

**ICSOM GOVERNING BOARD MIDWINTER MEETING – Dallas TX  
January 8-9, 2006**

**Index of topics:**

**SUNDAY**

- **Code of Ethics for Touring and Residencies discussion**
  - **Puerto Rico Symphony**
- **Counsel Leibowitz's contract (*Sunday & Monday*)**

**MONDAY**

- **Various reports [*throughout the day as time allowed*] – health care database, Orchestra-L, Richard Norris's book, AFM-EPF Trustee, Mellon effectiveness study, Florida Philharmonic, ads for *The Directory*, nominating committee, results of the MAL-delegate surveys from the 2005 conference, DVDs of three 2005 ICSOM Conference presentations and the availability of previous presentations by Lew Waldeck**
  - **Conference call with Brad Buckley and Susan Slaughter from the St. Louis Symphony**
    - **2006 ICSOM Conference topics and discussion**
- **Meeting with Laura Brownell to discuss the ASOL, work dues, appointment of Barbara Haig as AFM Public Relations assistant for orchestras**

**Sunday Evening:**

Dinner with Ray Hair and Karen Schnackenberg at PF Chang's, compliments of Local 72-147 - Dallas/Fort Worth.

9:45 PM – *Jan Gippo, Bruce Ridge, Laura Ross, Michael Moore, Richard Levine, Steve Lester, James Nickel, Nancy Stutsman, Len Leibowitz, (Meredith Snow arrives at midnight)*

**Code of Ethics report & discussion**

The discussion began with a review of Laura's proposal based on discussion with the rest of the sub-committee - Jan and Bruce:

Preamble: It is understood that orchestras utilize residencies to further the mission of their institutions and to expand both their own institution's audiences as well as any local orchestra's audiences through the performance of symphonic music;

that some orchestra, whose jurisdictions other orchestras travel to, may be facing financial hardship or even dissolution;

that while we are not trying to prohibit travel to these areas, residencies could have a fatal impact on the local orchestra's ability to improve their situation;

there may be other places or other ways to approach these residencies that could assist and support those local institutions, and further

the funding for these activities should not require reliance on those local communities solely for financing, especially since it could be or perceived to be detrimental to those local orchestras, we recommend the following:

When residencies are being considered by orchestras in the future:

That well in advance of any planned travel, during the planning stages, the traveling orchestra contact local orchestras where they might be traveling (not only managers talking to managers but orchestra musicians and locals talking to each other as well);

that the traveling orchestra try to coordinate their efforts while on tour or residency to allow these performances to be of benefit to both institutions, perhaps by combining efforts in education and concert performances, master classes, etc. and further

that the traveling orchestra speak publicly at all times in support of the local orchestra, pointing out all they, as local community members, have to offer their cities, schools, churches, etc.

It was felt that the code of ethics needed to apply to residencies where the real problems occur. The broader reach to touring orchestras could provide an additional burden for orchestras that are on tour since tours don't really interrupt other orchestras' programming. In devising a code of ethics we need to define "residency" and identify the problem as well as find solutions. The model of a beneficial residency would be the National Symphony, one that invigorates communities and works with local orchestras during the planning stages. When an orchestra is in danger, it is best to recognize this and find ways to protect those orchestras.

The Preamble is not necessary; the code of ethics should be a model of ethical conduct. The other question is do we want to say that there should be times when residencies should not occur? Orchestras can put pressure on their managers to refuse. Orchestras on strike have been known to reach out to touring orchestras – there is a long history of this type behavior. Situations need to be looked at critically.

Len will write something to be reviewed on Monday. [Due to time restrictions, review was postponed to e-mail review once everyone returned home.]

### **Puerto Rico Symphony report:**

Jan reported that during their (Bruce and Jan) visit, they were informed that Taft-Hartley doesn't fully apply to the laws of Puerto Rico, which will have an impact on the orchestra's attempt to regain their bargaining rights. Regarding the orchestra's concerns about the Philadelphia Orchestra's attendance at the Casals Festival, they fear that there will be attempts to replace the PR Symphony with Philadelphia, especially if they lose their lawsuit regarding Law 45 (orchestra is a government institution and CAM is not required to bargain with the orchestra). Jan said about 70% of the country is employed by the government.

Bruce said he told the orchestra members that we could not prohibit Philadelphia's attendance at the Festival but we could identify ways for the Philadelphia Orchestra to support the musicians. The Festival's mission is to bring in outside orchestras as well as use the Puerto Rico Symphony. Jan believes the lawsuit should be withdrawn. Funding is from the government and there is no pattern of giving. The Puerto Rico Symphony should be the resident orchestra for the Festival, and should be recognized as such, while other orchestras can still be brought in. We can do nothing more until Len goes to Puerto Rico. While there doesn't appear to be any political pressure we could put on them, we could put pressure on them with respect to the Casals Festival. The Constitution of Puerto Rico requires that there be an orchestra. Laura Brownell has offered to reach out to Philadelphia regarding what they can do in regard to this situation. The Festival is 4-5 weeks in February and March.

