

Senza Sordino

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Canadian Orchestras Struggle

Toronto, Winnipeg, Calgary Twist in Storm of Government Cuts

The drastic reduction in subsidies for the arts enacted by the Canadian government a few years ago has had a dramatic effect on the financial health of Canadian orchestras, and thus on labor relations in those orchestras. This financial uncertainty has exposed long-standing internal flaws in the way many Canadian orchestras have conducted their business operations. The following musician's view of the situation, which will appear in the January 2002 issue of Una Voce, the newsletter of OCSM, was shared with Senza Sordino by Steve Mosher, editor of Una Voce, and is excerpted here with permission. – Ed.



In the September 29, 2001 issue of the *Globe & Mail*, arts columnist Robert Everett-Green made a few trenchant observations on the state of Canadian orchestras under the title "Orchestras in the Pit." OCSM President Rob McCosh offers his comments.

ORCHESTRAS IN THE PIT ONLY PART OF THE PIT

There is a Canada-wide malaise and Robert Everett-Green only gets it partly right for several reasons. First of all, there was no input from the American Federation of Musicians, the union that represents musicians from Halifax to Victoria and major centres in between. Second, Mr. Everett-Green needed to flesh out the reasons behind both the successes and failures in Canadian orchestras. Third, his conclusion that orchestras will only have a bright future if they have the "will and flexibility" to change their institutions, is but a part of the solution.

The Canada-wide malaise can be explained in large extent by: lack of leadership at every level; lack of public outcry about the cuts to public funding and arts-based education; and, the one Mr. Everett-Green gets right, lack of financial support at every level, which is related to lack of leadership. Let's start with the lack of leadership.

We lack leadership on many orchestral boards because they have adopted the zero-deficit business model. That may be an appropriate for-profit business strategy but is less appropriate in a not-for-profit cultural institution which should be striving for artistic growth and excellence. There is a lack of leadership by corporate Canada, which is represented on every orchestral board, because they, by and large, have taken control of the financial agenda. Zero-deficits have been deified not only by business, but also the general public, government, granting bodies and the

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In the next few weeks a report and survey will be distributed to ICSOM orchestra members concerning the future direction of the Electronic Media Forum (EMF) and the national media negotiations. It is crucial that the EMF hear the views of as many musicians and orchestras as possible, and from as many diverse perspectives as possible. Our national negotiators can only serve our interests if they know what those interests are. Please let your voice be heard.

To help inform all ICSOM orchestra musicians of the many issues and opinions related to electronic media, a special edition of Senza Sordino will be published next month. Your views are heartily solicited for this issue.

For details, see "Preface to the Great Electronic Media Debate" on page 8.)

Information on past EMF activity can be found at electronicmediaforum.org

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The Interest-Based Bargaining discussion in the June 2001 issue spawned a lively exchange of letters between Peter Pastreich, retired executive director of the San Francisco Symphony, and Leonard Leibowitz, ICSOM counsel. Letters are reprinted by permission of the combatants. – Ed.

August 7, 2001

From: PETER PASTREICH
To: LEONARD LEIBOWITZ

Dear Lenny,

Thanks to your intercession, I now read *Senza Sordino* regularly. Under the general principle that no good deed goes unpunished, you get my reaction to your contributions to the June 2001 issue.

The tribute to Phil was eloquent and moving. I've told the "I have the photograph" story almost as often as Phil has, when talking about negotiations, and about Phil. Phil did devise the idea of returning musicians' pension contributions, but I don't think that money came to them as a simple windfall. In every case I remember, the returned contributions were treated as part of the money package that resulted in settlement, making backloaded wage settlements feel less backloaded—to the musicians and to management. It was still an amazing idea, and Phil was an amazing—and infuriating—person.

I'm glad you spelled out your objections to Interest-Based Bargaining. I have the same emotional reaction to IBB as you do—it's so much less fun than adversarial collective bargaining. But I don't think either of us should oppose IBB simply because it's less fun, or because it diminishes our role as negotiators. We have a responsibility to our employers, to our clients, to our orchestras, and to symphonic music, to examine the issue more objectively.

Your article would be more convincing if you demonstrated that adversarially negotiated contracts are, on the average, better for musicians than IBB-negotiated ones. But whether we compare successive contracts negotiated each way in the same orchestra, or compare similar contracts negotiated each way simultaneously in different orchestras, this does not appear to be the case. There is no evidence that the musicians get worse contracts with IBB, and if you count the cost to them of strikes, there is substantial evidence that they do worse.

Other facts you might have missed:

1) The idea of using IBB does not always come from management. In San Francisco it was a musician who suggested that both sides try "Getting to Yes" about ten years ago. In 1997 Tom Hemphill and I jointly approached the Hewlett Foundation for assistance in the area of conflict resolution. An officer of the foundation recommended Bob Mnookin to us, and Mnookin proposed IBB to Tom and me simultaneously. We both took the idea back to our constituencies.

2) There is no evidence that adversarial "crunch" bargaining gets more issues resolved. My own experience is that it brings more issues to the table, on both sides, but that the vast majority of those issues are traded against one another and dropped; IBB can allow the important issues to stay on the table until both sides have understood and resolved them, and it creates far more understanding on both sides of the other side's point of view.

3) Finally, hard as it is to admit, much of the adversarial bargaining I've witnessed *did* consist of the parties making demands, getting locked into positions, and yelling at one another. You say you've never seen such a negotiation, but I'd be happy to remind you of several I know you saw. Eventually a contract is always agreed to, but at what cost?

The greatest value of adversarial negotiation might be the opportunity it gives musicians to express anger and frustration accumulated during three years of doing a job that, by its very nature, allows them relatively little control over their working lives, while the greatest value of IBB might be the opportunity it gives musicians to work with managers and board members at solving problems in an atmosphere of teamwork and cooperation. I've changed my mind about which matters more, and perhaps you will too.

Of course I admit that it's easier for me to change, since I won't be around for those endless brainstorming sessions. But then, I hope you aren't planning to negotiate as long as Phil did. You and I are the same age, Lenny, and we both love "tummeling." But I'm surprised to find how rewarding the "retired" life can be. We should talk about it ...

With affectionate regards,
As ever,
Peter

August 13, 2001

From: LEONARD LEIBOWITZ
To: PETER PASTREICH

Dearest Peter,

Thank you for your critiques of my recent *Senza* articles.

With respect to the Sipser eulogy, it is of course true that the cost of returning the pension contributions came out of "the money package." Don't all the costs of any settlement come from that "pie" that you guys are always throwing in our faces? But that doesn't mean that the musicians who received those "windfall" payments were shortchanged on wages or other economic improvements. Moreover, as stated, in the very same negotiations the benefits were

increased, and often the eligibility requirements were liberalized as well.

Now, on to IBB.

My reaction to IBB may be emotional, but not because I miss the “fun” of traditional bargaining or because it “diminishes our role as negotiators.”

The “objective” standard you suggest is obviously impossible to utilize. As stated in a letter from Charles Underwood which will appear in the next *Senza* [Vol. 39, No. 4, August 2001], how does one ever know what the outcome might have been in any negotiation if it had been done another way?

What I *do* know is that virtually all of the IBB-negotiated contracts are extremely long-term, something which is rarely in the employees’ interest, and almost always in the employer’s interest.

What I also know is that despite giving management a “wind-fall” of a long-term agreement, none of those contracts gave the musicians any great return for that concession. That is, the economic improvements were merely ordinary, and could have been expected as a result of traditional bargaining. It is actually giving management *two* successive ordinary contracts and thereby depriving the musicians of the right to get back to the bargaining table for 5-6 years and giving up the right to strike for that period as well—and for what?

On the other hand, the very recent Nashville Symphony settlement, achieved through traditional bargaining, was long-term, but look what the musicians achieved in return—over 50% increase in wages, seniority pay, pension, etc.

As for your other comments:

1. The only IBB negotiation that I am aware of that was initiated by anyone other than management was the one you cite.

2. There is a ton of historical evidence, as well as my own experience of over thirty years, that “crunch” or “crisis” bargaining gets the best results for the union side. I don’t care about how *many* issues are resolved, I care about *how* they are resolved.

3. Interesting that “much of the adversarial bargaining” you have witnessed consisted of the parties “yelling at one another.” Could the fact that *you* were one of the parties have anything to do with that? (Sorry, I couldn’t resist.)

4. While I agree that it *is* important to give musicians an opportunity “... to express anger and frustration,” that’s not the primary rationale for traditional bargaining. After all, I suppose if need be, the musicians could express their anger and frustration during IBB as well. That’s not prohibited, is it?

Finally, let me point out that from what I know about the methods of IBB, it seems inimical to the very purpose of collectivism, cum unionism. That is, individuals are encouraged to speak out without caucuses or consultation with their colleagues or representatives, thereby losing one of the true advantages of collective action, i.e. collaboration amongst workers who can only exert real influence on their employer *collectively*, and not individually.

Peter, I have nothing against “teamwork and cooperation.” I

have nothing against “peace.” It’s peace *at any price* that I oppose. That’s not peace, that’s appeasement. Not for me, thank you.

Cordially,

Leonard Leibowitz



Dear Marsha Schweitzer,

I just want you to know how moved I was by your reports on how September 11 affected our orchestras and their players. Every publication in the country put in its two cents on September 11, but for my money, yours was the best! Thank you. *Senza Sordino* is always a good read, but your October issue was special.

Your fan,

Jim Stutsman, Kennedy Center Opera House Orchestra

(CANADIAN ORCHESTRAS – continued from page 1)

managements of cultural institutions. That control often has a negative impact on the artistic agenda, to the point where Arts Stabilization programs (cooperative funding ventures between corporations and municipal or provincial governments to help fund cultural organizations) have put a gun to the heads of boards and managements in the form of zero-deficits or risk being booted out of the program.

The training for arts managers in Canada is still in the dark ages compared to the U.S., but the conundrum is that the good ones who do come to the fore are quickly snapped up by much better salaries in the private sector. Endowments are nowhere near the size they need to be to stabilize the institutions. The restrictive guidelines, such as access only to the interest generated by the endowment for operating revenue, is at best a band-aid. While there are positive examples of philanthropy in Canada, there simply is not the same history or level of philanthropy as in the U.S., which has something to do with our risk-averse national character but even more likely to do with a lack of leadership regarding federal tax laws which do not encourage giving to the arts. And why, despite repeated pleas from the cultural sector, have these tax laws not changed? Because there has been no public outcry and no independent initiative taken by our elected leaders. After all, politicians have one overriding agenda—to get reelected. If the citizens of this country want to have orchestras, culture needs to be put on the politicians’ radar screen.

Other governments have shown leadership. The city of San Francisco has recognized the incredible financial spin-offs the hospitality and tourism industry receive from cultural activity within their city. As such, the city levies a hospitality tax on the industry, which the industry recognized as only fair, considering their symbiotic relationship with the city’s cultural institutions. Our Federal Government, in its hypocritical wisdom, takes in millions of dollars from the sale of tobacco products, dollars which are then used however it chooses. Then they make it impossible for these companies to continue their strong financial sponsorship of cultural events and institutions. The institutions would not have had such a

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Before preparing your 2001 taxes, read:

DRUCKER REDUX

or

“Back in my Home Practice Studio again.”

By Leonard Leibowitz, Esq.

Some of you may recall that, in the early 1980s, ICSOM sponsored a lawsuit on behalf of a number of Metropolitan Opera Orchestra musicians whose income tax deduction for practice space in their home had been denied by IRS [*Drucker vs. Commissioner of Internal Revenue Service*, 715 F. 2d. 67 (Second Circuit. 1983)]

In that case, the musicians took a tax deduction for a portion of the rent on their apartments on the ground that the Met Opera did not provide them with a practice studio, and, of course, they needed to practice for their livelihood. In tax law, this is referred to as the “home office deduction.”

The Met musicians also demonstrated that they devoted a portion of their apartment *exclusively* to musical study and practice, and spent approximately thirty hours a week practicing there. IRS and the Tax Court had denied the deduction, holding that “off premises practice” (at home, instead of at the Metropolitan Opera House) was not a requirement of the musicians’ jobs and that the musicians “principal place of business” was Lincoln Center.

The Second Circuit Court of Appeals in New York (one of nine Circuit Courts which are just below the U.S. Supreme court) reversed the Tax Court. The court first rejected as clearly erroneous the Tax Court’s conclusion that practice was not a “requirement or condition of employment.” The court then concluded that the musicians’ principal place of business was their home practice studios, finding that this was “the rare situation in which an employee’s principal place of business is not that of his employer.”

Accordingly, the musicians were granted the deduction for “home office” expenses.

Because the issue did not go to the U.S. Supreme Court, IRS took the position that the decision of the Second Circuit was only applicable in the Second Circuit (covering New York, Connecticut and Vermont). Based upon this decision, many orchestra contracts were negotiated with provisions which state that the employer does not provide practice space at the hall or elsewhere—and, in some cases, that the musicians are expected to practice at home.

In 1993, the U.S. Supreme Court decided a case involving an anaesthesiologist who spent 30-35 hours per week with patients at three different hospitals. None of the hospitals provided him with an office, so he used a spare room at home for contacting patients and other doctors, maintaining billing records and patient logs, preparing for treatments, and reading medical journals.

The Supreme Court denied him a deduction for his home office, holding that the “statute does not allow for a deduction whenever a home office may be characterized as legitimate.”

Instead, they ruled, courts must determine whether the home office is the taxpayer’s “principal place of business.” In this regard, said the court, the two primary considerations are “... the relative importance of the activities performed at each business location and the time spent at each place.” [*Commissioner vs. Soliman*, 506 U.S. 168 (1993)]

With respect to the “relative importance of the activity... at each location,” the Court held that “...the point where goods and services are delivered must be given great weight in determining where the most important functions are performed.” Since Dr. Soliman’s services were actually delivered at the hospitals, this definition worked against him. Likewise, as for the “time spent at each place,” the doctor spent considerably more time in the hospitals than he did at home, thereby failing to meet either criterion.

Although the Supreme Court in *Soliman* did not expressly overrule the *Drucker* case, the two tests enunciated therein seemed to deprive musicians of their “Drucker” arguments, at least the one pointing to “where the goods and services are delivered.” And so the matter stood until April 17, 2001.

On that date, the Ninth Circuit Court of Appeals in California decided a case entitled *Popov vs. Commissioner of Internal Revenue* 246 F. 3rd 1190.

A musician who played regularly with the Los Angeles Chamber Orchestra and the Long Beach Symphony, as well as for various studios making recordings for motion pictures, was denied the “home office deduction.” In 1993, Ms. Popov worked for twenty four contractors and recorded in thirty-eight different locations. The recording sessions required that she be able to read scores quickly, since she and the other musicians did not receive the sheet music in advance of the sessions. And, again, none of her employers provided her with practice space.

Thus, Ms. Popov used her living room to practice and to make recordings which she used for practice and demos. The room was used exclusively for her practice and she spent four to five hours a day practicing there.

As usual, IRS and the Tax Court rejected her deduction of 40% of her rent and 20% of her electric bills. She appealed to the Circuit Court.

In applying the “Soliman Tests,” the Ninth Circuit stated, with respect to the “relative importance” test:

We simply do not find the “delivery of services” framework to be helpful in analyzing this particular problem. Taken to extremes, the Service’s argument would seem to generate odd results in a variety of other areas as well. We doubt, for example, that an appellate advocate’s primary place of business is the podium from which he delivers his oral argument, or that a professor’s primary place of business is the classroom, rather than the office in which he prepares his lectures.

We therefore conclude that the “relative importance” test yields no definitive answer in this case, and we accordingly turn to the second prong of the *Soliman* inquiry.

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With respect to the “amount of time” test, the Court wrote:

The Service argues that the evidence is unclear as to “how much time Mrs. Popov spent practicing at home as opposed to the time she spent performing outside of the home.” It is true that the evidence is not perfectly clear and that the Tax Court made no specific comparative findings. However, the Tax Court found that she practiced four to five hours a day in her apartment. If we read this finding in the light most generous to the Service and assume that she only practiced four hours a day 300 days a year, Popov would still have practiced 1200 hours in a year. She testified that she performed with two orchestras for a total of 120-140 hours. If she spent a similar amount of time recording, she would still be spending about five hours practicing for every hour of performance or recording. The only plausible reading of the evidence is that Popov spent substantially more time practicing than she did performing or recording.

This second factor tips the balance in the Popovs’ favor. They are accordingly entitled to a home office deduction for Katia Popov’s practice space, because it was exclusively used as her principal place of business.

