

APPEAL	NABC+ TWELVE
Subject	Unauthorized Information (UI)
DIC	Henry Cukoff
Event	Edgar Kaplan Blue Ribbon Pairs
Session	First Semifinal
Date	December 2, 2009

BD#	6
VUL	E/W
DLR	East

Jacob Morgan	
♠	7
♥	K 9 6 3
♦	9 8 5
♣	A Q 8 7 5

Doug Baxter		Fall 2009 San Diego, CA	David Lindop	
♠	J T 8 5 4		♠	K Q 9 6 3
♥			♥	Q 8 4 2
♦	Q J 6 4 3 2		♦	K
♣	9 2		♣	T 4 3

Michael Polowan	
♠	A 2
♥	A J T 7 5
♦	A T 7
♣	K J 6

West	North	East	South
		Pass	1NT ¹
2♦ ²	Pass	2NT ³	Pass
Pass	Dbl	Pass	Pass
3♦	Dbl	Pass	Pass
Pass			

Final Contract	3♦ doubled by W
Opening Lead	♠7
Table Result	Made 3, E/W +670
Director Ruling	3♦ Dbl W made 3, E/W +670
Committee Ruling	3♦ Dbl W made 3, E/W +670

(1)	15-17 HCP.
(2)	By agreement one-suited with either hearts or spades.
(3)	Game try in your major.

The Facts: The director was called after the 3♦ bid and again after the hand. West stated that he thought East had opened 1♣ and his bid of 2♦ was to play. West did have UI from East's Alert of 2♦. South stated that passing 2NT was inconceivable without the UI.

The Ruling: In the absence of an Alert Procedure, the 2NT bid in the supposed auction is unusual enough that anyone would reexamine the auction and notice the original pass. Therefore, no UI, no infraction and no adjustment. The table result stands for both sides.

The Appeal: N/S appealed the director's decision and all four players attended the hearing.

N/S maintained that if West did not see the auction, then his partner's Alert awoke him to the fact that his partner's opening call was pass rather than 1♣. Given that they were in the middle of a misunderstanding, pass was demonstrably suggested by the UI.

West said he had a lapse of concentration and thought his partner opened 1♣. If East had opened 1♣, then the 2NT rebid over the 2♦ bid would be natural not artificial. As it was he made a tactical pass over 2NT – he had no idea what contract to play and they were not yet doubled.

E/W play Woolsey over 1NT. After 2NT, they had no agreement as to continuations.

The Decision: Law 16A1(a): A player may use information in the auction or play if it derives from the legal calls and plays of the current board.....and is unaffected by unauthorized information from another source.

It was established to the committee's satisfaction that West did indeed miss-see his partner's pass.

For an adjustment to be made it had to be established that there was UI, that it demonstrably suggested West's pass of 2NT, and there was a logical alternative to that pass that might have been less successful.

After discussion with two tournament directors and a member of the ACBL Laws Commission, and following a diligent perusal of Law 16A1(a), the committee ruled that it could not be UI for a player to be made aware of the calls actually made – as opposed to the meaning of those calls.

Parallel examples of ACBL current tournament director practice suggested that this is consistent with the way the Law is applied. For instance, if a player intends to open 2♣ but pulls out the 1NT card he will find out when his partner announces the range for 1NT. He is not allowed to change his call, but he is allowed to know that he opened 1NT.

Thus there was thus no UI and so no grounds to adjust the score.

The table result of 3♦ doubled by West making three, E/W plus 670 was allowed to stand for both pairs.

The appeal was judged to have substantial merit.

Dissent from Michael Rosenberg

My dissent stems from the Committees' "diligent perusal of Law 16A1(a)." The Committee "determined that it could not be UI for a player to be made aware of the calls actually made, as opposed to the meaning of those calls." Here is what the law states:

"A. Players' Use of Information

1. A player may use information in the auction or play if:
 - (a) 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;

Now, I don't want to get into a semantic or parsing discussion. But it seems pretty clear to me that the intent of this law was NOT to say that a legal call or play is always authorized information to a player, but that an exception is provided when this information is affected by unauthorized information. Therefore, I dissent with the Committees' interpretation.

So, to me, the Alert of 2♦ was what first "woke up" West to what had actually occurred. West claimed that he would anyway have realized what was going on because of his partner's 2NT bid – we'll get to that in a minute. The committee did not get that far, since it decided there was no UI.