### **Len's contract:**

Len's job description (from Len himself) is that he will take calls from any orchestra or any individual orchestra member, all of which is covered by ICSOM's retainer. It was pointed out that access to most attorneys is much more restricted, usually requiring permission from some other person before the attorney can be consulted. Proposed increases for the next three years were discussed.

The broader topic of services offered by ICSOM were touched on. Jan said part of the conference should be dedicated to discussing new services and programs and once these goals are better articulated, we might begin discussing a dues increase at the 2007 conference to fund those goals. Richard spoke about using advertising as income generation. To prepare for this discussion before the conference, we should include information in the spring issue of *Senza Sordino*.

Len's retainer will be discussed further.

## **Monday:**

9:00 AM – Reports

- Healthcare database – James and Richard reported that a database is being developed and should be completed within the next few weeks. Delegates, or an appointed member of each ICSOM orchestra, will answer the questions on the preliminary online questionnaire. Details can be added over time. Delegates will be given 2 weeks to answer the questions.
- Orchestra-L – Bruce reported on Paul Gunther's progress and when the "hand-off" from Robert Levine to Paul will occur. Paul is communicating effectively with Robert and they are getting close to having Paul take over the list entirely. Robert is currently doing the posting and Paul is doing everything else. A number of orchestra chairs (we could use more) are participants of Delegate-L. There are many alternates and there are still some delegates (and governing board members) who need to sign up. Jan recommended sending out an Orchestra-L sign-up bulletin. We will announce when Paul has taken over the list completely and will also post something to honor Robert's past service. The board directed Bruce to make Paul the moderator within a week following this meeting.
- St. Louis – Jan spoke about the latest issue regarding the negotiation of side-letters that has led Local 2-197 to file an unfair labor practice charge (ULP) against the St. Louis Symphony Society. There was general discussion about the relationship between orchestras and locals and the role local officers play in various negotiations. Len said he believes it will be proven that there is a longstanding past practice of handling these side-letter negotiations without direct union participation; however, the problem in St. Louis is more a policy matter – the local does have a right to be at the table. When orchestras and locals work together the best results are achieved. Local 2-197 has also negotiated an agreement regarding extras and has ratified those changes with the extras but not with the orchestra members.

Brad Buckley and Susan Slaughter, co-chairs of the SLSO musicians' council, called in to discuss issues regarding the SLSO. They asked for assistance regarding withdrawal of the ULP, that the governing board send a letter of support to the orchestra to be read at the orchestra meeting tomorrow (1.10.06), and that the board reinforce the belief that the SLSO be placed in the OSP.

Brad spoke about the ULP and discussed the charges which allege that the SLSO bypassed the union and negotiated only with the musicians' council. They spoke about the 3 side-letter agreements negotiated. The musicians believe they are being forced to side with the management against the union regarding the ULP. In the next two weeks they must reply to Local 2-197's rebuttal to OSP and also testify regarding the ULP.

There was discussion about what action could be taken regarding the ULP, including a demand by the IEB that the ULP be withdrawn. Richard asked what mechanism we can use to get the IEB to withdraw the ULP. The new bylaw regarding orchestra committees working together with locals also comes into play, especially since the orchestra committee was never notified of the ULP.

There was discussion about the collective sentiment of the orchestra, the level of frustration, and whether there was unanimity of reaction. The council has called an orchestra meeting to discuss the ULP and the council expects the reaction will be as strong as the June meeting when they demanded withdrawal of ethics charges against Len, and the vote would be close to unanimous that the ULP charges be withdrawn. The orchestra will be upset with the lack of communication from the local.

Brad also asked that the governing board support the orchestra's request to be placed in OSP, but also suggested the ULP withdrawal was of first importance. This action just reinforces why the orchestra made the request in the first place.

Brad and Susan spoke about what would happen if the AFM chose not to act. The orchestra has no communication with their local; they view the ULP as continued harassment by the local, and they believe they need to protect themselves. They fear retaliation from the Local through the imposition of unacceptable conditions like requiring Charles Warner serve as their attorney during negotiations, to a laundry list of issues concerning subs and extras that could cause further problems between the musicians and management of the SLSO. All this activity is detracting from the orchestra trying to resolve issues with the board and management and this may also cause some problems with a Mellon grant they have applied for. There are rumblings of dues strikes, de-authorizing the union and leaving the union and going the way of Seattle. However, the council realizes they must educate the orchestra about any action they are to take in the future. The orchestra believes the IEB needs to enforce the new bylaw and policy regarding committees and locals working together.

