

APPEAL	NABC+ TWENTY
Subject	Illegal Convention
DIC	Candace Kuschner
Event	NABC+ Open Swiss Teams
Session	First Final
Date	August 2, 2009

BD#	22
VUL	E/W
DLR	East

Michael Kamil	
♠	9 2
♥	K Q T
♦	3
♣	A K J 6 5 3 2

Ralph Katz		Summer 2009 Washington D.C.	Nikolay Demirev	
♠	8 6 5 4 3		♠	A K Q J T
♥	A		♥	9 8 5 3 2
♦	K Q T 9 5 4		♦	7 2
♣	4		♣	8

Marty Fleisher	
♠	7
♥	J 7 6 4
♦	A J 8 6
♣	Q T 9 7

West	North	East	South
		2♦ ¹	Pass
4♠	5♣	5♠	6♣
6♠	Pass	Pass	7♣
Dbl	Pass	Pass	Pass

Final Contract	7♣ doubled by North
Opening Lead	♥9
Table Result	Down 3, N/S -500
Director Ruling	7♣ dbld N down 3, N/S - 500
Committee Ruling	A+ (3 IMPs) N/S and A (0 IMPs) E/W

(1)	3-11 HCP, 5+♥, 4+♠ – This convention is not permitted in events governed by the Mid-Chart.
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Note: This hand and the one following were heard by the same committee and the decision on each hand was the same. Therefore, the two hands have been presented as one appeal each with the same facts, etc.

BD#	28
VUL	N/S
DLR	West

Michael Kamil	
♠	T 9
♥	K 5 4
♦	A 5
♣	A K Q 7 3 2

Ralph Katz		Summer 2009 Washington D.C.		Nikolay Demirev	
♠	K J 7 4			♠	5 2
♥	Q J T 8 3			♥	A 9 2
♦	Q 8			♦	K 9 4 3 2
♣	J 9			♣	T 6 4

Marty Fleisher	
♠	A Q 8 6 3
♥	7 6
♦	J T 7 6
♣	8 5

West	North	East	South
2♦ ¹	3♣	3♥	Pass
Pass	3NT	Pass	4♦
Pass	5♣	Pass	Pass
Pass			

Final Contract	5♣ by North
Opening Lead	♠5
Table Result	Down 2, N/S - 200
Director Ruling	5♣ N down 2, N/S -200
Committee Ruling	A+ (3 IMPs) N/S and A (0 IMPs) E/W

(1)	3-11 HCP, 5+♥, 4+♠ – This convention is not permitted in events governed by the Mid-Chart.
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The Facts: The Director was called after the teams compared at the end of the match. The 2♦ opening was pre-alerted by E/W and explained as showing 5 or more hearts, 4 or more spades, and less than an opening bid. This convention is not permitted in Mid-Chart events, but at the time the players were unaware of this. E/W offered their hand-written suggested defense to N/S. N/S chose to use a pre-printed defense they had devised themselves, which they happened to have with them.

The Ruling: The director judged that there was no damage resulting from the use of the unauthorized convention. Therefore, the table result on each hand was allowed to stand for each team – Board 22 = 7♣ doubled by North down three, N/S minus 500 and Board 28 = 5♣ by North down two, N/S minus 200.

The Appeal: N/S appealed the Director's ruling. East, West, and South attended the hearing. Chip Martel, one of South's teammates, also attended. South felt that damage had resulted from the use of the illegal convention, as his teammates holding the E/W hands would not have access to such a precise bid. The convention created difficult situations for N/S on these two boards which probably would not have arisen without the use of the convention.

West plays this particular convention in other partnerships, and has asked directors in the past whether it is permitted and had been told it was. While he did not ask before this event, he had asked as recently as the previous Fall NABC which was since the last update of the Mid-Chart convention list. East plays this convention with other partners and was told by his partner in Houston that a director had said it was legal in a pair event. Neither East nor West could name the director he had spoken to. Several members of the committee have had personal experiences with this situation, including one member who received an unclear answer from a tournament director about a 2♦ opening showing a weak hand with both majors during this event. West was adamant that he had not intended to use an illegal convention and would not have used the convention had a director told him that it was illegal in Mid-Chart events.