Finally, with respect to the viability of the *Drucker* case, the Court stated:

We are unpersuaded by the Service’s contention that *Drucker* is no longer good law. The Service has not directed us to any decision that has ever called *Drucker* into question. The Supreme court cited *Drucker* twice in *Soliman*, but never suggested that it was overruling *Drucker*’s result. *Soliman*, 506 U.S. at 171, 172, 113 S.Ct. 701. Although the particular “focal point test” employed by the Second Circuit may no longer be valid, we are unwilling to conclude that the Supreme Court *sub silentio* overruled a long-standing precedent. Uniformity of decision among the circuits is vitally important on issues concerning the administration of tax laws. Thus the tax decisions of other circuits should be followed unless they are demonstrably erroneous or there appear cogent reasons for rejecting them.

Because of the apparent confusion on this particular point of law, it is quite likely that the *Popov* case will ultimately be decided by the U.S. Supreme Court.



Stay tuned. Meanwhile, if you meet the requirements of *Popov*, take the deduction. In sum, those requirements appear to be as follows:

1. A room which is used *exclusively* for practice.
2. Unavailability of practice space at your employer(s) facility.
3. Significantly more time spent practicing at home (as opposed to any other location) than spent at a concert hall, recording studio, jazz club, etc.



problem with the end of this association had the federal government shown leadership or a plan to replace this sponsorship. The Australian government took the same problem and created a healthy solution by taxing tobacco products and then using this “sin tax” to help fund its sport and cultural programs. The world knows how healthy their sport program is.

Mr. Everett-Green cites Symphony Nova Scotia’s near-death experience in 1995. What he fails to mention is that it was the musicians who showed leadership by refusing to accept the board’s wish to declare bankruptcy. They were also the leaders in convincing the board and management to go public with their financial problems, whereas the appointed “leaders” wanted to keep their situation quiet, in the mistaken belief that it would damage ticket and donor revenue. The people of Nova Scotia responded by donating \$250,000, which got the orchestra to the end of the season. Furthermore, it was the musicians who finally convinced the “leaders” that they needed to be more relevant to their community by structuring a Pops series that hired local musicians to play the music of their region, which at least initially, was phenomenally successful from at least a community and revenue point of view. In the past few years, a major donation has been given to tour the province to bring the orchestra to schools outside of the metro area.

This brings me to the second issue: cuts to arts-based education. Every time the federal government uses cuts to federal transfer payments to the provinces to reduce their deficit, the provinces cut in kind to their education funding. And what always goes first? The arts, because they are viewed as a frill. This, even though more studies than I care to dust off have shown a direct positive correlation between the performance of students in core areas such as math and their involvement in musical activities. How does this affect our orchestras? We are losing our future audience. Further to that, our donors and board members often come out of our audience. Even at the most basic level there is a loss of understanding in the general public, and we are creating a nation of specialists instead of well-rounded citizens—those able to apply the creative, outside-the-box thinking associated with arts education. Now the Canada Council, through a return to higher levels in federal funding, have passed on this funding to orchestras with the codicil that orchestras become more involved in education and outreach. While all orchestral musicians recognize the importance of education, it must be stressed that orchestra education programs cannot be viewed as a replacement for music education in our schools. Orchestras could do better in these areas, but there needs to be a focused discussion among all the stakeholders and communities as to how these programs can best fit the needs of their “clients” and communities.

Mr. Everett-Green identifies “the assumption of broader responsibility by musicians and more open management” as “another important trend.” This trend has been around for at least a decade when concessionary agreements were the norm across the country. By and large this was the bone tossed by boards and managements as a way to ease the financial pain the musicians were experiencing by supposedly sharing the power. It is unfortunate that it took crises such as near-bankruptcy, strike or lockout to get the

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boards and managements to consider musician input and representation. However, oftentimes the increased representation that the musicians had at the board and management committee level was one of blatant tokenism. Some actually believe that, if musicians were truly intelligent, we would have gone into a career that actually paid a living wage. Without a shared trust, open communication and respect, this “trend” has only meant increased frustration for the participating musicians, with some fortunate exceptions.

If there is one bright light in this malaise it has been the continued striving for performance excellence by the musicians. Canadian orchestras are not headed for extinction but the landscape will look very different unless 1) creative solutions are found for stable, ongoing funding; 2) our corporate and elected leaders go the more challenging road of raising revenue as opposed to the easier path of cuts; 3) charitable giving is increased to a 100% tax deduction for not-for-profit cultural organizations; 4) we return to stable arts programs in our public schools; 5) there is better training and programs in arts administration; and 6) there is real communication, trust and respect among the stakeholders within our individual orchestral constituencies. Above all, the public has to show politicians and boards they want a high standard of excellence from its cultural institutions. The people of Nova Scotia said yes; it’s time for the rest of the country to respond in kind.

Rob McCosh, OCSM President

What’s going on in Canada?

On December 13, 2001 the Winnipeg Symphony Orchestra was locked out by its management. They were preceded in that strategy by the Calgary Philharmonic in October. At the same time, the Vancouver Symphony Orchestra reopened their agreement and The Toronto Symphony was threatened with bankruptcy for the second time in 10 years.



A few years ago I commented in the *International Musician* that Canadian orchestras have a spotty history of work-stoppages, and by that I meant that neither management nor musicians seemed to have the stomach for them. Up to that time, the only strikes were in Ottawa at the National Arts Centre in 1989 and Montreal in 1998. There had been crises, of course, like the Vancouver Symphony shutdown in 1988 and threats of bankruptcy in Toronto in 1992, and Symphony Nova Scotia in 1995. No one was getting rich through the ’90s, but at least there were no devastating concessions. We still don’t have the appetite for labour unrest, but it is quickly becoming the reality in Canada.

In October 2001, **Calgary** Philharmonic Orchestra Board Chair Byron Neiles characterized the CPO contract as “too rich” for the environment so he, along with Calgary Philharmonic Soci-

ety President Jack Mills, locked out their 64 musicians. This in a boomtown where according to recent studies, “Calgary has been doing very well, growing 6.5% in GDP in 2000,” and the majority of Calgarians “support an increase in municipal funding for the arts.”

In a nutshell, the management proposed cuts totalling 16% including 4 fewer weeks, 5% less weekly base salary and pension at 6% rather than the current 8%. After a four-week lockout the season was reduced from 41 weeks to 38 weeks and paid vacation weeks reduced from 4 to 3. The weekly rate for musicians is frozen in the first year and there is a 5% increase in the second.

In **Vancouver**, the Vancouver Symphony Orchestra jiggled the final year of their contract. By all accounts they were able to work out a mutually agreeable deal that maintains the 19% increase over the four-year term of the agreement, but the musicians are donating four weeks of salary this year only. Salaries for all staff are frozen at 2000-01 levels. There was no finger pointing, and to be fair, there were many external influences that led to the reopener.

In **Toronto**, the serial that began in 1999 (or perhaps 1992) resumed in September, and finally played itself out with a ratification vote on Dec. 17. Following the strike in 1999 the TSO, with the help of the Symphony Orchestra Institute, set up a joint committee to address the state of relations in the orchestra (reported in *Una Voce* v.8 n.3). It never went anywhere after Executive Director Ed Smith took over the reins. Before the first media blackout in the current crisis, Smith (former ED of the City of Birmingham Symphony Orchestra) threw in the towel with the words:

“The cancer has spread too far into the body. It’s not just a matter of treating one limb or one organ. These are strong words, I know. But that’s the best analogy I can think of. The cancer within the TSO is everywhere.”

It was in that atmosphere that the TSO teetered on the brink of bankruptcy. The result is stunning. As a point of reference, the TSO agreement at the end of the 1991-92 season averaged \$1,140 per week for a 50 week season (\$57,000 per annum). The cleaver came down later that year with a 16% cut. Ten years later it looks like this:

Weeks cut from 46 to 43 this season; down to 40 in the next 2 seasons. Salary for the 24 weeks beginning with ratification is \$1091. In 2002-03 it is \$1406 per week for an annual salary of \$56,240. The negotiated fee for a third year (extension) is \$1475 per week. On top of that are numerous changes to working conditions.

At the last minute there was a misunderstanding about the last 3 weeks of this season—they were completely gone, not a 15% (or even 20%) cut—they simply disappeared. Despite the severity, a clear majority voted in favour of the measures to avert bankruptcy.

All of this was done through a media blackout, even though it was not officially a negotiation. Since the musicians of the TSO ratified the agreement on Dec. 17, there has yet to be anything in the news and we’re not expecting any until early January. We know that there’s a deal (this was written on Dec. 27), but the public still doesn’t.

In **Winnipeg**, the WSO management’s final offer included

laying off two of 67 musicians (including the chair of their negotiations team) and the option to reduce the current season from 38 weeks to as few as 34. In addition, weekly wages would be frozen this year. [As Senza was going to press, Winnipeg reached a mediated settlement. The new agreement reportedly includes an 8% pay raise over three years—zero in the first year, 3% in the second year and 5% in the third year. – Ed.]

[Late-breaking news from **Edmonton**—In the midst of Edmonton Symphony contract negotiations, it was announced that the ESO's recently fired music director, Grzegorz Nowak, and a group of his supporters have proposed starting a rival orchestra, the Edmonton Philharmonia. Millions of dollars have already been raised to fund the new orchestra, and the Philharmonia's founders expect musicians to leave the Edmonton Symphony to join the Philharmonia, offering the musicians a larger role in the new organization's governance. – Ed.]

Can Canadian orchestras survive as a top-flight ensembles after suffering these measures? Most think they will survive, but no one seems to think they will flourish for years to come. For the TSO, 1992 was not devastating, but this one? There are currently 93 players under contract. Two principal players have already found employment elsewhere. There are approximately 30 musicians who will reach retirement in the next eight years.

There are many questions being asked across Canada. Did the TSO Board agree to a contract that they had no intention of honouring? Is there some sort of collusion among orchestra managements in Canada? Why impose unpalatable terms to force a strike or lockout? Is that simply an easy cost-cutting measure to save a few weeks in musicians' salaries?

And where is Orchestras Canada [Canada's counterpart to the American Symphony Orchestra League – Ed.] in all of this? OCSM removed itself as ex-officio Board member of Orchestras Canada (OC) at the 2000 OCSM Conference in Calgary. We had a unique situation in Canada where the AFM and OCSM both attended OC meetings. The AFM is still there, but OCSM has no intention of going back until there is a clear indication from Orchestras Canada that they will address these questions. The feeling of cooperation is quickly dissipating. If there has been a nationwide breakdown among the major players in symphonic music in the past decade, this is it, and it must be rectified.

Steve Mosher, OCSM 2nd Vice President

Newsletter

On January 2, a federal judge threw out President Bush's 2001 anti-worker executive order that required employers working under federal contracts to post notices telling workers about their rights to avoid unionization and dues obligations derived from collective bargaining agreements. The Bush order, however, did not compel contractors to inform workers about their rights to join a union. U.S. District Court judge Henry H. Kennedy, Jr. ruled the Bush administration had no authority under the National Labor Relations Act to issue the measure and permanently enjoined the administration from enforcing it. (from "Work in Progress," January 7, 2002, AFL-CIO)

From the Editor:
A POSITIVE PEACE
Reflections on Martin Luther King Day
January 21, 2002

The editors of *The Nation* (April 30, 2001) wrote this about the controversial 2000 U.S. Presidential election:

What would Martin Luther King, Jr. think if he heard that the Voting Rights Act had not guaranteed access to the polls for all Americans—that barriers and outright intimidation continue to deny the vote to millions? Would he agree with those who say we should move on to other legislative issues? Or would he reaffirm the centrality of the vote in a democracy and call for renewed voting-rights drives, condemning—as he did in 1963—those who prefer “a negative peace, which is the absence of tension, to a positive peace, which is the presence of justice”?

Consider our relationships in the music business in the light of these words. The labor movement is, after all, a civil rights movement, and Martin Luther King, Jr. was assassinated while in Memphis supporting a strike by sanitation workers. Many labor-management relationships today, including in our industry, bear an unsettling similarity to the forced accommodation to power that characterized the negative peace of slavery. Cooperation in the workplace is not always voluntary (as the absence of black voters at the polls is not always voluntary); it is often coerced—management's play upon the employees' fear. Often, employees are not equal partners in decision-making processes; they are forced to play the hand dealt to them by the boss, to choose from among only unacceptable alternatives, to pick their poison, to submit quietly to the employer's unilateral action. Many orchestra musicians around the country now enjoy that kind of negative peace.

People died on the way to the passage of the Voting Rights Act. They could have saved their lives, avoided the fight, accepted their lot, and had their negative peace. But they wanted a *positive* peace, not just any peace, not peace at any price. They wanted a positive peace, complete with justice, respect and freedom for all.

Anyone who thinks that positive peace, justice, and respect can be earned by simply being quiet and cooperative has not recognized his own condition of servitude. He has mistaken passivity for tranquility, acquiescence for satisfaction, silence for truth.

If there is no struggle, there is no progress. Those who profess to favor freedom, yet deprecate agitation, are those who want crops without plowing up the ground, and want rain without thunder and lightning. Power concedes nothing without demand. It never did, and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them. The limits of tyrants are proscribed by the endurance of those whom they oppress.

– Frederick Douglass (1818 - 1895)
 orator, editor, and former slave



Preface

to the Great Electronic Media Debate

Soon you will receive a report on the state of the recording industry from the Electronic Media Forum (EMF). We urge you to read the EMF report carefully, talk with your orchestra colleagues locally and nationally, contribute to the February/March "town meeting" *Senza Sordino*,* and then thoroughly consider the views expressed in that issue of *Senza* before completing and returning the EMF survey.

But first, here are some insights on the process of public intellectual debate that are worth noting:

How do we reconcile ambition and virtue, expertise and accessibility, multicultural sensitivity and the urge toward unified theory? Most important, how do we reconcile the fact that disagreement is a main catalyst of progress? How do we battle the gravitation toward happy consensus that paralyzes our national debate?¹

... the role of public intellectuals [is put at risk by] the triumph of the therapeutic culture, with its celebration of a self that views the world solely through the prism of the self, and much of the time a pretty "icky" self at that. It's a quivering sentimental self that gets uncomfortable very quickly, because this self has to feel good about itself all the time. Such selves do not make arguments, they validate one another. ... I'm struck by what one wag called the herd of independent minds; by the fact that what too often passes for intellectual discussion is a process of trying to suit up everybody in a team jersey so we know just who should be cheered and who booed. It seems to me that any public intellectual worth his or her salt must resist this sort of thing, even at the risk of making lots of people uncomfortable.²

So, let us have a great public intellectual debate, free of rightness and wrongness, free of "icky" selves, free of team jerseys, free of paralytic "happy consensus"—and full of the disagreement that is "a main catalyst of progress." (Civil, respectful disagreement, of course.)

* **Rules for the Great Debate:** Please keep your comments brief and to-the-point, so that as many letters as possible can be printed without editing. Don't attempt to swell the editor's mailbox with multiple statements expressing the same idea; the goal is to publish many different ideas, not the same idea many times. Writers' names will be withheld from publication upon request. (Do identify yourself to the editor, however; letters from unidentified persons will not be printed.) ROPA, OCSM, and ICSOM Emeritus opinions are also welcomed. Any topic involving electronic media is fair game—recording, Internet, radio or TV broadcasting, new use—and also topics involving the process of media negotiations—IBB, traditional bargaining, with or without facilitators, lawyers, caucuses, proposals, etc., and variations on any of the above. Please mail, fax or email your thoughts by February 20 to editor Marsha Schweitzer at the addresses/phone on this page.

Marsha Schweitzer, Editor, *Senza Sordino*

¹ John Donatich, "The Future of the Public Intellectual," *The Nation*, Feb. 12, 2001.

² Jean Bethke Elshtain, *ibid*.

Senza Sordino is the official voice of ICSOM and reflects ICSOM policy. However, there are many topics discussed in *Senza Sordino* on which ICSOM has no official policy; the opinions thus expressed in *Senza Sordino* are those of the author(s) and not necessarily of ICSOM, its officers or members. Articles and letters expressing differing viewpoints are welcomed.

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Senza Sordino

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March 2002

Special Edition: The Great Electronic Media Debate

The letters that appear on the following pages were submitted in response to a request from *Senza Sordino* for opinions from the field on musicians' electronic media issues.