De-authorization and de-certification are worse case scenarios and a lot more thought will go into this before they proceed in that direction. However, if no action is taken by the AFM, the orchestra will seriously investigate these options in the future. De-authorization removes the union security clause, which would, in essence, be similar to how things work in right-to-work states. Brad believes these are not topics that should be discussed at this time and that enforcement of AFM bylaws is vital. He also said if de-authorization occurs, de-certification would not be that far down the road.

Following the conference call the governing board agreed to write a letter to the orchestra as a show of support. The 2005 SLSO ICSOM resolution that reinforced support of the SLSO and that the OSP petition be reviewed and action taken expeditiously will be reinforced in a letter to the IEB, which will also insist the ULP be withdrawn immediately. The board agreed unanimously that the ULP must be withdrawn.

- There was brief discussion regarding Len's contract extension. Motion (Bruce/Steve) that the governing board recommend to the delegates of the 2006 conference that Len Leibowitz's retainer be increased from \$42,000 in 2005-06 to \$45,000 in 2006-07, \$48,000 in 2007-08 and \$50,000 in 2008-09.

[Len wrote a letter to be sent by the governing board to President Lee and the IEB as well as a new Code of Ethics that Laura will type and send out after the meeting for feedback.]

- Richard Norris's book – Michael recommended releasing Richard Norris from further obligation to ICSOM, while continuing to promote a new edition.
- Status of AFM-EPF Trustee recommendation – Jan called Phil Ayling over the weekend but has not heard from him.
- Mellon effectiveness study – Len spoke to Richard Hackman who expressed interest in the subject. It's a much bigger project than we might have originally perceived. Based on Len's

description to Professor Hackman that the intent would be to do a study of the effect Mellon has had on involved orchestras and the implications on what occurs at the bargaining table. Len told him ICSOM would be happy to help facilitate some of the information gathering. Jan spoke to the aspects of promulgated ideas from Mellon and how they have influenced the field. It is a 10-year project, 5 years of which have been completed. A report can be found on the Mellon website. Len and Jan will call Hackman to discuss this idea further.

*(Nancy departed the meeting)*

- Florida Philharmonic –Jan, who will be traveling with Laura Brownell to Ft. Lauderdale, will try to reiterate his statement on Orchestra-L (1.8.06) and try to find out if there are ways to identify legitimate community support. There was discussion about the timeline of events, including the fact that ICSOM was very involved during the initial efforts to fold the orchestra and how much time there actually was between the orchestra folding and The Cleveland Orchestra’s (TCO) negotiations. Concerns were raised about reports of “disconnection” between former members of the orchestra and Local 655 as well as the ongoing criticism against TCO musicians. Consultant and advisor names were discussed and the board expressed concern that Jan might be walking into a hostile situation.

Conference evaluations/conference planning – the following topics were discussed:

- Musicians on Boards – attorneys examining how the law applies, then an open forum for orchestras to speak and ask questions about their own individual situations.
- St. Louis Symphony situation with a tie-in to local and orchestra committee interaction; discussion of the new bylaw (Art. 5, Sec. 39) and IEB policy; governance within orchestras – how does it work in each orchestra?
- Press relations with the orchestra musicians, more on the vision message.
- Series of topics for break out sessions – how do these things work in your orchestra?
- Jan wants to discontinue oral reports, with the exception of chair’s report. He believes all the written reports should cover it. There must be some time during the conference to allow for questions on the reports. The body needs to hear from their leadership – reports can be shorter. Do reports throughout the conference.
- Public relations
- Len & Peggy have been discussing role-playing topics.
- Issues for discussion – musicians on boards and conflict of interest; ability to have artistic input; relationship with local union; community relations; touring and residencies & Code of Ethics; grievances; effectiveness of committees; use of rehearsal time; negotiation questionnaire value; orchestra meetings; orchestra websites; role of musician’s serving on boards – notes and reporting back;
- Theme – “Putting out fires”; facilitating functional relationships within our orchestras; unity amongst ourselves

Discussion and issues brought to the board by Laura Brownell:

Laura Brownell joined the discussion just as Jan suggested once again that ICSOM should have a seat on the ASOL board to assure that we have input into policy and a voice in selection of additional musician board members. Laura Brownell spoke briefly about her experience at a recent ASOL meeting and acknowledged the good work Jan and Bruce are doing that is reaping positive results. However, Bruce stated his belief that contemplating this move would still be well ahead of our members. There is a concern about musicians appointed to serve on the ASOL board that do not have ICSOM’s approval but there is also fear that if we accepted

the position, it would be a powerless position. We will continue with the “baby steps” while looking toward the possibility of joining ASOL in the future. Laura Ross suggested Jan write something for *Senza Sordino* to address this issue.