If the Committee was, in fact, correct on their parsing of the law, then I must dissent with the law itself. Why should we want the laws to state that it is fine for a player to benefit from his partner's Alert? How about an emphatic double in an agreed penalty situation (just to clear things up)? After all, the double and the information that it is penalty, are authorized. Or let's take an analogy in card-play. A player slams down his encouraging signal. His partner has no especially logical alternative, but now is certain what his partner wants. No problem – the information is authorized.

Both these cases are less clear than the extant case, but I would feel queasy about allowing the winning action. I would look to see if there was any way to foist the losing action on the offenders (especially looking into whether they might not know their methods thoroughly).

Going back to the actual case, are there grounds for saying that the 2NT bid would anyway have "alerted" West to the fact his partner had not opened 1♣? Some, but not enough, in my opinion. 2NT is an unusual bid, but not an impossible one. An example of an "impossible" bid is 1NT-4♥ (intended as natural), 4♠ (since he thought it was Texas). Here, even though the Alert does tell the responder what is happening, the "impossible" 4♠ makes it equally clear. So we should allow the responder to do whatever he wants at this point (EXCEPT FOR REACTING TO THE ALERT IN SUCH A WAY THAT HIS PARTNER ALSO BECOMES AWARE OF THE PROBLEM).

The "unusual" bid should NOT be sufficient to make this leap, in my opinion. I remember a case that was prevalent in the 90's – I haven't seen it so much lately; Player A opens or overcalls 1NT, and his partner, Player B, raises invitationally to 2NT. Player A Alerts and bids 3♦ (or maybe 3♣), obviously taking it as a transfer (even if the opponents don't actually ask). Now player B claims it is "obvious" that his partner (or he) has forgotten the system, and bids 3NT. While it is quite likely that B would figure this out behind screens, it is far from a sure thing. That 3 of a minor bid is unusual not impossible. It would show a minimum with a 6-card minor suit in a hand more appropriate for suit play. So I would disallow the 3NT bid, as we usually (but not uniformly) did in the 90's.

And, in the actual case, I would disallow the pass of the "unusual" 2NT as taking advantage of the UI of the Alert. It is far from clear what would have happened then – West would bid 3♦ or 3♠, and North would double. The pass of 2NT also had the effect of clueing in East that something was wrong. With the pass disallowed, East would still think his partner had a major suit (though that might actually help him compete in spades over hearts). Anyway, what ruling I would make is not, to me, the important issue here.

The director who was consulted gave, as an analogy, the (recurring) case of a player who intends to open 2♣ strong, but leaves the 2♣ card in the bidding box and puts 1NT on the table. His partner announces “15-17,” causing the player to realize his mistake. Here, the ruling has been that the player (though not his partner) is allowed to know that his partner thinks he has a 1NT opening.

I disagree with this also. I think it would be correct for the player to say nothing, and continue to act as if he had opened 2♣ and nothing untoward has happened (as might well occur behind screens). Of course, he may get lucky and have someone bid 2♣ – that would obviously clear things up!

To summarize:

- a) I think information that is not authorized should never be used to solve a problem – unless that problem would obviously be solved in any event.
- b) If Law 16A1(a) does not say that, it should be changed so that it does.
- c) Where the wording of a law is unclear, committee members should be loath to allow transgressors to gain. It behooves the members to protect the innocent parties if there is any doubt.

The Committee: Barry Rigal (Chair), Jeff Aker, Mark Feldman, Michael Rosenberg and Danny Sprung.

Commentary:

Goldsmith The entire approach of the committee was way wrong. Committees ought not be in the business of judging the veracity of implausible stories. They are not good at it, and it's the wrong thing to do in the first place. Let's say that the committee was 99% sure that West was telling the absolute truth. They can never be that sure, but let's say they were. For every one time that someone does something goofy because he didn't see a bid, someone forgets system at least 1000 times. So it's still 10-1 more likely that West forgot system than his story is true. But we don't want to be put in the position of having to make that judgment, so we simply ought not. If we have to rule against an honest player one time in a thousand, it's absolutely worth it not to have to judge the truth of all the weird stories we get or will get if it is known that we are judging them. So, yeah, it's possible that West's story is true, but since it is overwhelmingly more likely that he forgot his system and misbid for whatever reason, it is clearly best to rule that he did. We can apologize to him for doing so, but he's just out of luck if he did something honest that 'looks' like a common error.

Given that we should assume he misbid, then he has UI from the Alert, so passing 2NT is an infraction. He should bid 3♦. Assuming E/W are playing DONT, 2NT should probably be some sort of game try. 3♦ seems like the obvious rejection. East will probably think that shows a minimum with spades. Regardless, he's bidding 4♠. North will double that and nip it a trick. If North had been told that 2♦ shows diamonds and a major, he would likely have done something other than pass, but since the E/W agreement is that 2♦ was one major, he was not misinformed.