Our intent is to focus the discussion on the issues, not on personalities or politics, and to grant all letters, to the extent possible, equal space and equal weight. To that end, the editor adopted these precepts and procedures: 1) *Direct references to other persons and other persons' opinions have been edited out;* 2) *References to personal titles or credentials that might confer greater privilege to one author than another have been edited out;* 3) *Authors are uniformly identified only by name and pertinent orchestra/employment affiliation, except for those who wished to remain anonymous (of which there were none);* 4) *If, in the course of proofreading, suspected errors of fact were identified, writers were given the opportunity to confirm their information and revise their letters, if necessary and so desired;* 5) *Authors of letters that were much longer or much shorter than average were invited to adjust the length of their letters proportionately, so that everyone could have an equal say; and* 6) *The letters are printed in an order determined by lot.*

Each author was given an opportunity to revise and approve the final version of his/her letter.

Democracy is a risky business. It takes courage to speak out on sensitive, complicated issues. But doing so is the only way to operate in an enlightened environment and make unified progress toward a common goal. *Senza Sordino* thanks all our contributors to this issue for being willing to step forward and take a chance. It is indeed gratifying to see so many articulate and constructive contributions from our readership. We have handled this volatile subject with overall balance and restraint, yet without losing determination and focus.

Senza Sordino must continue to be a publication of the members, by the members and for the members. The pages of *Senza* remain open for debate on media and all other topics. Don't stop now.

Marsha Schweitzer
Editor, *Senza Sordino*

Ideas about the future and the possible shape of the business need to be put forward for discussion. The role of a leader is to provoke discussion about the difficult issues which the rank-and-file would just as soon abdicate to the "leadership." Having provoked discussion, interesting solutions sometimes turn up.

— Lew Waldeck

(on the union education of music students, circa 1994)



In This Issue

**Voicings
on electronic media**

GLOSSARY

Here are the meanings of some terms frequently used in electronic media:

EMF - Electronic Media Forum. A union-management discussion group, formed in 1997, that negotiated the first Symphonic Internet Agreement and then SOBAV last year. The EMF is funded in part by the Mellon Foundation and is facilitated by Fred Zenone and Paul Boulian.

EMG - Electronic Media Guarantee. An addition to musicians' regular salary that is allocated to payment for electronic media services, whether or not any electronic media services are actually performed.

[S]LPA - [Symphonic] Limited Pressing Agreement. An agreement promulgated by the AFM (not negotiated with employers), signed by the AFM and employers, that provides for a lower payment to musicians than under the SRLA for CDs with limited production (under 10,000 units).

MPSPF - Motion Picture Special Payments Fund. Like the PRSPF, except that royalties are based on the life of the film rather than the number of recording sessions.

MPTF - Music Performance Trust Fund. A fund established under the terms of the SRLA and funded by the recording industry that provides subsidies for live musical performances that are free and open to the public.

P2 [Phono 2] - The possible future EMF negotiations concerning the RNC and LP agreements.

PRSPF - Phonograph Record Special Payments Fund. An "Industry Royalty Fund," funded by the recording industry, that provides five years of payments to musicians employed under the SRLA, based on the number of recording sessions played, independent of the release of or the sales income from the subject recording.

RNC - Radio to Non-Commercial Agreement. An agreement promulgated by the AFM (not negotiated with employers), signed by the AFM and employers, that sets the terms for the use of radio broadcast tapes or archival tapes for the production of in-house, non-commercially distributed CDs by orchestras.

SOBAV - Symphony-Opera-Ballet Audio-Visual Agreement. A negotiated agreement that covers the release of symphonic audio-visual material in standard TV, cable TV, home video, and Internet marketplaces.

SRLA - Sound Recording Labor Agreement. Previously known as the P[honograph]RLA. A negotiated agreement that provides the basic terms and conditions for CD recording. The original sound recording agreement, from which MPTF and PRSPF sprang.



ON ELECTRONIC MEDIA



After this summer at the player conferences, no one could say that media issues were not on the musicians' minds. Since then, through Orchestra-L and the ROPA list, many news articles have been disseminated to people so that they can be educated further on these issues.

Clearly, a change is occurring in the recording world. The possibilities that one can imagine are enticing. But, as we have seen with the dot.com failures, big possibilities may not pan out.

Because of the economic uncertainty of these new ventures, I think it would be better for musicians not to give in to the pressure from companies or their orchestras to give away upfront payments for being recorded. I think there are very persuasive people in companies and managements who have no qualms about playing to a musician's dreams and using them.

There are many existing recording agreements already available that are flexible and yet protect the financial interests of the recording musicians. Perhaps these agreements could be looked at more closely by the orchestra managements and other companies, and ways to work with them could be found.

It shows no respect to musicians to be recorded without being paid for their time and artistry. Let's have backend payments, I'm all for them, but not at the expense of also being paid a decent upfront payment.

Jennifer Munday

Los Angeles Chamber Orchestra



With the degree of change, unrest and unknown in the recording-broadcast industry today, it's difficult to know what the best direction for all of us is going to be. The members of Los Angeles Philharmonic Orchestra Committee feel that the most important thing ICSOM can do for its members right now is to maintain an open forum for discussion and exploration of options in this field. We are not suggesting that negotiations take place in public, but that the general direction, desires and intent of those negotiations are known to all our members and the methods used to achieve our desired goals are accepted by all. Only in an atmosphere of open communication and mutual cooperation can the best result be reached.

Peter Rofe and Meredith Snow

for the Los Angeles Philharmonic Orchestra Committee



Have we forgotten our key reasons for recording?

Successful recordings achieve two goals. They are distinctive (artistically or by choice of repertoire), and they reach people (locally, or more widely). Because there are complex issues facing orchestras, understanding our goals and our history can guide our decisions as we explore new opportunities, such as self-produced projects and Internet distribution.

When recording first became a vital part of the orchestra business, it was viewed as creating a monument—a performance at such a high level that it deserved to be preserved forever. With the advent of the CD, and as music-lovers replaced their collections of LPs, it became fashionable to re-record the entire repertoire with performances by as many orchestras and conductors as could be fit into the schedule. Perhaps through our own greed (and driven by egotistical conductors and their managers), we destroyed recording as a viable business by glutting the market with indifferent performances of the same repertoire. Instead of creating monuments, we sent dozens of postcards of monuments, letting everyone know that we had “been there.”

In response to this devastated market, some have proposed that we make it less expensive for orchestras to produce numerous recordings from concert archives of current and past seasons. In this model, selling a few copies of many recordings would result in enough revenue to share with the musicians.

It is striking how far we have come from our original reasons for recording. We have reached the point of scribbling, “Maestro XX was here,” at the base of the monument so that a few passersby may stoop to take notice. Even if we could generate meaningful revenue from this (which remains to be seen), can it be considered successful?

The fact is that an ICSOM orchestra of 70 players, self-producing a recording at the lowest Limited Pressing rate, could recoup its musician and production costs by selling less than 2,000 CDs. An ICSOM orchestra of 104 players, self-producing a recording at the full SRLA rate, could recoup its musician and production costs by selling less than 7,000 CDs. Is it overly ambitious to hope that a recording reaches the same number of people that we reach in a subscription week?

Can we record at the pace we did in the 80’s and 90’s? Probably not, but we nearly destroyed the industry then. By returning to our original purposes for recording, we will avoid destroying our new opportunities with a similar glut. Although the structure of the business has changed, our growing audiences, the successes of some recent self-produced recordings, and the history of our industry indicate that emotionally compelling, vital performances that stand out among the recordings already available, will reach people in numbers that are economically viable.

*Henry Peyrebrune
The Cleveland Orchestra*



People are always looking for trends in an industry. The recent news involving a number of orchestras’ decisions to accept

concessions in their respective trade agreements has cast a pall on symphonic players nationwide and put us in a defensive mindset believing that factors are trending against us. A certain mindset, whether it be a nation’s mindset during a recession or workers’ in a particular industry, many times causes us individually and collectively to make decisions that later are regrettable and lack resolve.

As participants engaged in a political and economic struggle, we need to frame the debate in a way that is beneficial to us, which is critical for a mindset that will enable us as musicians to get paid fairly for the product we produce.

Negotiations called P2 are currently at a standstill, thanks to a resolution passed unanimously by ICSOM at its last conference. If one is not currently familiar with the issues involved, it is easy to become frustrated and quickly disinterested in the “haggling going on in New York.” One of the issues currently at stake with the P2 negotiations, though, is simple to understand. It is whether we musicians will get paid for making recordings. We are at a crossroads as a confederation of symphony musicians; we must decide whether or not to defend a fundamental principle of our profession—getting paid upfront for the work that we do.

The moment we depart from this time-honored principle of getting paid for playing services for recordings, how long do you think it will be before we are approached and asked to play other services without being compensated upfront? Would you be willing to forego your salary and play for only a cut of the ticket sales? Yet that is what we would be asked to do in making recordings if we only receive a percentage of the royalties based on the sales of the products we make and not get paid for the sessions themselves. Would our managers forgo their salaries in lieu of a system that would base their compensation on the number of tickets sold for a particular performance? I think not. Why should we be expected to do so with the recordings we make?

We do not need to be defensive. We need to stand together as we always have and say that if our product is worth recording, record companies and managers will have to pay for it. If it is not, they will not. Agreeing to record for pennies on the dollar because there is a glut of product in the market is foolish.

Ours is not a fluid marketplace like the oil business, where if there is a glut in supply (as there is right now in CD recordings) the product will be sold more cheaply until the next spike in demand. Once we change the fundamental system of the way we are paid for recordings in a currently glutted market, we will not be able to change it back even if there is an increase in demand created by improved distribution channels, new technologies or something unforeseen at this time.

The defensive nature that is beginning to befall our collective mindset is astonishing and one that needs to be altered. Disallowing our attorneys at the table and only having musicians negotiating with professional arts management people through a form of nontraditional bargaining being employed at these negotiations is reckless and idiotic. Tell your ICSOM delegate that you want to

(Turn the page)

be paid upfront for recordings and you want the expert attorneys that are on retainer from your ICSOM dues and AFM dues to be used in these negotiations. Abandoning the fundamental principle of getting paid when we record and not using our negotiating professionals will continue a negative trend for musicians that will affect us for the rest of our careers.

*Scott Weber
The Cleveland Orchestra*



As a professional working musician in the Los Angeles area, I, like many of my colleagues, have performed many different types of music in many different venues. I have also recorded under a number of the different AFM recording agreements. For the most part, I have been very satisfied with the wages and benefits I have received from working under those agreements, the only complaint being that the minimums for session payments and pension contributions could be higher.

When I found out that there was discussion about potential new media agreements for orchestras, I became concerned for the following reasons: 1) There apparently was no official communication about this to the player conference delegates before the discussions or negotiation sessions to obtain the opinions of the players involved; 2) There was not adequate information or opportunity for discussion and debate on the issue at the 2001 ROPA Conference; and 3) It seemed that any new agreement containing provisions allowing locally negotiated EM agreements would result in lower wages for all musicians.

To remedy the issues set forth in 1) and 2), I suggest, and further, I request, that no further discussions occur with the management side of the EMF, or any representative thereof, until the player conference delegates have had the opportunity to discuss, debate, and reach consensus at the 2002 Unity Conference.

As to the issue set forth in 3), I will say simply that the principle of “the race for the bottom” will apply, as it always does, and provide these additional comments: Unions set minimum work standards for wages, conditions, and benefits by negotiating CBAs with employers and by setting minimum guidelines below which no union member should work. The guidelines are not determined so much by the employer as they are by the good judgment of the AFM members and their musician representatives, though what an employer will pay is a consideration. Wages and conditions in Union CBAs should always exceed such minimum guidelines.

Unions are based upon a moral authority, which is to say moral law, where concepts of unity, fraternity (for both sexes), and solidarity are ethical standards that pave the way for such things as higher wages and greater benefits for the union worker. The strength of any union is determined largely by the extent that its members practice the moral authority, or ethics, that their Union is founded on.

*Paul Castillo
Long Beach Symphony*



Recent advances in recording and Internet technology have created different sets of challenges and opportunities for different groups of musicians. Recognizing these differences is essential as we in the classical field seek to make the most of our opportunities while supporting our pop and commercial colleagues in the difficult challenges they face. Here are a few words on the differences and on my opinion that classical musicians should be focusing more on new opportunities than on downside risk.

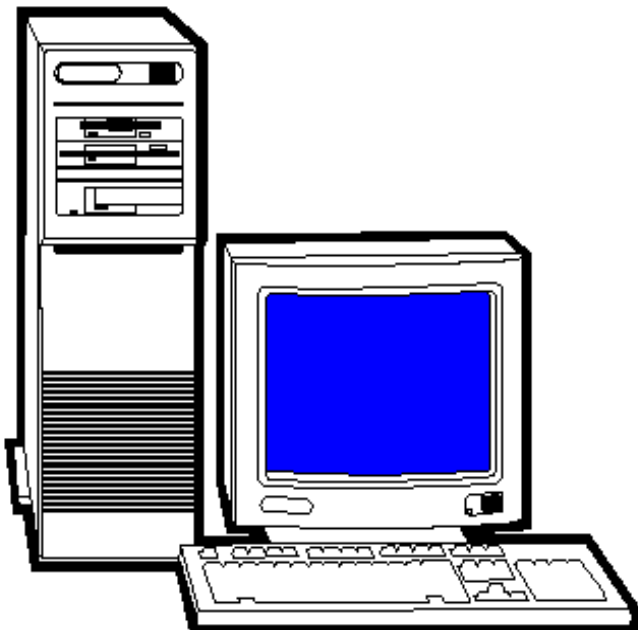
The product of pop and commercial musicians is recorded music; our product is live performance. Our recordings have aptly been characterized as souvenirs or postcards of what we do. It may well be that in the future orchestral musicians will receive substantial income from recording and broadcasts, but the true measure of our success is always going to be the size and enthusiasm of our audiences.

I am not convinced by the arguments of those who say that a glut of CDs or music on the Internet will undercut our appeal. I think that now is the time for each orchestra to be putting its best foot forward with media projects. Whatever works, insofar as it creates new interest in classical music, will benefit us all.

*Bruce Wittrig
Dallas Symphony*



The Lyric Opera of Chicago Orchestra accepts the challenges presented by the unfolding, tentacled issues regarding Electronic Media uses, and does so with a sense of resilience and optimistic forward thinking. Our electronic media products center around capturing live performances for live/syndicated radio/television broadcasts and archival/documentary audio/visual purposes. These have easily dovetailed for in-house recordings utilizing Limited Pressing Recording Agreement terms. This economically viable vehicle exemplifies how management may maximize media to the company’s best advantage. We look forward to contributing other



collaborative solutions which also address Internet issues and are mutually attractive to managements, orchestras, and audiences alike.

Lyric Opera Orchestra Members' Committee
Bill Cernota, chairman, Linda Baker, Mark Brandfonbrener,
Frank Babbitt, Greg Sarchet



As a musician in a regional orchestra, I am living with and trying to understand the Limited Pressing Agreement. *Senza Sordino's* request for discussion regarding electronic media issues is timely, as the Omaha Symphony will be producing its first compact disc sometime soon. As I write, my orchestra will be voting this week to accept or reject the terms of the Limited Pressing Agreement for recording sessions planned in May of this year. It is not an easy choice.

The LPA is being used by orchestras large and small to produce recordings for distribution on a smaller scale. Even from my vantage point here in Omaha, which admittedly is a isolated viewpoint, there seems to be as many opinions about the LPA as there are beliefs about what it is suppose to accomplish. In a letter to his musicians, President and CEO of the Omaha Symphony Fred Bronstein (soon to be President of the Dallas Symphony) recently wrote; "The Limited Pressing Agreement was created and exists precisely to facilitate recording activity among orchestras that would be otherwise unable to record under the prohibitive cost structure of the Phonograph Record (Labor) Agreement." In an article taken from the AFM *International Musician* in October 2001, Deborah Newmark, AFM Director of Symphonic Electronic Media writes about the LPA, "This agreement was developed by the AFM as a low budget alternative to the PRLA."

I have spoken with and exchanged email with people in our business who have been willing to share their own knowledge and insights of the LPA, and to whom I am most grateful. What I have learned is that the original idea for the Limited Pressing Agreement was not intended for symphony orchestras. Some 10 to 15 years ago, the concept of the Limited Pressing arose to encourage jazz and gospel musicians in the Los Angeles recording scene to record under AFM approved contracts. At the time, the complaint was that PRLA rates were too high, and jazz and gospel artists were making recordings without union contracts. The LPA was designed to correct an apparent problem in one narrow segment of the recording industry. Symphony orchestras were not allowed to use the LPA at first.

