

APPEAL	NABC+ ONE
Subject	Failure to Correct Partner's Misexplanation
DIC	Henry Cukoff
Event	Von Zedtwitz Life Master Pairs
Session	First Qualifying
Date	July 18, 2008

BD#	18
VUL	N/S
DLR	East

Frank Aquila	
♠	A 9 2
♥	K T 6
♦	Q 9 5
♣	J T 5 2

Richard Gross		Summer 2008 Las Vegas, NV	Paul Stern	
♠	K 3		♠	T 7 6 4
♥	J 8 7 5		♥	A Q 9 2
♦	A K J T 7		♦	3
♣	8 4		♣	A K 6 3

Jerome Rolnick	
♠	Q J 8 5
♥	4 3
♦	8 6 4 2
♣	Q 9 7

West	North	East	South
		1♣	Pass
1♦	Pass	1♥	Pass
1♠	Pass	2♠	Pass
4♥	Pass	Pass	Pass

Final Contract	4♥ East
Opening Lead	♥4
Table Result	Made 5, E/W +450
Director Ruling	4♥ E, made 4, E/W +420
Committee Ruling	4♥ E, made 4, E/W +420 Procedural Penalty of 1/10 board to E/W

The Facts: The director was called after E/W had left the table. E/W had 4th suit forcing on their convention cards. East thought 2♠ over 1♥ would be 4th suit but West thought 1♠ was 4th suit. West did not inform N/S that there was a failure to Alert before the opening lead was faced.

The Ruling: West had intended his bid of 1♠ to be conventional and artificial. He did not inform his opponents of the failure to Alert after the auction and before the opening lead. The director judged that had West informed his opponents prior to the opening lead that South would be likely to lead a spade. Then director judged that with a spade lead East was unlikely to make five. Therefore, in accordance with Laws 75D2, 40C and 12C2, the result was adjusted for both sides to 4♥ by East making four, E/W plus 420.

The Appeal: N/S and East appeared at the hearing. According to them, E/W left the table and N/S called the director before or at the beginning of the next round. E/W were not informed until roughly two hours later. E/W did not make a statement to the director until then.

East stated that it seemed unfair that after he had played the hand double-dummy that his result was taken away. And, if it took two hours for the director to rule, something must be wrong or maybe they weren't sure.

The Decision: The E/W convention card was marked "4th suit forcing." Absent any contrary evidence the committee concluded that the agreement applied to 1♠. West's failure to inform his opponents that there was a failure to Alert was an infraction. If West had complied with the law (i.e. announced the failure to Alert), it would have been discovered that his 1♠ call was intended to be conventional and artificial. With this information, some players would lead a spade and some would lead a heart. No one would lead a spade thinking that 1♠ was natural. Since a spade is more successful than a heart, N/S were damaged. An adjustment was in order. Therefore, the committee upheld the director's adjustment for both sides of 4♥ by East making four, E/W plus 420. The more difficult decision was whether or not to award an appeal without merit warning (AWMW). On the face of it, the Laws and bridge judgment are clear enough that this case itself has no merit. However, it occurred during the first round and a movement snafu had the directors rather busy. As a result, E/W never heard that the director was called or that there was a ruling until near the end of the session. This lack of communication made E/W unclear that this was a fairly simple ruling of law and made the whole thing seem unfair. Had there been timely notification and communication, the committee would have decided that there was no merit to the appeal. The infraction by West, however, was blatant and unacceptable for a player of West's experience. The committee felt that it wanted to impress upon West his obligation to speak up in the future and, therefore, awarded a token procedural penalty (PP) of 1/10 of a board. Law 90 encourages directors and committees to award a PP for errors in procedure that require adjusted scores to be awarded.

The Committee: Jeff Goldsmith (Chair), Jerry Gaer, Abby Heitner, Riggs Thayer and Jon Wittes.

Commentary:

Goldsmith The excuse for not giving an AWMW was a little unusual but seems reasonable even now.

Polisner I don't know how the director could have made a ruling before he determined what the partnership agreement was. If East was correct about 1♠ being natural, then there was no obligation to Alert and even if West was awakened about the correct meaning of 1♠ by the failure to Alert, he would not be under any obligation to have informed the opponents before the opening lead. Remember, this is a MI case and not a UI case. Since the ACcommittee was not provided with sufficient evidence to establish what the true agreement was, it was within its discretion to determine MI.

- Rigal** The possibly generous decision as to merit is equaled by the appropriate (and all too rarely awarded) procedural penalty for failure to correct the missing Alert. Well done by the committee.
- Smith** Two factors count against E/W in this case. They did not come to a firm agreement about the meaning of 1♠, which led to the infraction of misinformation, and West failed in his Law 75 obligation to speak up before the opening lead was made.
The combination of these two infractions sets the bar quite low for a score adjustment, particularly where it relates to a choice of opening leads. After all, if either of these two infractions had not occurred South would choose his lead with full information and the director would not be involved in judging possible results absent the infractions. So I agree with the lack of sympathy shown for E/W by both the directors and the committee.
However, there are two factors that should weigh against giving N/S a score adjustment and neither seems to have been addressed by the directors or the committee. First, the later auction screamed to an experienced player that 1♠ was intended as artificial and forcing. Our alert procedures state: "Players who, by experience or expertise, recognize that their opponents have neglected to Alert a special agreement will be expected to protect themselves." Second, why didn't a righteously aggrieved South call the director upon the sight of dummy? Why wait until not only the end of the hand, but until after the opponents had left the table? Maybe he wasn't really so sure that he would have led differently with correct information. So even though E/W did not make their best argument before the committee, those issues convince me that this appeal had merit. I agree that West deserves a penalty for not speaking up. I agree that on a non-trump lead the defense will often score another trick. I can perhaps reluctantly agree that the E/W score should be adjusted. I am not convinced that N/S deserve anything.
- Wildavsky** Looks right to me.
- Wolff** This ruling, especially on the practical side, is ridiculous. If E/W were to get penalized at all it should be a small procedural penalty which should not accrue to N/S's advantage. N/S had to be aware of a fourth suit, especially since, upon being raised to 2♠ he now reverted back to his partner's second suit by jumping to 4♥. Just another case of one side (N/S) being unlucky and having their opening lead not work and then try and conjure up a way to get it back. Rulings like this take the spirit out of the game, both for the players and for the administrators, but, if the committee (or director) caters to that greed, all it will do is keep us from ever moving forward.