorized information that may be present. Instead, it means that if the authorized information is so overpowering then it is automatically “unaffected” by unauthorized information. Suppose this auction occurred behind screens. Is there any doubt that East would know what was happening beyond any reasonable doubt based solely on the auction and his hand? I think not, and therefore I believe he is entitled to do whatever he wants. If he thinks 6♦ is the bid that stands the best chance of getting his side out of trouble he is allowed to make that bid. Even if some may disagree with me that this case is a good example of a situation where authorized information makes it clear to a player what is happening even in the face of unauthorized information, clearly there must be some situations where that would be true. Suppose on this hand East actually had AKQ of hearts and a stiff small spade. Would we really want to tell him that he must act as if his partner, after opening 1NT, was cue bidding hearts in pursuit of a diamond slam? I can't believe that is what Law 16A is telling us to do. So I won't be surprised to be in a minority of one on this case, but I think East was perfectly entitled to bid 6♦ and no score adjustment at all was in order.

Wildavsky This is the first time I've seen the new law 12C1(d) applied. To my mind both the law itself and this application of it are unsatisfactory. The law seems intended for lower levels of the game. Some club directors might well be unwilling or unable to do the work required to rule under 12C1(e). I hope we won't see 12C1(d) in future NABC+ cases. In practice it will serve simply as an invitation for one side or the other to appeal. To my mind the committee improved on the director's ruling.

Wolff West took a "big risk," won his gamble, but lost his appeal. I would rule plus 1370 for both sides but penalize E/W 2 IMPs for convention disruption (CD).