Fast forward 10 years, add a decline in CD sales, a downturn in the economy which is hurting the bottom line in many orchestras, and you can certainly expect to hear statements from orchestra managers blaming the musicians' "prohibitive" recording rates for the lack of recording work among symphony orchestras. But the fact is, the Limited Pressing Agreement is still a low budget alternative recording contract, and its adoption by symphony orchestras is in my opinion, flawed.

The "limiting" characteristic of the LPA is that orchestras are only allowed to produce a maximum of 10,000 copies of the CD recording. However, whether you are recording Mahler's 5th

Symphony under PRLA or the LPA, the music and the work to record it remain the same. I understand that the profit margin for a Limited Pressing is going to be smaller or nonexistent, but I really don't like the idea that we have placed a lesser value on the performance of the music.

In orchestras like the Omaha Symphony made up of core (full-time) musicians and per-service musicians, the LPA creates a troublesome pay situation. Work under the LPA is considered additional work outside the normal activities of the orchestra. The AFM has strongly cautioned Locals about service conversion—the idea of having recording work replace service guarantees in CBAs. (EMGs that include recording work as a portion of musicians' salaries is another subject.) The LPA sets a recording rate that all musicians will receive more or less equally, differences in pay being set by existing overscales in CBAs. Recording sessions and the fees they generate are separate and in addition to musician salaries. The problem arises when 3 or 4 recording sessions are placed within a normal work week. In order to do these, Omaha Symphony management must reduce the number of regularly scheduled services for the core musicians, in essence giving them a full week's salary for a reduced schedule. Core musicians receive a full week's salary plus recording fees. On the face of it, that looks great. But where does that leave the per-service musicians?

Under the LPA, per-service musicians receive a fee for the recording sessions but they do not receive their per-service wages. In the Omaha Symphony, we consider the per-service musicians as much a part of the orchestra as the core musicians. Adding recording sessions to our schedule creates a financial windfall for the core players that is not shared by the per-service musicians.

One other aspect of the LPA is that an orchestra can produce recordings on location—CDs made from live performances. In this case, per-service musicians do receive their per-service rate in addition to the LPA recording rate. Again, if we are doing strictly recording sessions, per-service musicians only get the recording fee. So within the same agreement, per-service musicians are treated differently. I would hope that at some point the AFM would take another look at the Limited Pressing Agreement and re-evaluate its usefulness to symphony musicians.

Ken Yoshida
Omaha Symphony



As an observer at the 2001 ICSOM conference in San Diego, I was astounded by the vigor and acrimony contained in the discussions surrounding the upcoming P2 discussions. The emotional responses from many of the participants in regard to facilitated negotiations, the importance of traditional payments for recording services, and the desire to be included in the process seemed to surprise many in attendance. The media debate at the conference has shown the organization as a house divided, and that there is a need for better communication if we are to continue to have solidarity within ICSOM.

(yep, turn it again)

Some of the issues confronting us in the P2 discussions were blurred. The Electronic Media Guarantee was characterized as a financial “shell game” whereby musicians working under EMGs are actually subsidizing recordings. This view ignores the point that EMG may also be used as payment for other services, such as television broadcasts. Just as beauty is in the eye of the beholder, compensation for electronic services is in the perception (and pockets) of the musicians, whether they receive EMG or separate payments. It is not up to members of the EMF or ICSOM officers to insist that orchestras convert EMG to salary.

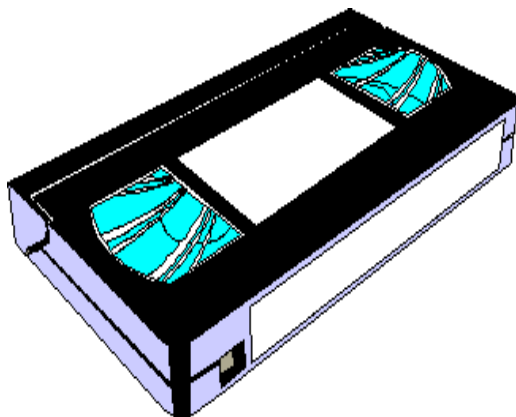
Certainly, the future of the recording industry is in doubt. From the symphonic standpoint, however, the Internet remains years away from being a viable alternative to CD recordings. Whether produced as limited pressings, on-site live recordings, or in traditional sessions, the CD format allows greater artistic and quality control, particularly to the “audiophile” listeners who purchase most symphonic recordings. The problems of distribution seem to be far greater than the costs of recording the musicians. The increases agreed to by the industry in the PRLA agreement support this.

The unanimous passage of Resolution 17 at the 2001 ICSOM Conference should become a keystone for future issues. The demand for a report from the ICSOM Media Committee before it is able to embark on further negotiations shall enable all members to give clear guidance to the EMF. Though laudable in theory, Interest-Based Bargaining may not be viable, just as revenue-sharing as a negotiating technique was abandoned in CBA discussions in the mid-90s. Perhaps most important, the Media Committee should be able to present some idea of what its members deem important in the upcoming P2 discussions.

*Paul Frankenfeld
Cincinnati Symphony Orchestra*



Several of our symphonic members who are also active in film and TV recording have requested that I participate as President of the Recording Musicians Association-Los Angeles (RMA-LA) in your special Electronic Media issue of *Senza Sordino*. Our members have asked me to issue an official response to the concept of locally generated Electronic Media agreements for ICSOM member orchestras. Clearly this is an issue that applies directly to members of the International RMA and, in particular, members of RMA-LA on whose behalf I am currently speaking.



We feel very strongly, for a number of reasons, that locally generated EM agreements are a bad idea. There has been a history of endemic problems and misapplication of the symphonic AV agreement in place of the AFM National Videotape Agreement that has caused problems for both ICSOM and RMA members. The AV agreement doesn't appropriately address or cover many of the aspects of live recording that affect symphonic musicians or recording musicians who may be participating in special nationally oriented live television programs that fall under a traditional videotape format. This misapplication can cause later problems in negotiating proper videotape contracts due to the precedent that these misapplied agreements can set for future negotiations.

In regards to local application of media agreements, we have had experience with our (non-symphonic) Limited Pressing agreements, which are locally generated contracts. This was a serious topic of conversation at the last RMA International Conference and it was clear that general misuse and numerous enforcement problems were rampant in these agreements. Much of the conversation was directed at how to change these local agreements into national agreements that would be acceptable to all parties.

RMA has been fighting very hard to gain legitimate market share in recording work for AFM musicians working under AFM contracts. We have been involved in negotiating a new Motion Picture contract that has many features that will encourage more recording work in all Federation venues by all Federation members. We have been trying hard to maintain a decent standard of living for recording musicians who rely on this work to support their families and pay their benefits such as health insurance and pension. Most RMA members don't have other areas of employment available to them that will cover these costs. I think that it is important for all ICSOM members to realize that their RMA brothers and sisters are just as passionate about making a decent living and supporting their families as ICSOM members are about keeping their orchestras strong and viable. We are all members of the same union and need to apply a good sense of unionism and ethics to our involvement in musical areas that might cross over into the areas of other musicians' livelihoods.

*Brian O'Connor
Recording Musicians Association-Los Angeles (RMA-LA)*



The great media debate often seems to occur in a realm of answers without questions. Many strong opinions are offered as to what should be done but no one seems to be sure what the fundamental problems are. Here are some questions I find myself asking: Why do orchestras record in 2002? Is there a national (or international), commercially viable market for American orchestral recording? What is in recording for working orchestral musicians? How is it part of the missions of our institutions? Are the economic benefits of our recording work the only benefits we receive?

My concern with many of the issues some ICSOM members raise about any potential changes in how and when ICSOM musicians are compensated for recording work is that they don't seem to link their concerns to any of the above questions. I want my recording work, like my subscription concert work or my

educational concert work, to both compensate me adequately and to serve the long-term financial and artistic interests of myself, my colleagues and my orchestra. Perhaps in our concern about compensation we forget the bigger picture.

Jeff Weisner
National Symphony



The musicians of the St. Louis Symphony voted heavily in favor of the SOBAY agreement presented to us last fall. We value the flexibility the new agreement gives us to create audiovisual work that our marketplace will support.

We believe that the ability to generate regional product with some leeway in negotiating our own terms is an important tool for garnering support from our local public.

St. Louis Symphony Orchestra Musicians' Council
Timothy Myers and Gary Smith, Co-chairs



I am writing to express my concern that the course currently undertaken by the Electronic Media Forum will have a significantly negative and divisive cost to ICSOM and to our member orchestras.

It is imperative that all member orchestras or their representatives that are or will be affected by the current P2 negotiations have the ability to express their views in a meaningful manner. There should be no attempt to exclude diverse and possibly unpopular views. I strongly urge the Governing Board to make careful decisions during this seemingly fragile time in ICSOM's history. Poor decisions made now could foster a discordant and troubling period for our institution.

I believe my views on the process of "Interest-Based Bargaining" are well known. At present, I disapprove of IBB and strongly believe that competent and committed counsel is required to protect our membership. Furthermore, you should be aware that the members of The Cleveland Orchestra voted nearly unanimously against the SOBAY agreement. This result was, in the main, because under certain situations, the agreement would provide a significantly lower payment to the members of The Cleveland Orchestra than to orchestra musicians in some other markets for comparable services. We are fearful that the same or worse is going to occur in P2. Having local control of certain procedures is not sufficient. Even the right to approve or veto each specific recording project, *although vital*, is not totally adequate. National and international issues need central standards. Local control, in these circumstances, pits one orchestra against another. It is wrong.

It is not necessary to radically alter the existing National Agreements when innovative but limited latitude can be granted without destroying the gains made over decades. Remember, our only product is our musical performances. These must not be devalued.

What has always worked for us in the past and will continue to work for us in the future is a national *minimum* for the same work.

The recording industry has always had periods of "recession." I have seen this over my 39 years in the business. This is no reason

to run scared. I would rather do no media at all than to sell out to the lowest bidder for this work. Once you "lower the bar," it is difficult, if not impossible, to raise it. Some managements and the organizations that represent them are trying, and I'm afraid, succeeding, in dividing us as well as successfully promoting a sweeping "lowering of the bar." Moreover, I assert that a strategy is emerging in our industry to drastically reduce and/or virtually eliminate upfront compensation to orchestral musicians for all forms of non-concert activity. Make no mistake about this. We must not let this happen.

Richard Weiner
The Cleveland Orchestra



As you know, the Saint Louis Symphony has just been through a scary and stressful time trying to find a way to keep our orchestra at a competitive level and still pay the bills. We had to take significant cuts to achieve a three-year window of opportunity to raise the endowment and earned income of the Orchestra. In a city that has just raised \$31 million from some very generous friends, we still have a challenge to engage the everyday public to think about the symphony as a community must. This is where media is our only hope. It is quite difficult to get any money for the arts, but is even more of a challenge to ask for money for a media product that traditionally does not make money. That is why we must be as flexible as possible to create projects that can help get our message out, pay us something and be an asset to all parties concerned.

We need media agreements that give us greater local control. We can tailor the time, contents and payment to fit the situation. Each area is different in all aspects from money to public recognition. The orchestras which need to build that public recognition now have a way to do it to help create a money base, without asking for money that could go to endowment or monies earned that now go to salary.

We need the Union. There really isn't much division on that point, even though we complain and try to change some procedures. Throughout our history we have needed the Union for collective bargaining and national contracts. Now we need our solidarity as much as ever, but for flexibility to ride out this economic turbulence. When we reach the end and prosperity once again has arrived, we will be in good stead to take advantage of the new economy. Until then we must be as inventive as we are artistic to address the new technology. As we see clearer where this technology will take us in years to come, we can modify any agreement to suit the times, and then we, as the International Union, can work for the betterment of the symphony orchestra world.

Jan Gippo
Saint Louis Symphony



The process surrounding the P2 negotiations has been a difficult one for us all. Many have said that electronic media is a peripheral issue because it represents just a small part of our activity and livelihoods. Unfortunately it's a big issue when it challenges

(Keep a-go-in')

and destroys the unity of unionism, the foundation of the primary strength we have.

The Resolution passed at the 2001 Conference calls for a report and resulting input from the rank-and-file about the content of future EMF negotiations and about the bargaining format. The usual discussions and surveys done in advance of action on controversial topics have not happened. In addition, what discussion has occurred has been controlled and has left a resulting negative taste with many.

Discussions usually reserved for closed sessions during a negotiation have spilled out into the public forum of Orchestra-L. One thing we have seen for sure is evidence of division among the rank-and-file, the EMF, and ICSOM in general.

Unionism is based upon democratic principles. Discussion, surveys, reports would have better taken place before now; in fact, in a traditional approach, these would have come first.

In the P2 process, too much has been put at risk. It's time to open up this process for scrutiny to the rank-and-file and above all proceed with ICSOM's and the AFM's solidarity in mind for the future.

I would like to have answers to these questions:

1. Where is technology going? The environment of electronic media is changing because with digital format of any kind, copies are originals; thus our long term beliefs about copying recordings, intellectual property and copyright laws are being challenged.

2. How are intellectual property, copyright, and ownership of product laws going to respond to the new technology?

3. How will the rank-and-file have to adapt to these new issues?

4. How will the recording industry have to adapt to these same issues? The downturn of recording sales is universal, for symphonic and pop music as well. No one knows if this trend is short- or long-term.

5. How can AFM contracts adapt to these new issues?

6. How will the development of the Internet, which knows no geographical borders, influence all the above?



Surely there is more to study, but the above questions would be a good start.

In addition, we will collectively and individually have to learn more about these subjects to make important and industry-influencing decisions. Finally, including all participants will help to mend and regenerate our strength in solidarity.

*Fred Sautter
Oregon Symphony*



The Chicago Symphony Orchestra Members Committee welcomes the opportunity to express its concerns about the current state of electronic media activity by symphony, opera, and ballet orchestras and about the negotiations governing such activity. In brief, our concerns are these:

• We are concerned that the EMF will not adequately consider a number of important factors, including the cyclic nature of recording activity, the current absence of compelling conductors and soloists, and the emergence of new technologies which could re-energize recording.

♦ The EMF process is not sufficiently representative. A select few, who may be very capable and well intentioned, are not sufficiently in touch with the field and are acting too independently. We think adequate surveys should be conducted before phono negotiations continue.

♦ The EMF process has not produced satisfactory results in the Internet and SOBAY agreements, which allow local autonomy to an extent which pits orchestra against orchestra. We support national contracts with rates established for all.

♦ Relinquishing the hard-won and long-standing guarantee of upfront payments in favor of revenue-sharing could be a disaster for orchestra musicians. We do not support such a move.

We realize that there are other points of view about what is best for our profession, and we are open to hearing those perspectives.

Chicago Symphony Orchestra Members Committee



We have recently (this year and last) been doing recordings utilizing our EMG structure. It is the general consensus that the Limited Pressing is the most viable agreement for our situation. We have recorded two CDs of French music, one of music of Frederick S. Converse (unlimited pressing), and one of the music of Griffes. We have not been able to figure out why the Converse CD was unlimited pressing. The first French CD was used very successfully as background music for an exhibit ("The Triumph of French Painting") at Buffalo's Albright-Knox Art Gallery, using hand-held units coded to the individual paintings. This was done as a New Use of the already-recorded material. Hopefully the second French CD will also be used in this fashion.

*Robert Prokes
Buffalo Philharmonic Orchestra*



Why do we record? Is it part of our basic mission, our orchestras' reason for existence? Or is it ancillary to it—for image-building, promotion, fundraising? Or is it just a vanity thing? How much we need to get paid for recording and the level of risk we should assume in the production of recordings varies greatly depending on how we answer these questions, among others.

There is a difference between payment for services rendered and payment of dividends on investments. Upfront payments are usually for services rendered (although they could be defined as advances on future dividends/royalties, as some recording companies have defined them), and backend payments, often in the form of profit-sharing, are usually investment income (although they could be defined as extensions of upfront payments, like the Phonograph Recording Special Payments, which are directly tied to the specific services rendered, not to product sales).

The decision to enter into a business partnership with management is ours to make, and doing so may be a good choice, but it is a fundamentally different business relationship from the one we have as employee service providers and involves different risks and rewards. Let's not confuse these two types of business relationships or misunderstand the speculative nature of business ownership. Rule of thumb: Don't gamble with the milk money.

One of the basic tenets of ICSOM is that what one orchestra does affects all the others. It was ICSOM orchestras' allegiance and mindfulness to that principle over the last 40 years that produced 52-week seasons, employer-paid health insurance, job security, and decent salaries. For a while, we were in a race to the top.