That he has no way to find his game or slam in hearts now is just rub of the green. I don't see a likely result more favorable to the non-offending side nor a result at all probable that is less favorable to the offending side, so I'd rule N/S plus 200 and E/W minus 200. That's probably a terrific score for E/W, nearly the same as plus 670, but that is the way it goes. N/S were badly damaged by West's misbid. They were partially damaged by his abuse of UI. They get redress for the latter, but not the former. The hard part is whether to give a procedural penalty for abuse of UI to E/W. I'd be willing to let it slide here if the rest of the committee believed West's story, and if he had been given one in NABC+ case 7. Clearly the rest of this committee bought the story, so they'd never give him a penalty.

- Polisner** A complicated situation, but such situations occur frequently when a player misbids for whatever reason. His explanation that he thought East opened 1♣ is self-serving and should not be accepted. A reasonable alternative would be he forgot that they were playing Woolsey and partner's 2NT alerted him that he had misbid, thus giving him UI and his pass was to try to avoid a worse situation. However, nobody would ever pass 2NT doubled and his running to 3♦ is not the result of the UI, so all bets are off as to West. I think the real focus should be on East's actions. West's failure to Alert 2NT was UI to East who should have bid 3♥ (pass or correct) and West would have bid 3♠ which would have been doubled for minus 200. I would have assigned E/W minus 200 for both sides. I don't see how to award N/S their game or slam in hearts.
- Rigal** No comments further than what was written already. Some guidance from above would be welcomed here – alas, Kaplan may be too far above to provide reliable input....
- Smith** I agree with this decision. I accept West's statement of what happened and I agree with the directors that even without an Alert by the time West's next turn came he would have looked at the auction and realized what had happened. This kind of thing occurs more often than people might expect, and my personal rule of thumb as a director is that by a player's next turn he is overwhelmingly likely to have seen the real auction and therefore free to do what he wants.
The 1997 and earlier versions of the Laws made it pretty clear that the auction itself was always authorized. The curious addition of the phrase “and is unaffected by unauthorized information from another source” is new to the 2008 Laws. As the dissenter points out, it makes things murkier. But I choose to interpret it as meaning that a player is allowed to act on the auction if it screams at him what has happened, therefore by definition making it “unaffected by unauthorized information from another source”. Maybe our the ACBL Commission should clarify this issue.

Wildavsky It's nice to hear from Michael -- I wish he were still commenting on appeals! I wish this law, and many others, were written more clearly. That said, it seems to me that the intent of the lawmakers was that knowledge of the calls of the actual auction should always be authorized. I agree that East's alert of 2♦ makes UI available to West. I disagree that the UI suggests one action over another, because I think any such suggestion must be evaluated in the context of the actual auction, not one that existed only in West's mind. While the meaning of this law may not be clear, I think Michael would agree that where the laws are clear the director and committee are bound by them, even when they do not agree with them. I do take issue with one aspect of the director's ruling. He noted that the 2NT bid would surely have caused West to reexamine the auction. I don't think this is relevant. If the calls of the actual auction are always authorized information then it doesn't matter whether West would likely have "woken up" in the absence of an Alert. Jeff Goldsmith suggests that it's more likely that West forgot his methods over 1NT than that he mis-saw partner's initial call. Neither seems likely to me. If West intended 2♦ as diamonds and a major and then decided to illegally take advantage of the UI from partner's Alert then passing 2NT seems a strange way to go about it. 2NT undoubled will likely be down at least 500, while E/W could easily be on for nine or ten tricks in spades. Yes, sometimes we have to reject a claim like West's simply because it could be misused by a miscreant, but I see no need to do so here.

Wolff Michael Rosenberg's dissent regarding Law 16A1(a) is certainly worth noting and discussing. It seems very on point and worth notifying tournament directors as to its logic. Getting back to the case, while West was guilty of a mechanical error, not a bridge crime, and by doing so committed convention disruption (CD), also, at least as yet, not a bridge crime really got lucky with their final result, although 3♦ doubled down one would equal those E/W players who bid 4♠ over the opponent's 4♥ and would also go down one in presumably 4♠ doubled. However N/S understandably did not get their spade ruff and suffered minus 670. Since N/S are certain to score up at least plus 710 in four hearts or higher E/W were always due for almost a top board since this disruption was very hard for N/S to overcome. Although cases involving CD (in any form) are almost always impossible to adjudicate, and directly destroy bridge on any one hand, I am not suggesting on this unusual variation of it to do anything worth noting, except to go on to the next hand.