

APPEAL	Non NABC+ Six
Subject	Misinformation (MI)
DIC	John Gram
Event	Wednesday Daylite Swiss Teams
Session	Second of Two
Date	December 2, 2009

BD#	20
VUL	Both
DLR	West

770 Masterpoints	
♠	8 x
♥	A K Q T x
♦	5 4 3 2
♣	T x

5,005 Masterpoints		Fall 2009 San Diego, CA	5,268 Masterpoints	
♠	A Q x		♠	T 9 x
♥			♥	7 x x
♦	A K Q J 9 x		♦	T 7
♣	Q 8 x x	♣	A K 5 x x	

760 Masterpoints	
♠	K J x x x
♥	J 9 x x x
♦	8
♣	J 9

West	North	East	South
1♦	1♥	Pass	3♥ ¹
Pass	Pass	Pass	

Final Contract	3♥ by North
Opening Lead	♣A
Table Result	Down 2, N/S - 200
Director Ruling	5♣ E made 7, E/W + 640
Panel Ruling	3♥ N down 2, N/S - 200

(1)	West asked meaning before passing. Told limit raise. Actual agreement is preemptive.
-----	--

The Facts: As above. Prior to opening lead South said the meaning of 3♥ was preemptive. The director was called and offered East the opportunity to change his final pass – He declined. Away from the table, West said that if informed that the meaning was preemptive, she would have doubled 3♥.

The Ruling: The director judged that with the correct information, West would have doubled and E/W would reach 5♣ and make seven. Therefore, the result was adjusted for both sides to E/W plus 640. Law 21B3.

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

N/S felt that failure to bid over 3♥, regardless of the meaning given, was what led to any damage.

E/W felt that the explanation of limit made any action over 3♥ less attractive as there were fewer values left for partner.

The Decision: A number of players with more than 4,000 masterpoints were polled as to action by West over 3♥ described as a limit raise. All made a call – four doubled and one bid 4♣. No player polled considered a pass. After they answered the question, all were asked if the meaning of the 3♥ bid was relevant to their decision. The answer in all cases was “No.”

Per Law 12C1(b) – “If subsequent to the irregularity, the non-offending side has contributed to its own damage by a serious error (unrelated to the infraction) or by a wild or gambling action, it does not receive relief in the adjustment for such part of the damage as is self-inflicted.”

The question about the hypothetical meaning of 2♦ in place of 3♥ indicated that West was aware of what was really going on at the table. This is also a question that would be acceptable during the auction. This, in addition to the peer polling results, constituted to the panel that West had made a serious error unrelated to the infraction. Therefore, the panel overturned the director's decision and reinstated the table result, N/S minus 200, for both sides.

Note: on further review, well after the ruling had been delivered to the appellants, it was thought by all three panel members that the remainder of Law 12C1(b) should have applied – “The offending side should be awarded the score that it would have been allotted as the consequence of its infraction only.” Therefore, the N/S score should have remained as the director ruled, minus 640. It was felt that it was too late to actually make this adjustment. The reviewer agreed to tell the appellants that we felt that a two-way score as above is what the panel should have awarded.

The Panel: Bill Michael (Reviewer), Jay Albright and Tom Marsh.

Commentary:

Polisner I disagree that failure to act over 3♥ is a “serious error” and the non-offenders should be given quite a bit of latitude in this type of case. Certainly acting offensively over 3♥ is more attractive over a pre-emptor than a limit raise. I would have voted for 6♣ making seven for both sides.

Rigal I'm not sure I knew how 12C1 operated here. I prefer that the offenders get landed with minus 640, given that they deserved no better. Regardless of whether you agree with the panel they followed the (complex) procedure intelligently and applied sensible judgment. A good ruling I think.

- Smith** The panel struggled here to rationalize some conflicting issues. The poll indicated that few if any would pass 3♥ even with the correct explanation. So the panel did not want to give E/W anything, and only belatedly noticed that Law12C1(b) apparently gave it a way to do this. Actually, I'm not convinced that passing is bad enough to invoke that law anyway. The ACBL Laws Commission has interpreted it to mean an egregious error, not just an average misjudgment. So first of all, if it doesn't meet that standard then the panel is bound to give NS redress if they adjust the NS score. But the real problem here, in my opinion, is that the panel too quickly resorted to Law 12 (which dictates how scores are to be adjusted) before they read carefully enough the laws that send them there in the first place. Law 21B3: "When it is too late to change a call and the Director judges that the offending side *gained an advantage from the irregularity*, he awards an adjusted score." And 40B4: "A side that is damaged *as a consequence* of its opponents' failure to provide full disclosure of the meaning of a call or play as these Laws require is entitled to rectification through the award of an adjusted score." The poll revealed that E/W were not damaged as a consequence of the explanation of 3♥, but instead by West's own quirky judgment. No need to adjust the score at all, so I think the panel got it right the first time when it awarded both sides the table result of N/S minus 200.
- Wildavsky** The panel both improved and worsened the director's ruling. Their subsequent reflection was spot on. I'm surprised that they got this wrong. Law 12C1(b) is new, but the concept dates back to 1973: http://www.blakjak.demon.co.uk/lws_lan0.htm There are a couple of things about the write-up that puzzle me, though they don't affect the ruling directly: "The question about the hypothetical meaning of 2♦ in place of 3♥ indicated that West was aware of what was really going on at the table." What question? "This is also a question that would be acceptable during the auction." I disagree. Once he's told that 3♥ is preemptive, asking about calls not made seems like harassment. Such questions may be legal, but they are superfluous.
- Wolff** If it was determined that N/S should have announced that South's 3♥ raise was preemptive, then there is no doubt that a two-way score should be given. E/W, by their failure to act should get no better than the actual score plus 200 defending 3♥ (What terrible dummy play to go down 2 instead of 1). N/S, therefore, should trade their minus 200 for minus 640, five clubs or diamonds making seven.