Now, especially as concerns recording/broadcasting, we are in a race to the bottom. The pressure of substandard recording rates and buyouts in Seattle and Europe—importantly, by orchestras that can produce a product of acceptable quality to both the producer and many consumers—has instilled fear in ICSOM. This is not unrelated to parallel phenomena being experienced in other industries in which operations have gone nonunion or been moved out of the country, or foreign workers imported into the United States to displace Americans, usually at lower wages (like the displacement of New York musicians by a Polish orchestra to perform with the Irish Tenors on Ellis Island last year).

Orchestra managements have little experience at the recording business, fear the risks, and so want us musicians to take a greater share of their burden—provide them an insurance policy against possible loss—usually in the form of lower upfront payments (musician subsidies) and/or backend profit-sharing. Pressure to provide that insurance is coming from many sources: managements, record companies, broadcasters, the marketplace, contract negotiators, and the precedential actions of other orchestras. Some orchestra musicians don't want to or can't afford to provide that insurance—profit-sharing is risk-sharing—but find the pressure to do so overwhelming and virtually impossible to resist.

What do we do in ICSOM when a fellow orchestra is fighting for a contract and encountering obstacles? In the spirit of solidarity, we move in to help—with money, counsel, letters, and most of all, cooperation. ICSOM musicians help fellow orchestras resist the

pressure, even when some of the things being fought for are things we don't necessarily want or need for ourselves. We help fight these fights that are not our own because when any contract battle is won, it strengthens the bargaining environment and raises the bar for all of us. When such battles are lost, all of us are weakened.

As we discuss any future EMF negotiations, let us be mindful that the future of ICSOM depends first and foremost on getting all ICSOM orchestras to rededicate themselves to a common direction and mutual support. There is no higher priority. Even with solidarity, this will be a tough battle. Without it, we will all surely lose.

*Marsha Schweitzer
Honolulu Symphony*



The current discussion of symphonic recording is timely, and I appreciate those who have taken the initiative to prompt it. The EMF process including “no taboos or preset parameters” in discussion is laudable in theory, but I am concerned that it has not been applied throughout, resulting in fundamental questions not being adequately addressed.

There can be little doubt that recording activity of North American orchestras has decreased significantly over the past few years. Assuming that this is a negative development requiring action through alternatives to existing recording agreements is, in my view, a “preset parameter.” It skips the most fundamental policy questions that must be asked and debated.

In its simplest form that question is, why record? What is it that we wish to accomplish? What benefits are we looking for through recording? Are the historical perceived benefits still applicable today? Does recording still represent the best, most appropriate, efficient means to accomplish those things? It may seem heretical to ask these questions, and many probably feel the answers are clear. I haven't seen or heard any such debate, however, and tend not to accept “just because” as a reasoned response to anything (marital bliss and parenting notwithstanding!).

Having an honest look at this—determining exactly what we hope to achieve and why—is a crucial first step. Only then can we determine if more recording is an appropriate strategy, if the objectives can be accommodated through existing agreements or what other models might be appropriate. Even the most basic cost-benefit analysis cannot be contemplated without knowing clearly what the expected benefit is. Skipping that first step and moving directly to strategizing may appear to be in step with current jargon like “staying ahead of the curve” and “being proactive rather than reactive.” In reality it may simply result in applying old methodologies that are inappropriate and ineffectual.

I won't go into a lengthy discussion of existing and alternative compensation models here, but do want to point out a couple of general considerations we might wish to keep in mind. No one should believe for a minute that “profit sharing” in the music business is anything novel or particularly forward thinking. It's been around far longer than most of us. In the recording area, it's

(Onward and upward!)

royalty agreements; in live performance, it's share plan engagements. With few exceptions, symphonic musicians have steered clear of such schemes, certainly in live performance agreements with their not-for-profit employers.

To me, the rhetoric surrounding discussion of alternative compensation models based on lower guarantees/upfront payments with possible added compensation based on financial performance, in both recording and live performance, is strikingly similar: "Symphonic recording is disappearing because the fixed costs are too high, there's an oversupply of product and reduced demand." "Symphony orchestra organizations are in difficulty because the fixed costs are high, there is an oversupply of product (usually expressed in weeks of activity) and reduced demand for the product from the community (expressed as not being sustainable)." If we accept the arguments in the recording area, it's perhaps unreasonable if not naive to believe expectations will not eventually be for acceptance of the same arguments applied to live engagements. After all, the parties are the same in both discussions.

Well-reasoned decisions on whether or not we ultimately change our approach in either area are unlikely if we don't first decide what we really want to achieve. Let's do the groundwork on that before developing and implementing strategies. It should reduce the risk of moving forward with eyes closed and fingers crossed!

Mark Johnson
Calgary Philharmonic



I believe we find ourselves at a defining moment as a union of musicians. It will not be news to any musician in ICSOM that the number of recordings taking place every year has decreased since 1990 or that no major orchestra now has a recording contract (i.e., an agreement for more than single occasions). The American auto industry in the mid-eighties had to adapt in order to survive in the face of foreign competition. While our very survival is no more at stake than usual, a few troubled orchestras notwithstanding, the recording business is anything but "as usual." The several recording agreements under which we record are a curious mix of negotiation and dispensation, with variances granted, it seems, for just about everything imaginable.



Here are the issues which I personally feel are most important:

- ♦ The concept of ownership and control of our recorded product (rather than by a media conglomerate);
- ♦ The discussion of different kinds of financial arrangements, but at the very least involving direct revenue sharing (or royalties);
- ♦ Negotiated contracts by which AFM member orchestras are willing to abide; and
- ♦ The agreements under which we record must be mutually self-aware so that the terms do not actually conflict.

These are the questions I believe need answering before the EMF can explore the future of the North American symphonic recording industry:

- 1) Is there a desire by the musicians to explore other options?
- 2) Do you think that the current economic model for recording will continue to work?
- 3) If you do not feel that this economic model is sustainable, which portions are most important (upfront payments, pension payments, final product time per hour, etc.)?
- 4) If your orchestra has recorded under Radio-to-Non-Commercial, which parts of that agreement need alteration?

John Koen
Philadelphia Orchestra



Labor unions have three fundamental goals: increasing workers' incomes, increasing workers' job security, and increasing workers' control over their work and their workplaces. To achieve these goals, unions have one tool around which every other activity revolves. That tool is collective bargaining.

Unfortunately, these three goals often conflict with each other. When faced with employer demands for concessions, for example, orchestra musicians will generally take wage cuts rather than eliminate orchestra positions. Contrast that with unions in the automotive, steel and transportation sectors, where collective bargaining agreements generally allow employers to lay off workers at will, without consultation or approval by the bargaining unit.

Even more problematic are those occasions when a single goal will mask internal conflict within a group, because different groups within bargaining units view the goal too much through their own needs. For example, section musicians, musicians close to retirement, principal players, and extra musicians can put very different meanings on the phrase "increasing incomes." Anyone who believes these different ideas about "increasing incomes" don't conflict has never sat at a bargaining table trying to get management to agree to more than one of them.

How do these fundamental goals and tools relate to symphonic media? First of all, we need to admit that some orchestra musicians feel shut out of media work by existing agreements, while others are fearful of losing what work they have. Collective bargaining agreements must take into account the needs of both groups.

Sometimes a monolithic national rate for media work is the only answer to employers who "shop around" the work, looking

for the cheapest labor, even if it does limit employment. Historically, that's been the case with the recording and film industries.

But our business is primarily local, not national. The real employer for most symphonic recording is generally not the recording company but the local orchestra management. This is obviously the case with CDs produced by orchestras themselves, such as the historical recordings that have been produced by "Big Five" orchestras recently. It is even true of some new recordings: Philadelphia, St. Louis, and San Francisco have recently self-produced recordings for commercial distribution and sale, while the London Symphony Orchestra just won a Grammy for their self-produced recording of Berlioz's *Les Troyens*.

National media agreements are still the best tool to deal with such product. But we may have to rethink just *how* they do so. A single national rate for media work is appropriate when employers can shop the work around and find a lower bidder. But one orchestra management is not going to hire another orchestra to make recordings. Fundamentally, an orchestra management has to deal with its own musicians.

In this situation, a single national rate—especially one that makes sense for the largest orchestras—can have the effect of preventing many other musicians from doing media work, even though musicians are in no sense competing for the same work. One alternative approach in other national media agreements is a variable or sliding rate, determined by project budget, orchestra weekly scale, market size, or some other appropriate measure. Such rates protect those already working under media agreements while creating new opportunities for other musicians.

Regardless of how the needs of different groups of musicians are addressed, the collective bargaining process is the best way to do so. The unilateral "agreements" that currently cover low-volume and radio-to-noncommercial recording are very weak reeds for us to lean on, because they are only enforceable on union members and not on employers.

All of the "Big Five" orchestras have negotiated deals to make CDs from archival tapes. All but one of those deals was in contravention of one or more terms of the AFM's Radio-to-Noncommercial Agreement. Yet the AFM has taken no enforcement action. Such inaction is easy to understand. Going after employers who violate CBAs is what unions ought to do. Going after union members who work for less than national rates, or local officers who negotiate such deals, is both unpleasant and dangerous for the national union and its officers.

This is an unusual moment in our industry's history; the trade union equivalent of having died and gone to Heaven. Our employers are waiting at the table for us to negotiate a real national collective bargaining agreement to govern a kind of product that will only increase in importance over time, but we're holding back. Collective bargaining is what unions do. Let's not miss this chance to bargain to get this work under our collective control.

*Robert Levine
Milwaukee Symphony*



"What's the problem?" A simple question that needs to be asked when dealing with the complex subject of media. In my mind the problem does not concern motion picture scoring, commercial television, or audio recording for commercial companies. The union has existing agreements with these employers which uniformly cover all members of the union. What we do not have is an enforceable national collective bargaining agreement for self-produced symphonic audio recordings. In response to the fast-changing landscape of technology, declining sales, and changing distribution systems we have seen the release of these types of recordings by some of our most highly acclaimed orchestras. Even though we have a document called the Radio-to-Non-Commercial Agreement, how these types of recordings are paid for and distributed has been the subject of intense local negotiation. Obviously, there is interest in making these kinds of recordings. Therefore the problem is: "Do we want an enforceable national collective bargaining agreement to cover this subject, or do we wish to continue the current state of affairs in which different orchestras have negotiated different interpretations of the Radio to Non-Commercial Agreement?"

I suggest that it is in our best interest to sit down with the managers of our institutions and collectively bargain a national agreement for self-produced symphonic audio recording. This agreement should define what a self-produced recording is and address the issues of what kind of music can be recorded, how the music can be recorded, local orchestra decision-making, distribution rights and ownership or control of our recorded audio product. Equally important, with the creation of a symphonic self-produced Collective Bargaining Agreement we would have the right to ratify and can include language that prevents product recorded under this agreement being used to displace live musicians either in performance or during a strike or lockout.

We have several choices to make here. Do we wish to leave our fate and the control of our recorded product totally in the hands of commercial companies? Or do we wish to create an agreement that empowers and protects symphonic musicians, and allows us to control the electronic manifestation of our art? I know what my answer is.

*Brad Buckley
St. Louis Symphony*



It wasn't all that many years ago that only the big-budget orchestras made commercial recordings. Their international following and worldwide reputations necessitated a steady flow of vinyl from the record manufacturers, who helped fatten the classical section of the Schwann Catalogue into the massive offering that it is today. However, by 1980, small-budget orchestras were beginning to view recording as a means of self-promotion within their communities. A call went out to the AFM to find a legal way to permit them to make affordable recordings which would not have a negative impact on the recording wages and benefits of other symphonic musicians. Against some pronounced opposition, in

(Flip that page one more time!)

1985 the AFM's Symphonic Limited Pressing Agreement was created. Today, orchestras of all budget sizes record under many different national media agreements, including the Symphonic Limited Pressing Agreement.

The debate about recording has been evolving over the last few years. The questions used to be: How much should we be paid to record? Should we lower our recording wages to be more competitive with foreign orchestras? Should contractually negotiated EMGs replace media wages? Should service conversion be allowed in exchange for recording services? Certainly, the Seattle Symphony has pretty much proven that doing media for little or no compensation does not automatically translate into the recording industry beating your orchestra's door down. Nor does not paying the musicians in any way assist lagging recording sales—quite the contrary. The cheaper and easier it is to record, the more duplication of product there is. Slow classical sales, coupled with product glut, and a lack of interesting new music, one could argue, does not provide much of a reason to look for easier ways to get more redundant product out on the market.

At last summer's ICSOM Conference, the debate on media grappled with the question of where we go from here. Should we put a moratorium on recording to ease the product glut? Do we give away upfront payments in favor of backloaded royalties? Should all media work be negotiated locally, or should we maintain our national media agreements? Should orchestras be allowed to give away recorded product? How about the future of Special Payments? To stream or not to stream, that is the question. However you view the issue of the recording, it should be remembered that whatever wages and benefits we give away now will ultimately be lost to us forever.

Lucinda-Lewis
New Jersey Symphony

Fine ☺



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"Unity Two" Convenes in Ottawa

- Who:** All officers and delegates of ICSOM, OCSM and ROPA, and guests.
- What:** The second Unity Conference (affectionately known as "U-2") of the three AFM symphonic player conferences—ICSOM, OCSM, and ROPA.
- When:** Wednesday, August 14 through Saturday, August 17.
- Where:** Ottawa Marriott
100 Kent Street, Ottawa, Ontario, Canada K1P 5R7
Phone: 1-613-238-1122
Fax: 1-613-783-4229
Toll Free Reservations: 800-853-8463

The Ottawa Marriott is a full-service 480 room, newly renovated property, centrally located in downtown Ottawa close to business and government offices and within close proximity of the Ottawa Convention Centre. Parliament buildings, national museums, galleries and shopping are within walking distance of the hotel. The Ottawa Marriott features Ottawa's only rooftop revolving restaurant "Merlot" for fine dining and all-day bistro-style restaurant "Cafe Toulouse," as well as "Lautrec's" Lounge. Additional facilities include the "Kent Club" fitness centre and indoor pool with an extensive children's play area (KIDS ZONE), and 24,000 square feet of first class meeting and convention space.

Why: Why not?

Agenda:

The Conference will convene Wednesday morning at 9:30 a.m. Delegates should plan to arrive in Ottawa by Tuesday evening. There will be two plenary sessions for the entire assemblage, one on **Troubled Orchestras** and another on **Orchestra Artistic Leadership**, exploring the role of the music director and orchestra musicians in artistic decision-making, defining the line between contract concerns and artistic concerns, and identifying the "artistic police"—who makes artistic judgments, hires, and fires?

There will be multiple breakout sessions on **orchestra finance, labor law, music medicine, and other topics** by an array of specialists including attorney Leonard Leibowitz and the AFM Symphonic Services Division.

The remaining sessions will be scheduled by each separate player conference to conduct its own business, which in ICSOM's case includes the election of ICSOM officers.

On Wednesday evening will be the ever-popular social event, **The Mixer**, which this year will celebrate the 40th anniversary of ICSOM and the 25th anniversary of OCSM. Robert Grossman, Philadelphia Orchestra ICSOM Delegate and Master Brewer, has prepared a special Commemorative Brew for the occasion.

ICSOM and OCSM delegates, local officers, and guests who may be interested and available are invited to attend the ROPA **Negotiating Orchestra Workshops** on Tuesday, August 13th, afternoon and evening.

Note:

Article 5.22 of the AFM Bylaws requires your local to pay "the reasonable and necessary expenses of sending one Delegate to the appropriate annual conference of ICSOM, OCSM, or ROPA ..." The room rate per night, with tax, will be \$159.04 Canadian or approximately \$98.60 US. To guarantee the special conference room rate, please make your reservations before July 13, 2002.

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Canadian Travel Tips

The U.S. Department of State offers these tips for travel to Canada. (Thanks to ROPA *Leading Tone* editor Tom Fetherston for doing the web search. Tom recommends these sites for more information: http://travel.state.gov/tips_canada.html and <http://travel.state.gov/canada.html>.)

Visas and travel documents: Visas are not required for U.S. tourists entering Canada from the U.S. for stays up to 180 days. You will, however, need (1) proof of your U.S. citizenship such as (a) your U.S. passport or (b) original or certified copy of your birth certificate and photo identification. (For information on obtaining a U.S. passport, check with the nearest passport agency located at 13 locations throughout the U.S.) If you are a naturalized citizen and do not have a passport, you should travel with your naturalization certificate. Alien permanent residents of the U.S. must present their Alien Registration Card, commonly called the "Green Card."