The Decision: The committee spent several minutes poring over the ACBL Convention Charts to determine the legality of the convention used by E/W. It was determined that the convention is legal for events governed by the SuperChart but not under the Mid-Chart.

The committee considered whether N/S had contributed to its own damage by a serious error (unrelated to the infraction) or by a wild or gambling action, per Law 12C1b. On Board 22, the Committee determined that 7♣ was not a serious error. In fact 6♠ may well be makeable, e.g., if the ♦2 and the ♣4 are switched in the E/W hands. On Board 28 the committee found that N/S's actions were also reasonable.

The committee decided that the use of the illegal convention certainly contributed to the difficult positions in which N/S were placed in these auctions resulting in damage to N/S. In effect the playing field was not level, since the convention was not permitted at the other table of the match, or indeed at any other table in the event. The subsequent N/S actions were reasonable, and therefore did not sever the connection between the infraction and the damage. The table results on the boards were cancelled and N/S was awarded average-plus (3 IMPs) on each board.

The committee found that the lack of clarity from the directing staff on the legality of this convention was a major contributing factor to the situation that arose. While the table results could not be allowed to stand, it was determined that E/W should receive average (0 IMPs) on each board rather than the usual -3 IMPs per board.

The committee expressed a strong wish for directors to refer to the Convention Charts when asked about the legality of any convention and reminded all of the players that Mid-Chart conventions (other than those listed in items 1-5 of the Mid-Chart) absolutely must be accompanied by printed, ACBL-approved defenses. A copy of the ACBL convention chart can be found at <http://www.acbl.org/assets/documents/play/Convention-Chart.pdf>

The Committee: Chris Moll (Chair), Tom Carmichael, Doug Doub, Steve Robinson, Blair Seidler and Jennifer Broekman (Scribe - non-voting).

Commentary:

Goldsmith It's nice that E/W didn't intend to violate ACBL regulations, but so what? If they could supply the director who told them 2♦ was legal, and if that director agreed, then there's no alternative to using 82C, Director's Error. In that case, E/W get to keep their result and N/S get an adjusted score. But E/W didn't produce such a director. In fact, East just claimed that someone told him that a director once said..., which is nowhere near sufficient to absolve them of blame. Therefore, they get the worst result at all probable and the other side gets the best result likely. What those are may not be obvious, so Average plus/Average minus is reasonable assuming nothing significant occurred at the other table, but I think we can come up with real results.

For example, 5♣ making by N/S is surely a likely result. (Yes, it appears that I'm too lazy to figure out the likely and at all probable results, which suggests Average plus/Average minus is OK, but imagine that there was a 1700 at the other table. Average plus/Average minus is just not acceptable then.)

Again, I'm glad to hear that E/W had no intention of using an illegal convention, but that's not relevant to the score adjustment. Players don't intend to revoke, and the penalties are not lessened because the error was inadvertent.

All the time, I hear players claim that a director told them something false. I have never once had that director identified. Not once. I'm sure everyone who makes that claim remembers that they were told something, but, if they can't identify the specific director and date, their claim just has to be disregarded. Maybe they misheard or misremember. Maybe the director erred. How can we know? What we do know is that they violated the regulations, so they have to pay the penalty.

The committee's strong wish is reasonable, but it implies that they feel confident that a director erred. I think that confidence is overstated.

Furthermore, I suggest instead that when an experienced player asks if a convention fits into one chart or another, that the director doesn't judge at all but prints out the appropriate charts and gives copies to the player who asked. It's very hard for a director to interpret systems and conventions in a vacuum. Far better is for the players who know all the details of their methods to figure it out themselves. If a player still isn't sure, he can write the ACBL and get an official ruling. If he doesn't know in time for the current event, that's too bad. He can plan ahead next time.