- Tom Lee, who was to be on a conference call later, wanted to know ICSOM’s position regarding Florida Phil and Cleveland. Jan said he wanted to share information about the Code of Ethics with the Florida Phil musicians and Laura Brownell when they travel to Florida in a few days. Jan went on to explain some of the things he planned to talk about at those meetings.
- Brad Eggen (president of the Minneapolis/St. Paul Local) has raised concerns about whether work dues payments on vacation pay, seniority pay, pension, and severance pay are being applied uniformly throughout the country. The AFM says it’s about fairness. There has been discussion on this topic in the past (Chicago Lyric), and it may have implications regarding what has been negotiated locally. Jan and Laura will discuss this and Jan will report back.
- AFM Public Relations person – Laura Brownell has received a proposal from Barbara Haig that includes both a national level of advertising (possibly in partnership with the ASOL to further symphonic music) and a local level to assist with local negotiations, etc. ICSOM has also spoken of the need for a PR person to counter the bad press and help advise local orchestras during negotiations. She plans to bring Haig’s proposal to the IEB next week. Laura B. said she too has asked for a national “good news” promotion. There were questions about whether Haig would be available for brief questions or consultation. Laura B. said she’d like to get this program implemented (as early as Feb. if the IEB approves). Laura Ross asked if Barbara Haig would be available to come to the ICSOM conference and do a presentation? Laura B. seemed to think there would be cost involved for ICSOM. Barbara Haig is based in Milwaukee.

Jan asked if either he or Bruce would be invited to attend the IEB meeting regarding either St. Louis or the public relations discussion. Laura B. did not have an answer.

- Laura B. reported on the progress of the joint ASOL/AFM committee regarding orchestra statistical reporting.
- She also spoke about her concern that some orchestras appear to be downsizing, plus there have been changes to local subs and extras pay rates that are no longer in parity with orchestra salaries. Some orchestras have temporarily allowed hiring freezes and her concern is that orchestras will not negotiate the numbers back. Some orchestras are downsizing for their own self-interest.

The board thanked Laura Brownell for traveling to Dallas and wished her safe travels.

Richard requested that he be able to hire someone to sell ads for *The Directory*. Len will send him rates Local 802 has set. It was suggested he contact the RMA regarding their directory rates. We have already accepted an ad from Ziljian in the past. Richard would be happy to approach suggested companies. The board directed Richard to spend up to \$1,000 to solicit ads.

Discussion with Tom Lee:

Tom Lee expressed his appreciation for the posting by Jan on Orchestra-L regarding the Florida Phil and The Cleveland Orchestra. There was a brief discussion about the enforcement capabilities of the AFM regarding Article 14 Section 3.

He also spoke about the work dues concerns raised by Brad Eggen and said he hopes ICSOM will agree this is a Federation matter and not make it an issue or take a position in opposition in regard to this. Jan said Laura B. had to leave but that we had discussed it with her. He said Laura B. and he would be working together regarding on the issue and said it was possible the outcome might

not be as broad as the current position of the AFM. Tom said it was acceptable that Jan and Laura B. work on this but he also planned to check with General Counsel regarding legal issues. He understands that there is some validity to ICSOM's concerns and suggested they also consult Trish Polach.

Tom Lee spoke briefly about Puerto Rico and the lack of communication from the orchestra's attorney. Whatever the AFM can do, they are willing to do, especially speaking to politicians, consulates, etc.

Following the conversation with Tom Lee, Richard spoke briefly about *Senza Sordino*, *The Directory* & "publication" of ICSOM documents and delegate handbook. Richard wants to send *The Directory* out the same way as *Senza Sordino* since it will be less costly and is easier. Richard and Laura have been talking about the idea that whatever was handed out to delegates at the conference (barring copyright restrictions), the delegate handbook and other items, should also be available either on disk and/or on the website. There was also brief discussion regarding a wonderful article about Bill Roehl that will be included in the next issue of *Senza Sordino*.

- Nominating committee – the board agreed to ask David Angus to serve as chair again. Jan will speak to Dave about the new timeline. Positions open during the 2006 conference are: Chair, Treasurer, Editor, 2 MALs and the AFM delegate.
- delegate response/Steve's MAL-delegate survey – Jan suggested the rules about responses to messages be either revisited or revised. There was a suggestion that Bruce address delegate responses in *Senza Sordino*. Another suggestion was to encourage delegates to communicate with their orchestras prior to the conference about conference topics. We need to find ways to empower the delegates. Are additional president's councils the answer?
- DVDs of the 3 conference presentations could be provided to all the orchestras but it was suggested the Michael poll the board and Delegate-L to find out if we should just make them available as orchestra request them. Laura mentioned that DVDs of former Lew Waldeck presentations are being produced. They will be advertised in the next *Senza Sordino*.