Additional regulations apply if you are traveling with children, pets, or restricted goods.

For further information, including information on student or business travel, visitors can contact the Embassy of Canada at 501 Pennsylvania Ave., NW, Washington, DC 20001, (202) 682-1740 or the nearest Canadian consulate.

If you have any questions about what you can and cannot bring into Canada, call Canada Customs. Customs officers are available from 8:00 a.m. to 4:30 p.m. Monday through Friday to answer your questions. If you're calling in Canada, dial 1-800-461-9999 for the Automated Customs Information System. Outside Canada, call (613) 993-0534.

Passport: While not officially necessary, a passport is the surest way to make certain you have no hassles entering and leaving Canada. It takes up to 6 weeks to get a passport, so plan ahead. Due to heightened tensions surrounding international travel, some airlines are requiring passport information at the time reservations are made.

ICSOM's travel specialists, Susan Levine and Carl King, are ready to help you with your travel arrangements, as always, at

CTS/Cassis Travel

Phone: 800-726-2757 x 515

212-333-3633 x 113

Fax: 212-247-3702

Email: suetravel@aol.com



Speaking of Canada ...

Here's an update on the situation in Canadian orchestras as reported in *Senza Sordino*, January 2002:

On March 21 the **Edmonton Symphony Orchestra** ended a month-long strike. The package included cutbacks worth about \$1,000 in a \$40,000 salary. But the main item was an agreement to negotiate a role for musicians on the symphony board. A group of Edmonton citizens, lead by the ESO's former music director, had threatened to start a rival orchestra with higher salaries and more musician control if the ESO board did not offer a contract satisfactory to the musicians. The ESO is running a large deficit, but the board is intent on raising more funds and returning to stability.

Increased musician involvement on the board was also a factor in the quieting of tensions in the **Toronto Symphony** last winter. **The Winnipeg Symphony**, which also had a work stoppage earlier this year, has also brought musician representatives onto its orchestra board.



Orchestra labour relations, as well as the weather, were a little chilly last winter in Edmonton.

Pension Arbitration Decision Announced *Vesting Remains The Same*

The AFM-EPF (the Pension Fund) received a ruling on January 21, 2002 from the arbitrator who was chosen to break the deadlock over four motions proposed by the employer trustees in October 2000. The arbitrator, Norman Brand, voted as follows:

* On the employer trustees' motion to triple the amount of covered earnings required for a year of vesting credit, from \$1500 to \$4500 (and also to triple the amount of earnings required to earn vesting credit by quarters), the arbitrator voted NO. This motion was therefore defeated.

* On the employer trustees' motion to triple the amount of covered earnings required in a year to avoid a break in service, from \$375 to \$1125, the arbitrator voted NO. This motion was therefore defeated.

* On the employer trustees' motion to reduce the pre-retirement death benefit that is payable to the beneficiary of a vested participant who dies before retirement, the arbitrator voted YES. This means that the pre-retirement benefit will equal 100 times the monthly pension that the participant would have been entitled to receive (a) beginning on the date of death if the participant was 55 or older, or (b) beginning at age 55, if the participant died at an earlier age. (The current pre-retirement benefit equals 100 times the monthly pension that the participant would have been entitled to receive at age 65 if the participant dies at or after age 60, or 90 times the monthly pension that the participant would have been entitled to receive at age 65 if the participant dies at or after age 55 but before age 60, or 65 times the monthly pension that the participant would have been entitled to receive at age 65 if the participant dies before age 55.)

* On the employer trustees' motion to reduce the post-retirement death benefit that is payable under the "life annuity with guarantee" to the beneficiary of a pensioner who dies before receiving 100 monthly benefit checks, the arbitrator voted YES. This means that the post-retirement benefit will equal 100 times the monthly pension that the participant was entitled to receive when the benefit commenced, minus the benefits that the participant actually received while he or she was alive. (The current post-retirement benefit equals 100 times the monthly pension that the participant would have been entitled to receive at age 65.) This motion will not affect the guaranteed amount of any pensioner who retired before the change takes effect, and any participant who retires after the change takes effect will be entitled to a guarantee amount that at least equals the amount that would have been guaranteed before the amendment takes effect.

On the motions to change the pre-retirement and the post-retirement death benefits, the arbitrator did not set a precise date for these changes to take effect but asked the Pension Fund trustees to attempt to agree on the implementation date, considering "administrative practicability." One other important point to note: the changes in the post-retirement death benefit will not affect the amount of the benefits that will be paid to the surviving beneficiary of a pensioner whose benefits are payable in the form of a joint-and-survivor annuity.

San Jose Symphony season in doubt

I am sad to report that the San Jose Symphony is on the edge of going dark for at least 6 months, probably a year or more, and more than likely will soon file for bankruptcy. This comes despite the tireless efforts of our negotiating committee, our musician board representatives, our Local officers, and many dedicated community members who were involved in the attempt to keep the orchestra afloat during a transitional restructuring period. The interim board is of the overwhelming opinion that a clean break from the past is necessary to attract new funding sources which have not been forthcoming in the last 8 months since our semi-shutdown.

There exists several scenarios, as set forth by a community advisory panel, for what sort of entity will eventually emerge from our demise. Suffice it to say, no one envisions a return to what we have known to be our orchestra. Perhaps the worst scenario is the establishment of a "presenting organization" who would sponsor major touring ensembles and artists, but with no active local orchestra, per se. More likely we will see a scaled-back orchestra with a new name, fewer musicians, and with expanded educational and multicultural roles in the community. No one really knows.

While the musicians feel that we have reached the end of our influential rope with regard to the imminent decisions to be made by the board, there are long-term issues we must address in order to maintain the integrity of our bargaining unit. Specifically, we want to ensure that those tenured and probationary musicians currently working under our existing CBA will be assured of positions when a new entity emerges.

David Schoenbrun
SJ Negotiating Committee

Update from David Schoenbrun on June 6, 2002: We're in a holding pattern at the moment, waiting for the Interim Board to decide on what form of bankruptcy with which to proceed (likely Chapter 11). Meanwhile we're negotiating a sideletter to sustain our CBA and ensure the integrity of the bargaining unit during the "dark period" and provide for at least COBRA health benefits for those who need them.

Senza Sordino is the official voice of ICSOM and reflects ICSOM policy. However, there are many topics discussed in *Senza Sordino* on which ICSOM has no official policy; the opinions thus expressed in *Senza Sordino* are those of the author(s) and not necessarily of ICSOM, its officers or members. Articles and letters expressing differing viewpoints are welcomed.



In the “Great Electronic Media Debate” issue (March 2002), Ken Yoshida discussed the **origins of the Limited Pressing Agreement**. Brother Yoshida noted that he was conveying what others have told him as opposed his personal recollections. I must say that these others gave him information that was not quite accurate. As someone who was very much involved in the Limited Pressing revolution, I feel compelled to offer the real story behind one of the most significant events in the AFM’s history.

First of all, the concept did not originate among “jazz and gospel” musicians in Los Angeles (or in any other one place). It was a Federation-wide grass-roots movement. Technological changes had lowered the cost of recording enough—though not yet to the “studio in any garage” level—to allow work on which the major recording centers had previously held an essential monopoly to proliferate throughout the “secondary” markets, often with little Federation control.

The then-leadership of the AFM addressed this phenomenon in a very curious way. It “worked out” a “special deal” in Nashville, promulgated throughout the Federation, for “demonstration recordings.” These so-called “demos” were regularly pressed and sold. This is blatantly absurd: A “demonstration recording” by definition is a promotional *non-product* used to audition a composition, arrangement, performer, or group. Using a “demo” for commercial product is intrinsically contradictory.

After much coast-to-coast discussion, one vigorous union official—Ray Hair, President then of the Fort Worth Local and now of the merged Dallas-Fort Worth Local—decided to stop talking and to do something. In 1986, he proposed a Resolution to the Western Conference to establish a reduced-price for phonograph recording with limited distribution. The Conference enacted the Resolution unanimously. He then took it to the Southern Conference, where it was again overwhelmingly supported, though with some amendments.

The RMA, with the endorsement of all six of its Chapters and the support of all major plus many smaller Locals, carried this concept to the 1986 phono negotiations. In the pre-negotiation meetings, the AFM leadership flatly refused to take the proposal to the table in spite of its nearly universal support. In March 1987, however, the IEB did authorize Locals to enter into Local Limited Pressing Agreements for projects of up to 5,000 units (2,000 in Canada) that met certain minimum standards.

Initially ICSOM rejected Limited Pressings for Symphonic recordings. Through the ensuing years ICSOM first approved allowing an orchestra that had never before recorded to make one (period, not one per year) Limited Pressing. This restriction was eased over the years until it reached its current incarnation of one per year with a higher number of allowed units, a Federation rather than a Local Agreement (this applies only to Symphonic record-

ing), and case-by-case approval from the musicians. This final protection makes Limited Pressing permissible rather than mandatory and prevents its use without the musicians’ sanction.

One cannot exaggerate the good that Limited Pressing has done both in the Symphonic and non-Symphonic fields. Countless recordings that would never have been made or would have been recorded “dark” are now being done under union conditions and contracts. Any perceived downside to this is easily remedied through the protections already in place. In addition, Limited Pressing opened the door to a far more reality-oriented view of the vast recording workplace than had ever previously been seen in the AFM’s thinking.

*Richard Q. Totusek,
RMA Secretary and Itinerate Parliamentarian
rqt@lvcm.com*



President Lee Defends Musicians

March 4, 2002

Mr. James W. Ziglar, Commissioner
U.S. Immigration and Naturalization Services
U.S. Department of Justice

RE: Kirov Opera & Ballet Symphony Orchestra

Dear Commissioner Ziglar:

It has come to our attention that the 112-piece Kirov Opera and Ballet Orchestra (“Kirov”), which entered this country under the auspices of the Kennedy Center for Performing Arts in Washington DC, has done so under false pretenses which we believe amount to fraudulent behavior.

My Assistant, Mark Heter, reviewed a petition from the Kennedy Center requesting a P-1 consultation for this orchestra for a series of Opera and Ballet performances (see enclosed). Upon reviewing the materials, it was determined by Mark that, as submitted, this fell well within the established current regulatory requirements for the P-1 visa.

Subsequent to this letter of no objection, the Kirov came to the United States for its performances at the Kennedy Center. However, in addition to the performances listed in their visa application, this orchestra engaged itself in recording a motion picture soundtrack for Paramount Pictures – activity they did not list in their visa application. This soundtrack recording represents unfair competition for American workers who have done this work in the United States under American Federation of Musicians contracts for years.

We strenuously object to any further issuance of P-1 visas for the Kirov Orchestra until such time as we can be assured they are not entering this country to ruin established employment for our membership. They do not receive our wages, benefits, or residual rights, nor do they pay taxes that we are aware of.

Given the climate of war in which we now live and President Bush’s commitment to Homeland Security, we are deeply disturbed that an arm of the United States Department of Justice would

“Voicings” graphic design and concept by Michael Gorman and Norman Foster (bass and clarinet, respectively, of the Honolulu Symphony)

enable, in any fashion, deceptive behavior on the part of foreigners working on our soil. This time it was only economic terrorism which victimized hard-working American musicians. The next group entering this country under false pretenses may have far, far worse in mind. The INS cannot continue to turn a blind eye; it must not throw up its hands in bureaucratic apathy.

The Kirov was admitted to the United States expressly as an accompaniment to Opera and Ballet performances. They were not admitted to steal work from American recording musicians, undercut American wages, and permit Paramount Pictures to dodge paying payroll taxes. If they are going to lie by omission about the pretense under which they wish to enter this country, then future entry into this country, by all rights, should be denied them.

Sincerely,

Thomas F. Lee
President, AFM



Editorial Announcement for KCRW radio (Los Angeles):

“I am Tom Lee, the International President of the American Federation of Musicians. The AFM represents over 100,000 professional musicians. Our members include famous recording musicians, struggling royalty artists, and session musicians whose names you never learn but whose great music you hear on thousands of recordings.

It is easy to think of all recording musicians as rich and glamorous, but the facts are different. Many talented and hard-working musicians struggle to make a living. At the same time, commercial broadcasters earn huge profits by broadcasting music without paying any royalties to the musicians who recorded the songs.

Congress corrected part of this problem when it changed the law to require digital music services to pay for the use of sound recordings. But broadcasters and webcasters continued to stream our music for free while they waited for a government panel to set a royalty rate. That panel carefully considered months of evidence before it recommended royalty rates for online streaming. The truth is that the recommended rates won't bankrupt commercial webcasters and broadcasters. Indeed, the evidence showed that those industries expect to pay - and do pay - market rates for everything else they need. The music upon which they build their businesses should not be an exception. Musicians are entitled to be paid for the use of their work. That is just fundamental fairness. What is more, it is essential for our culture, because if musicians cannot earn a living they cannot continue to create the sound recordings that we all love. Fifty percent of the new digital performance royalty payments will go directly to musicians and vocalists. This new income stream is critically important to musicians. It is time for the complaints to end, and the payments to begin.”

In a decision reached on February 20, the CARP recommended that Webcasters be required to pay 14 one-hundredths of a cent (0.14, or \$0.0014) per song streamed to each listener. Terrestrial radio stations would be required to pay one-half that amount when they stream their radio broadcasts on the Internet. The Librarian of Congress recently rejected that recommendation and is scheduled to decide the issue by June 20.

You Can Help!

Dear AFM Members,

As you undoubtedly are aware, an arbitration panel appointed by the Copyright Office (the Copyright Arbitration Royalty Panel, or CARP) recently set rates for the license fees that broadcasters and Web casters are required to pay when they stream sound recordings on the Internet. By statute, 50% of these new license fees are required to be paid to performers – 45% to featured musicians and vocalists, and 5% to non-featured musicians and vocalists. These digital performance license fees will become an important new income stream for recording musicians.

Unfortunately, the release of the CARP Report was followed by an intense press campaign that aimed to create fear that the new license fees will destroy Web casting. But the press stories were based on miscalculations of the license rate, and grossly overstated the fees that Web casters and broadcasters will have to pay. Even worse, Web casters and broadcasters have asked Congress to intervene – among other ways, by ordering a five year moratorium on all license payments.

Recording musicians need your help. Please write to your Senators and Congressmen and let them know that you believe they should not interfere with the CARP process. A sample letter for this purpose can be found on the AFM website: www.afm.org.

Musicians are entitled to be paid for their work. Web casters and broadcasters have many costs, but one of the least expensive is the music that forms the basis of their businesses.

Please speak out on this important issue. To find the fax, email, or mailing address of your local representatives please visit www.senate.gov and www.house.gov.

Sincerely,

Tom Lee, President
American Federation of Musicians



from “Joint Statement on Current Issues in Radio” to the Federal Communications Commission (FCC) and the U.S. Congress (May 24, 2002):

Tom Lee, International President, AFM: “The art of music and the business of music both suffer when a *de facto* payola system means that recording artists must pay small fortunes in so-called independent promotion fees for the chance to be heard on the radio. When you add to that the potential for a handful of radio station groups to lock up huge portions of the live music business by owning concert promoters and live performance venues – and then to pressure artists to perform only in their venues and only for their promoters – the effect is ruinous for artists, consumers and the growth of American music and culture. The AFM and its 110,000 members are proud to stand with the music community coalition in asking the FCC and Congressional leaders to review these aspects of the radio industry.”

To read the full text of this document, visit the AFM website: www.afm.org. – Ed.



ConcertWorks, Inc.

Consortium Will Facilitate Future Internet Broadcasting

One clear insight to emerge from the Electronic Media Forum was that, while the Internet presented significant new opportunities for orchestras, technology acquisition and website operations might be difficult and expensive for many orchestras to explore on their own. Out of that insight came the concept of a national consortium to help American orchestras get on the Internet.

In the two years since this idea was first discussed, a small steering committee from the EMF has been working on developing such a consortium. Much has changed on the Internet landscape in that time, but unfortunately, few orchestras have made much progress in cracking the Internet puzzle. As a result, the need for such a consortium has only become clearer.

In May, the steering committee made its final report to the National Internet Oversight Committee. The working group presented bylaws and other documents required for incorporation, a list of orchestras that had signed commitment letters, a financial plan for the consortium's first two years of operation, and a name – ConcertWorks.