- Polisner** Board 22: I would have allowed the table result of 7♣ doubled to stand as the use of the illegal convention was not relevant as at the other table the likely auction would have started 1♠- P - 4♣ and the rest of the bidding would have been the same. I would then have penalized E/W 3 IMPs for use of an illegal convention as it is up to the players to make sure that an unusual convention is authorized for the particular event. The self serving statements about what they allegedly were told or heard or what a former partner had been told is insufficient.
Board 28: Here the use of the illegal convention did not cause damage as after the likely 1NT opening by North 2♥ by South. Now even if West doubles 2♥, it is likely that North would bid 3NT (which would make after a heart lead). The only difference is here the auction gave South the opportunity to lose his mind and bid 4♦ erroneously thinking that North was showing long clubs and a shorter diamond suit. Even so, I would have protected N/S from their own disaster as they should not have been put in that position. I would have awarded average+/average- and again imposed a 3 IMP penalty. Perhaps harsh, but appropriate.
- Rigal** Excellent, if unfortunate ruling by the committee covering the entirely deficient ruling by the TD – deficient in common sense, that is. Of course N/S departed from double-dummy, but not culpably so – and the opening bid was the sole reason they were confronted with the problems. If the bid is illegal, so be it; give N/S their 6 IMPs and move on – nothing to see here.
- Smith** This case reminds me of the Pine Tar Incident. Too bad Lee MacPhail wasn't on this committee.
Do we all realize a couple of things here? First, there is absolutely no requirement in law or regulation that a pair playing against an illegal convention automatically gets average plus. Secondly, do we all realize that the hands held for both 2♦ bids happened to have 10 high card points? Ironically, it is legal in General Chart events (let alone Mid-Chart events like this one) to have an agreement where an opening two-level bid promises at least 5-4 in two known suits and 10 HCP. That is why Flannery is legal and common even at club games. Don't we expect that national champions should be able to deal with Flannery? Now I know that since the range of the bid they encountered was 3-11 the Flannery analogy is not completely fair, but how far off can it be? If the E/W pair had simply had an agreement that 2♦ showed 10+ HCP how sure are we that the outcome would have been much different on these hands? On the first, let's not overlook the fact that N/S arrived at the seven level off two aces (nice defense, by the way). And on the second hand, what was 4♦ by South? It looks as if N/S had an accident of their own even while consulting their own defense during the auction!
So let's say that we find it understandable that N/S accepted EW's "ruling" that this bid was legal instead of calling a director to find out. And let's say that we find it understandable that they weren't surprised to be presented with a handwritten defense rather than an approved typed downloaded one from the ACBL database as they should have expected.

Smith (continued)

After all, they may not have even noticed that since they had their own printed defense ready for an illegal convention. Accepting all that as reasonable simply does not lead to the ruling made by the committee. The committee got the law wrong.

While it is not legally incorrect to assign A+/A- in a case like this, the decision to do so was based on a faulty premise. The committee seemed to base the decision to award A+ solely on the determination that N/S had not contributed to its own damage by “a serious error (unrelated to the infraction) or by a wild or gambling action” [Law 12C1(b)]. The committee seems to have completely ignored the first step in the process of looking at Law 12C1(e) i and ii, which are actually the laws that are used to adjust scores in the ACBL after a hand has been played and an irregularity needs to be redressed. Part i states: “The score assigned in place of the actual score for a non-offending side is the most favorable result that was likely had the irregularity not occurred”. Part ii states: “For an offending side the score assigned is the most unfavorable result that was at all probable had the irregularity not occurred.” Leaving out the offenders for the moment (due to the complication of what they might have been told by a director), the committee's job was to project a series of possible auctions and results and select from among them the most favorable one that reached the threshold of “likely” and assign that score to the non-offenders. Only if the non-offenders committed a serious error after the infraction do we deny them the benefit of such a score adjustment.