The purpose of ConcertWorks is to provide the technology needed for orchestras to put music on their own websites. Using the Internet Agreement and a Local Internet Oversight Committee, orchestras will, for example, be able to stream their concert tapes, either as webcasts or by consumers selecting works or whole programs to receive, or they can make music available as downloads. Orchestras can charge for product, make it freely available to all comers, or make it available to select groups such as donors or subscribers. Through digital rights management software, orchestras can set their own restrictions on how consumers can use the product, in particular whether or not it can be copied to other devices such as portable players.

Services provided by ConcertWorks will include:

- Converting an orchestra's existing analog or digital audio recordings into a compressed, Internet-deliverable digital form.
- Applying rights-management restrictions to these recordings, so that their use is controlled.
- Hosting these recordings in a secure, high-performance environment.
- Acting as a transparent technology provider whose services are integrated seamlessly into the orchestra's website.
- According to an orchestra's preferences, collecting subscription or pay-per-download fees from customers or offering free access to some of all of an orchestra's website visitors. (e.g., a client's subscribers or donors, or only those users who provide registration data).
- Providing orchestras with data on usage of their recordings, including registration data and email contacts.
- Creating, managing and delivering a streaming Internet radio channel.

· Professional consultation on how to use this new technology most effectively and how to set up this service on the orchestra's website for the best user experience.

ConcertWorks is being established as a nonprofit organization. Its governance structure was modeled on that of the AFM-EP Fund, which is run by a board composed equally of representatives of employers and employees. ConcertWorks will be governed by a board of 17 directors; eight managers and five musicians from participating orchestras, one appointee each of the AFM, ROPA, and ICSOM, and one external director elected by the entire board. Its revenues (except for start-up funding) will come from the fees it charges its member orchestras for participation and additional services.

Initial funding for ConcertWorks has been provided by the Andrew P. Mellon Foundation. While additional start-up funding is still being sought, the initial goal of ten launch-client orchestras has been met, and the Steering Committee is working with several of them to get demonstration projects up and running quickly.

More information on ConcertWorks can be found on the Web at <http://info.concertworks.org>.

Robert Levine
ICSOM Chair

Internet Contract Extension Proposed

The AFM and the Major Managers' Media Committee have agreed to propose a two-year extension of the Symphony/Opera/Ballet Internet Agreement, which expires on July 31. The Agreement will be extended without change, except for a clause allowing either party to reopen the Agreement to discuss issues relating to rates for webcasting recently proposed by the US Copyright Arbitration Royalty Panel (CARP).

The extension was recommended to both parties by the National Internet Oversight Committee, which met in New York on May 6. In agreeing to recommend the extension, the union-side members of the NIOC informed the managers that they would withdraw their previous recommendation to musicians regarding the treatment by Local Internet Oversight Committees of simultaneous streaming of orchestra radio broadcasts. That recommendation, which had created some controversy in the field, was that LIOCs allow such simultaneous streaming of radio broadcasts without additional payment to musicians.

As required by AFM bylaws, the extension will be subject to a ratification vote by affected musicians. At the time *Senza Sordino* went to press, the timetable and procedure for such a vote had not been determined by the AFM.

Closing Cadence

John de Lancie

John de Lancie, 80, retired principal oboist of the Philadelphia Orchestra and ICSOM Emeritus, died May 17 of leukemia in California.

Mr. de Lancie was born in Berkeley, California. He entered the Curtis Institute of Music at age 14 to study with the legendary Marcel Tabuteau. He joined the Pittsburgh Symphony in 1940, and in 1942, entered the U.S. Army and played in the Army Band. De Lancie served in Germany during World War II, and during that time he suggested to Richard Strauss the idea of writing a concerto for oboe. The Strauss Oboe Concerto became a reality in 1945. From www.richard-strauss.com:

At end of war Pittsburgh Symphony oboist John de Lancie, then an American soldier billeted in Garmisch, visits the composer and sows idea for Oboe Concerto. Strauss completes it before moving to Switzerland with Pauline [his wife].

He later commissioned works by Jean Francaix and Benjamin Lee. In 1946 de Lancie joined the Philadelphia Orchestra, serving as principal oboe from 1954 to 1977. He was then appointed director of the Curtis Institute of Music, a post he held until 1985.

John de Lancie is remembered as a teacher as well as a performer. His students hold principal oboe positions in Philadelphia, Boston, Montreal, Minneapolis and elsewhere. He is survived by his wife, Andrea; his son, the actor John de Lancie; daughter Christina; and his brother, Richard de Lancie.

I'll never forget when in Aspen I hemorrhaged very badly. Both John and his wife Andrea insisted I go to the local hospital and stayed with me practically the entire night in the ER. I'll never forget their thoughtfulness. They knew my wife couldn't handle my problem by herself. Both of them were not in good shape but still were really loyal friends. I'll certainly miss him.

*Abe Torchinsky, Philadelphia Orchestra tubist, retired
ICSOM Emeritus Director*



I was personally very saddened to hear that **Phil Sipser** (ICSOM's first attorney) had passed away. In the '40's I knew "Izzy" Sipser. There was an American Labor Party office in Williamsburg, Brooklyn NY, where he was very active, fighting to better the lives of the working people of Brooklyn. I got to know him there when he and I were quite young. In later years he continued to fight to better the lives of musicians, which he did. He was a caring and special person.

*Phil Fath
San Francisco Symphony and Opera clarinetist, retired*



John Barwicki

My, father, John Barwicki, died on the morning of November 25, 2000, after suffering with terminal cancer. He was 90 years old at the time of his passing, wonderfully active – drove a motor scooter and skated, was clear in mind and spirit, continued to practice the double bass until the last two or three months of his life. He like to, as he said, keep his fingers limber and calloused. I'm sure his playing was driven by the pleasure of knowing that, after his retirement at 76 years of age from a 50-year tenure with the Boston Symphony, he was still a young man in heart and mind. I miss hearing the daily regimen of his practice.

Edward J. Barwicki



Richard Simon

Musician, teacher, union activist and long standing member of ICSOM Richard Simon passed away from cancer complications on February 14, 2002.

A native New Yorker, he began studying the violin when he was six years old and made his professional debut at Town Hall at the age of twelve. In 1956 he received his Bachelor of Music degree from the Manhattan School of Music.

During his thirty-three years as a member of the New York Philharmonic, Simon played under the directorships of Leonard Bernstein, George Szell, Pierre Boulez, Zubin Mehta and Kurt Masur. Simon also maintained an active chamber music career performing with the Simon Quartet, Weinstock Quartet, New York Piano Trio, Arioso Trio, New York Philharmonic Ensembles and the London Chamber Players. A respected teacher and clinician, Simon frequently participated in music festivals and organized several educational projects. Over the years, Simon developed a considerable expertise about treatment therapies uniting the principles of oriental and western medicine having important implications for musicians.

Many musicians came to know Richard and Fiona Simon in the early 1990s when the IRS decided to challenge the depreciation of their antique violin bows on their 1989 tax return. This case rose to national prominence receiving much attention from the press. [including *Senza Sordino*, December 1996.] A long legal battle ensued, but the couple prevailed, establishing precedents of great importance to all musicians. With a heightened awareness of the essential role the union can play in furthering the causes of working musicians, Simon studied labor issues at the Meany Institute for Labor Studies and Cornell University. He served as a member of the New York Local 802 Executive Board and Coordinating Advisory Committee. He is survived by his wife Fiona and three children Daniel, Naomi and Michael.

*Obituary by Jay Blumenthal
New York City Ballet Orchestra
ICSOM Governing Board Member-at-Large*

Last Man On Earth Without A Solo CD

By Alan Goodman

It's not easy to find somebody who doesn't care to be found. The man hallooed me from the bank of fast-running Strawberry Creek, a mountain stream tucked into the shadow of the Salt River Mountains. His voice was lost in water tumbling wildly over rocks and boulders to a destiny of faucets, toilets, and with any luck, the meandering Salt River in the valley below. Only when my fly rod swiveled in the direction of a restless pool beneath a mossy boulder did I notice the guy standing on the boulder.

"Hey," I shouted. "You're scaring the fish."

"Are you Hal Reedy?" He ignored my signals to move away from the water and made things worse by leaning further over the pizza-sized pool.

"Can't hear a word," I hollered. "Now get your shadow back always so I can tempt a few finicky fish."

He cupped his hand to his ear, gestured with both arms out parallel to the ground and shook his head.

"Get outta' there," I called out. "You're bad news for my fishing."

"You Hal Reedy?" His lips moving gave the only clue to his words.

"Ah, hell with it," I said to the pizza pool. I reeled in the fly line and waded over to where the guy was standing. The roar of wild water receded as I muscled tired legs up the hill. I could hear snapping of dry twigs behind so I knew either the guy was following or I was about to be propositioned by a bear. Either way, I was bummed about missing out on the promise of a fish.

"You Hal Reedy?"

I found a chair-sized rock with an relatively flat top and lowered my assets until comfortable. "Yeah, I'm Reedy. Who are you?"

"THE Hal Reedy?" The guy was strange looking, especially given the circumstance of being about four miles up a mountain stream, a long way from any drivable road. You don't see many individuals running around in slacks, suit jacket and ties in the back woods of Wyoming.

"The,' 'A,' 'That,' 'Old,' 'Big,' 'Son-of-a-bitch' Hal Reedy. Take your choice. I answer to all titles. Equal opportunity name employer, that's me." I gave up any attempt asking who he was a second time. He looked like a feller too focused in on the target to answer questions just yet.

"I mean, are you the Hal Reedy who used to play Principal Bassoon for the Manassas Mauler Municipal Philharmonic? The big-time, world-famous, bassoonist. The only bassoonist on the face of the earth to not have never made a solo CD?"

"What's it to you?" I fit the description, but before I admitted anything I wanted to know who I was dealing with. It had been years since I had last touched a bassoon. Fifty years of scrapping reeds, struggling upstream with the other bassoon salmon to lay musical eggs in the streambed of artistic ambition had been enough. While colleagues evolved legs enough to crawl out of the current, onto

the banks and into recording studios, I hung around the streambed too tired, lazy, and/or uninspired to do anything but throw out a fly line for my smaller brethren, the trout.

"Allow me to introduce myself," he said. A little white card appeared from his suit jacket. "My name is Laste Chance. I've been looking all over for you. You're a very famous man, Mr. Reedy. Very famous."

"That so?"

"Yessir. You are without a doubt a world-renown musical anachronism."

The card read, 'Laste Chance, Vice-President, World Glut Recording Company.'

"I spoke with Jenna Henson the other day," I said. "She told me if I didn't keep my dog out of her chicken coop she was going to shoot the dog first and finish up the job by coming after me."

Laste Chance's face looked slightly pained. It could have been my comment about Jenna Henson's chicken coop, or it could have been the afternoon wind starting to whip down the canyon through that lightweight suit jacket of his. "Who's Jenna Henson?"

"Lady who lives about a half mile from me in the valley below. Loves music. Whistles Willie Nelson tunes all day long. It doesn't sound like Jenna Henson, the music lover, has got much patience for world-renowned bassoonists."

"Yes, well be that as it may, Mr. Reedy, as the only bassoonist in the entire world over the age of twelve to never have made a solo CD album, you have a certain marketable cachet — so to speak. Do you realize that there are — at least as of yesterday when I left our corporate offices in New York City — ten-thousand, five-hundred, and twenty-seven CD's of bassoon solos in the Schwann Catalogue. Just imagine, Mr. Reedy, you are the only bassoonist alive who leaves no record of your artistic integrity. Sir, you are an icon of invisibility."

"Icon." I chewed on the syllables of it. "Nice feel to the word. What's it all mean?"

"It means, Mr. Reedy, that my company is interested in producing a solo bassoon CD by you."

"But, I'm retired. I don't play anymore. My bassoon has befriended a local colony of dust particles it would be inhumane to tear her away from with one swipe of the dust mop."

"Mr. Reedy, we are prepared to offer — in return for the exclusive rights to any CD you make — a large five figure sum. Half would come as an advance."

"Mr. Chance, what music for the bassoon hasn't already been recorded?"

"It's not the music, Mr. Reedy. It's an opportunity to sense the virtuosity, the meaning, the soul, the message of the artist."

"The message?"

"Yes, Mr. Reedy. The world has been deprived of your message. You are the only bassoonist remaining who has not willed his message to posterity. Think of the millions of souls crying out for your message. Yours can be a clarion call to the essence of

(continued on page 6)



meaning.”

“Mr. Chance, how many bassoon messages did you say were calling when you left New York?”

“Ten-thousand, five-hundred and twenty-seven.”

“Any chance of my getting the money without the clarion call?”

“No sir,” Laste Chance said. “Cash for artistic meaning. Half up front. Half after the CD is in the catalogue.”

“Five figures,” I mused. “A tempting sum.”

Laste Chance pulled a pen and a folded document from his jacket. “If you would just sign here, Sir?”

“Do I go on being an icon if I decide to not make a CD?”

Laste Chance withdrew the paper and pen a few inches from where it had advanced to under my chin. “Well, yes. I suppose so.”

“And if I remain an icon, doesn’t my value as the only bassoonist in the world without any tangible proof of offering meaning increase?”

“Yes, Mr. Reedy, but...”

“And if I should die while still an un-CD’d icon won’t that make my worth as an artist of unrecorded essence absolutely priceless?”

“Well, Mr. Reedy, of course death dampens hopes for any future CD’s, but I remind you that...”

I pushed Laste Chance’s pen and contract away and stood up. I reached for my fly rod and looked up at the sky. “Storm coming on, Mr. Chance. I better be getting down the mountain if I’m going to sign that contract of yours.”

He stumbled along trying to catch up. I moved with all the assurance and greed a man of sixty-one could muster after a hard day of fishing. “What’s the rush, Mr. Reedy? You can sign right up here and walk down slowly.”

“Got to get out of the mountains before the storm hits and Jenna Henson locks those chickens of hers up in the coop.”

“What’s that got to do with our contract to make a bassoon CD?” Laste Chance was huffing along. He couldn’t have been over thirty-five. I thought about warning him of the hazards of carrying too much fat, but then I didn’t want to squelch my chance for immortality alongside those other ten-thousand, five-hundred and something-or-other bassoonists.

“Gotta let my dog out so he can get after Jenna Henson’s chickens,” I called over my shoulder and picking up as much speed as my feet could muster. “That way, when she kills my dog and comes after me with that Winchester I’ll be an icon worth millions and millions.”

“But Mr. Reedy. If she shoots you dead how can you sign a contract with us?”

“Where there’s a will there’s a way, Mr. Laste Chance. All I can count on now is all the millions I never made when alive are too good to pass up dead. Get ready to sign on the dotted line as soon as the feathers fly from the chicken coop.”

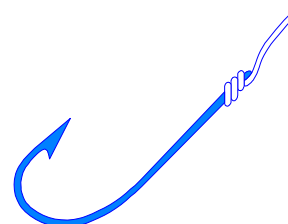
“But, Mr. Reedy...” That boy sure was out of shape. He sounded like a steam locomotive struggling up a steep grade.

“Sure hope Jenna Henson can shoot straight,” I called back over my shoulder. “Even with her lousy eyesight and piss-poor aim she should be able to get a giant icon lined up in her sights, don’t you think, Mr. Chance?”

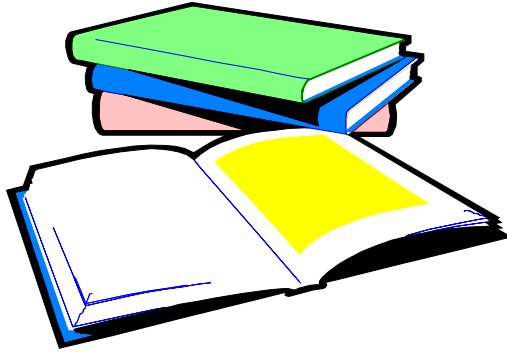
But the s.o.b. didn’t answer. When I turned around, I could see him lying on his side about a hundred feet back. Just like a big-time record executive to flake just before the money has to be dished out. The storm was almost on us. I could see the rain cloud moving up in a big hurry. I was torn between the opportunity to cement my meaning to posterity, or turn back and minister to Mr. Laste Chance.

Well, that was two weeks ago. As of today, I’m still fishing minus a million bucks up in the Salt River Range. Laste Chance lived, but wasn’t enthusiastic about recording a dead icon, which explains why Jenna Henson’s chickens are still alive and pecking happily to Willie Nelson tunes.

And why I’m left wondering if the trout bite is slow because I don’t have a solo CD out or if the bug imitation at the end of my fly line isn’t what they’re into eating at the moment.