So, on the first board without the illegal 2♦ bid I think we could reasonably expect a start of 1♠ followed by lots of bidding. Given what this N/S pair did against a method that they were actually familiar with, I don't see any result rising to the level of “likely” that would be nearly as good as the A+ the committee actually gave (of course I don't know what actually happened at the other table, so I am guessing a bit). I must confess that I have a hard time getting past the fact that in real life they bid to a grand slam off two aces. I mention that not as an argument that they committed a serious error, but instead as evidence of how this pair might have handled this hand without the illegal convention but against vigorous preemption. So even if you don't like the directors' ruling of score stands, how about something like 6♣ not doubled down one?

As for the second hand, unless I am missing something N/S had some sort of serious misunderstanding even while consulting their own defense during the auction. It looks as if South thought 3NT was some kind of an unusual no trump, but who knows? Shouldn't they be held partially responsible for their bad board due to that? I think they should lose at least some portion of any favorable adjustment due to that error according to 12C1(b). But some assigned score is necessary, unless the committee wanted to (legally) resort to 12C1(d), which states: “If the possibilities are numerous or not obvious, the Director may award an artificial adjusted score.” But that law was not cited as the committee's reason for the ruling.

Smith (continued)

So, with apologies for going on so long, I get back to the Pine Tar reference. This committee took a far too narrow view and gave away the farm to N/S at the expense of the field. I can only imagine how many IMPs and VPs swung on the committee decision regarding these boards. I don't know but it had to be huge. Legally it was not necessary and for the reasons I state it was not correct either. I'm not sure what was correct for the offenders, but if the committee believed that they had been advised incorrectly by a director then some sort of modified ruling for them seems appropriate. Otherwise, it should be routine if not necessarily automatic to penalize pairs who use illegal methods regardless if a score adjustment is made. But wouldn't it have been nice if they could have named the director so that we knew if what they said was accurate or just misremembered or misunderstood? This committee seemed pretty quick to assume that a director had made an error without actually having any evidence that it occurred.

Wildavsky Illegal convention cases are nothing new. Edgar Kaplan gave an example of how to handle them in 1973 -- the principles involved have not changed since then: http://www.blakjak.org/lws_lan0.htm

Kudos to the committee for correcting an injustice. This case seems a good advertisement for player committees.

Doug Doub gave me an analogy I like. Suppose we ran a tournament where opening three level bids were banned. A player who opened 3♠ with seven spades to the KQJT and out would have an advantage, even though his opponents were familiar with this treatment and in fact used it themselves on other occasions.

E/W got off easy here. I've been playing in the ACBL for 30 years. Many times an opponent has told me that the director had approved his convention. When I've checked I've seldom found that the convention was legal. I would not have accepted E/W's contention unless they could name a director to confirm that they'd been told they could use their gadget. I don't think it should be possible to rule "TD error" unless we can identify the director who made the error.

Wolff

Now to deal with what is symptomatic of a major problem in our whole process.

During the course of this match (NABC+ Open Swiss Teams) we have an example of four very good players and at least one experienced partnership (N/S) committing the following errors:

1. E/W playing an illegal convention according to our rules. Sure whoever told E/W that this convention was legal is all speculation. The fact is only that they were playing an illegal convention.
2. N/S (very likable fellows and usually a total credit to the game) committed terrible (childish) judgment in continuing to bid up to 7♣ (Board 22). Whatever the reason, it was unacceptable bridge judgment. Then (Board 28) N/S misinterpreted partner's 3NT bid for clubs and diamonds instead of to play 3NT. This error likely caused them to go down 200 instead of probably making 3NT with a low heart lead. Another poor bridge judgment.

For this unseemly combination of errors and illegality this committee decided to penalize the field by giving these two pairs a combined average and an extra 3 IMP bonus for N/S. To make matters worse it was made by ostensibly a better than average committee. For our group to ever be party to such a thing is off the charts impossible, but, at least to me, it seems that this committee wanted to make love to at least the N/S pair and also be kind to the pair who were (possibly) wantonly playing this illegal convention.

Until our group has enough leadership to call this aberration to everyone's attention and boil in oil a future guilty committee we have no chance to succeed.