Alan Goodman exhausted himself playing bassoon in the Los Angeles Philharmonic and retired to some fishing hole in Wyoming. Rumor has it that he can still be found sucking the arundo donax while playing tenor sax in a cowboy band on Saturday nights.



Author, Author!

Janet Horvath, cellist of the Minnesota Orchestra, announces the publishing of her book, *Playing (less) Hurt: An Injury Prevention Guide for Musicians*, which is available for \$21.00 plus shipping. The book's Table of Contents is reproduced to the right. For more information or to place an order, contact Janet at Playing (less) Hurt, 2400 Hennepin Ave. S., Minneapolis, MN 55405, or visit the website: www.playinglesshurt.com.



I'm pleased to announce the availability of my new critically acclaimed book entitled *Symphonic Paradox: The Misadventures of a Wayward Musician*. It is the unusual true story of my experiences, musical, political and psychological, while a member of the Chicago Symphony Orchestra during its transition from provincial to world class status.

It is a story peopled with colorful characters such as Fritz Reiner, James C. Petrillo, Artur Rubinstein, Sir Georg Solti and many members of the orchestra. This book may at times entertain and/or offend you, but it will never fail to enlighten you about what went on behind the scenes during the years 1954 to the present. This is a must-have account of what it was like to be a musician during a time of monumental change and how it influenced the profession of "symphonic musician" in the United States. The book is available in three formats: as an electronic download from the publisher's website as a .pdf file, a 6x9 paperback, and as a hardcover with dust jacket. For more information, see the publisher's website at:

<http://www.1stbooks.com/bookview/8793>

In addition to ordering the book from the publisher's website, the book is also available from all of the major online booksellers or can be ordered from your favorite retail bookseller as well.

*Sam Denov, Percussion & Timpani
Chicago Symphony Orchestra (retired)
CSOcymbals@aol.com*



Lucinda-Lewis, ICSOM Secretary and New Jersey Symphony hornist, will soon publish her own book, *Broken Embouchures: An Embouchure Handbook and Repair Guide for Brass Players Suffering from Embouchure Problems Caused by Overuse, Injury, Medical or Dental Conditions, or Damaged Mechanics*. Watch for details later.

Playing (less) Hurt: An Injury Prevention Guide for Musicians

CHAPTER I MY STORY

"No pain, no gain"

CHAPTER II YOU ARE NOT ALONE

The prevalence of injuries among instrumental musicians

CHAPTER III WHY IT MAY HURT TO PLAY

A definition of overuse

CHAPTER IV THE CONDUCTOR IS IN THE DRIVER'S SEAT

Risk factors and stressors particular to orchestral life

10 RISK FACTORS FOR ORCHESTRAL MUSICIANS

CHAPTER V CAUSES OF OVERUSE INJURIES

Injury susceptibility quiz.

10 POTENTIAL CONTRIBUTING FACTORS TO OVERUSE

CHAPTER VI RISK FACTORS AND UNDERSTANDING DANGER SIGNALS

This is your wake-up call.

10 DANGER SIGNALS

CHAPTER VII STATIC LOADING, BACK AND DISC PROBLEMS

A few suggestions for good posture

CHAPTER VIII MUSCLE AND TENDON DISORDERS OF THE ARMS AND SHOULDERS

Muscle tendon disorders, tendinitis of the shoulder, bursitis, impingements, rotator cuff tears, frozen shoulder.

10 ONSTAGE TRICKS THAT CAN BE DONE EVEN WHILE PLAYING

CHAPTER IX NERVE ENTRAPMENTS, AND HAND AND FORE-ARM PAIN

Carpal tunnel syndrome, cubital tunnel syndrome, De Quervain's tenosynovitis, reducing arm tension, thoracic outlet syndrome, Morton's neuroma.

10 PREVENTION TIPS FOR AVOIDANCE OF NERVE ENTRAPMENTS AND OTHER OVERUSE INJURIES

CHAPTER X OTHER CONDITIONS

Raynaud's disease, beta blockers and performance anxiety, ganglion cysts, focal dystonia, fibromyalgia, fibrositis or myofascial pain syndrome, TMJ, eye problems, arthritis

CHAPTER XI TOO MUCH, TOO SOON?

Guidelines for parents and teachers, the teacher-student dynamic, lips, jaws, fingers, teeth, asthma, instrument size, joint laxity, larynx

CHAPTER XII STRETCHING AND STRENGTHENING

10 SHOWER STRETCHES; 10 ONSTAGE STRETCHES

CHAPTER XIII CHAIR PROBLEMS

10 LOWER-BACK TENSION RELIEVERS

CHAPTER XIV LOCATION, LOCATION, LOCATION

Outdoor concerts and other hazards.

10 ESSENTIAL ITEMS: THE MUSICIAN'S SURVIVAL TRAVEL KIT

CHAPTER XV LOUDER AND LOUDER AND LOUDER!

Musicians' hearing loss

CHAPTER XVI THE WORST CASE SCENARIO

What to do when you're hurt

CHAPTER XVII HOW DO I START BACK?

Rehabilitation and work-hardening

CHAPTER XVIII INSTRUMENT MODIFICATIONS

Splints, slings, supports and orthotics

CHAPTER XIX PRACTICE, PRACTICE, PRACTICE

"No brain, no gain" A guide to sensible practicing, warming up and cooling down

10 BACKSTAGE STRETCHES

10 DO'S FOR INJURY PREVENTION

10 DON'TS FOR INJURY PREVENTION

CHAPTER XX EVERYONE IS A LOBBYIST

Views for the future. Work-hardening, rotation, balancing programs, scheduling concerts, onsite trainers

The Senza Sordino Sports Page

Art Meets Sport

The OLYMPICS EXPERIENCE

If I were to characterize the experience in one word it would be COLD. Yes, we were the orchestra that agreed to sit out in shivering 15 degree weather to watch a spectacular show of a lifetime along with five thousand other crazy fans.

There were heaters, which didn't function at all the first night (rehearsal Monday night) and only half of which were working on the dress rehearsal night (Wednesday). By the time of the concert (Friday night) we were sufficiently pumped up to brave the cold, although a lot of us suffered with sore throats and coughs throughout the week.

It was definitely a trade off. We made extra money, and practically sold our souls to be front and center of the world for a few brief hours. This was obviously not something that fell under our normal contract.

The most exciting moment for many of us was watching the athletes come out the night of the opening ceremonies. Those who had trained and struggled to make it to the top of their professions representing the top of their countries. We yelled and screamed as loud as anybody. There was a funny moment when the Italian team passed by us and then on by the Mormon Tabernacle choir seated behind us. One of the teams' players practically lunged into the lap of an unsuspecting female choir member, gave her a big kiss and had his teammate and co-conspirator take a photo of the whole thing in a span of about three seconds. The chorister was more amused and surprised than anything. (I think she thought he was rather good looking). The Italians also threw us pins as they went by.

The motorcades, the torch parades, the security measures, the excitement was like nothing I have ever experienced. Not that I would jump at the opportunity again soon. We are tired after almost a month and a half of nonstop activity. The crowds have dwindled and Salt Lake has almost returned to its quiet and relatively calm pace. It was thrilling having the world here, but I look forward to a calmer spring and summer.

*Lynn Maxine Rosen
Utah Symphony violinist and
ICSOM Delegate*

When the athletes were seated, along with one librarian who surreptitiously slipped in with the Kazakhstan, four American Indian

tribes indigenous to Utah welcomed them in their native tongues. A spectacular program unfolded with everything from the Dixie Chicks to Yo-Yo Ma and Sting. When Yo-Yo and Sting left the center of the ice rink they were blowing kisses to the orchestra and choir—their recognition of a different brand of athlete. The skating, the singing, the playing, all came off beautifully.

My cheeks were bright red from sitting in the subfreezing cold for two and a half hours taking in all this joyous ceremony. A light snow had fallen from time to time but not enough to hamper anything. It just made everything more beautiful. Thousands of lights would make waves in the stadium from time to time and the Blackhawk helicopters didn't intrude even though their presence was always there. As the athletes left the stadium filing past the orchestra, I called out good luck and good-bye in as many languages as I could muster. "Au revoir, viel gluck, bon chance, powodzenia, bonna fortuna, Tschub." I don't know if all the words were right, but we were all smiles, clapping hands in love and friendship.

Pat Zwick, Utah Symphony Librarian



BOSTON POPS Scores at Super Bowl

The Boston Pops Orchestra suited up and burst out onto the field ... or was that the Boston Patriots? Actually, it was both—the Patriots played – and won – the football game in Super Bowl XXXVI, but the Boston Pops stole the show.

Despite tight scheduling back in Boston, the musicians of the Boston Pops made their way by February 3, 2002 to the Superdome in New Orleans and played both the pregame show and at halftime. With Copland's *Lincoln Portrait* and other works, they brought a patriotic spirit to nearly a billion people in the stadium and watching on TV.

Pops Conductor Keith Lockhart said, "We weren't just part of the wallpaper; the Boston Pops was an integral part of America's greatest sporting event, and we were proud to represent the great tradition of symphonic music in this country."



Utah Symphony violinists Becky Johnson, Teresa Hicks (behind the bow), Veronica Kulig, and Lynn Maxine Rosen (ICSOM delegate)

Due to the acoustical complications of performing in large sports arenas, both the Super Bowl and the Olympics performances were prerecorded for broadcast. – Ed.

Newslets

The Kansas City Symphony recently voted overwhelmingly in favor of joining the AFM Strike Fund.



If you would like to find out how your symphony board members' salaries have skyrocketed while they have been demanding cuts and freezes from you, visit this new AFL-CIO webpage, www.paywatch.org. One interesting morsel you will find there is that since 1980, the average pay of regular working people increased just 74 percent, while CEO pay grew a whopping 1,884 percent.



The Business Committee for the Arts reports from their 2001 National Survey that **business contributions to the arts** reached a record \$1.56 billion in 2000, compared to \$1.16 billion in 1997, an increase of 24%. In 2000, the arts received 14% of total philanthropic contributions made by business. (<http://www.bcainc.org>)



Ken Sipser, brother of the late **ICSOM Counsel Emeritus I. Philip Sipser**, is compiling a collection of news clippings, articles, letters, pictures, etc. to document the life and work of Phil Sipser. If you have anything that you would like to contribute to this collection, please contact Ken at krsipx@aol.com or send to Ken Sipser, PO Box 1635, West Dover, VT 05356. Ken has offered ICSOM a digital copy of the completed collection.

About a month ago there was a Dedication Ceremony for the Memorial which was erected in Phil's honor in the Mount Hebron Cemetery in Queens, NY.



Union-made computers, assembled in the USA by Van Elgort Information Systems, are available at www.unionmadecomputers.com



Shreveport Symphony season in doubt

The Shreveport Symphony Orchestra's master agreement requires our employer to send out letters of renewal or non-renewal by March 15th of each year. This year, all the contracted players of the orchestra received a letter from our Board President stating, "...this letter is to inform you that the Shreveport Symphony Orchestra, Inc., will not renew the services of any musicians or renew the Master Collective Bargaining Agreement as it is presently constituted."

This is, of course, only the first round in what will be difficult negotiations. The letter also gives what is essentially the first offer in these negotiations, stating that they need to cut the budget to between \$900,000 and \$1,100,000 for next season.

The letter also includes the statement, "With my direction, a Committee of the Board has been appointed to explore with your representatives whether we can negotiate a new contract that would allow the Symphony to continue."

Andy Brandt
Shreveport Symphony bassoonist, former ROPA President

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A Conference of the American Federation of Musicians - AFL-CIO

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Labor's View of the Entertainment Industry

The New Labor Forum is a semiannual publication of the Queens College Labor Resources Center, City University of New York. Each issue contains about a dozen articles covering the wide spectrum of current labor issues, written by the leading labor writers from around the nation. The Fall/Winter 2001 issue included an article on the entertainment unions, "Entertainment Unions Tune Up For Turbulent Times" by Lois Gray, which contained some provocative ideas, and even a description of the rise of ICSOM and the RMA in the AFM's history. Here are some excerpts:

... The average American spends nine and a half hours a day watching television, listening to recorded music or the radio, reading, viewing videos, surfing the Internet, or enjoying some form of entertainment. It is, therefore, not surprising that entertainment is America's leading product. It is also one of our most highly unionized industries.

... The entertainment industry has traditionally consisted of four major segments, each with its own marketing structure: live performing arts (including theater, dance, music, and cabaret), motion pictures, broadcasting, and recording. Common to all is the impact of rapid and continuing technological change ... The market for live performances was hard hit by the emergence of recording, film, and radio productions, which, in turn, found competition in television, which subsequently found its audience diminished by cable and videotapes. The Internet now competes for time and advertising dollar with all of the old media. ... For entertainment workers, technology both creates and destroys jobs.

... Mergers and acquisitions initially aimed at dominance in one sector have extended across media lines where owners are attracted by the synergy of producing content that can be distributed in all competing channels and marketed around the world. ... When Ben Bagdikian published the first edition of *Media Monopoly* in 1983, he shocked his audience by announcing that a mere 50 companies controlled most of what Americans read and watched on television and in the movies. By the time of his sixth edition in 2000, after consolidation had spread worldwide to include recording and the emerging Internet-interactive sector, the number of dominant companies had shrunk to 6.

... Facing concentrated ownership on the employer side, unions in entertainment are fragmented into multiple organizations with frequently clashing agendas.

... Consolidation of both domestic and international bargaining power is obviously needed. Innovation in membership outreach and mobilization will be required to cope with the rise of the new media and proliferation of productions outside the unionized sphere. Although entertainment unions have traditionally avoided political action for fear of dividing their membership, recognition that public policy is key to dealing with many of their issues suggests the need for a rethinking of political neutrality, along with strategies for building supportive alliances in the broader labor movement and community.

... In the AFM, movement toward internal reforms has come not from the top but from rank-and-file rebellion in major sections of membership. Musicians employed in symphony orchestras organized themselves as a caucus to assert their demands on national leadership, and the recording musicians followed a similar path of rebellion and independent action. AFM conciliated both groups by promising them a force in decisions within the union's policy-making structure and at the bargaining table. The national conferences of symphony and recording musicians, which continue to function on a semi-autonomous basis, have pressed for further changes in union structure and policies. The AFM has responded not only by establishing Departments for Symphonic Services and Electronic Media to serve these constituents, but also by appointing a committee to consider ideas for restructuring the organization.

... Facing the growth of multinational corporations that can move work across international borders and undercut gains achieved in collective bargaining, U.S. unions have a pressing need for international allies. Critical concerns include 1) international piracy of records and films, which threatens the intellectual property rights and compensation of writers and performers; 2) national trade restrictions that reduce the demand for entertainment products; 3) weak collective bargaining rights in developing countries; and, most importantly, 4) coordinated action to cope with the power of mega-media conglomerates. According to John McGuire of the Screen Actors Guild, "Meaningful cooperation with other unions in other countries is now a basic necessity. Basic union contracts which were once local in scope now need to be national and even international in scope."

Theater Musicians Explore Pamphlet B

The Theater Musicians Association (TMA) met in Detroit August 19-20 for their annual conference. At the top of their agenda was coming to terms with the newly renegotiated Pamphlet B, the AFM-negotiated agreement that governs travelling theater productions.

Ever since Pamphlet B was created, there have been tensions between the musicians who travel with the shows and those who are hired locally to fill out the rest of the pit orchestra. In many cities where Pamphlet B shows tour, the local union has negotiated local contracts for theater work with the venues in which the touring shows take place. In recent years there have been several theater strikes based on those local agreements that have kept the shows from going on, put local musicians on picket lines, and left travelling musicians sitting in their hotel rooms unpaid, waiting to start work.

The new Pamphlet B walks a very fine line between the interests of these two groups of union musicians and the demands of the employer group, the League of American Theaters and Producers, Inc. There are much-improved salaries, per diem, benefits, and working conditions for travelling musicians, but there is also a new no-strike, no lockout clause that effectively keeps the local musicians from being able to fight as aggressively as they once could for a better local deal.

AFM president Tom Lee said, "The Federation, as you know, has been trying to balance the interest of touring musicians who desire job security on the road with the time-honored right of local union musicians to engage in lawful economic strikes. ... Apart from the union's internal debate as to what to do in these most difficult circumstances, the League—in powerful terms—announced that no Pamphlet B agreement would be achievable unless the Federation agreed to a traditional no-strike provision which applied to sympathy strikes as well.

"Against this complex background, the Committee determined that the only viable alternative was to recognize that a no-strike provision was inevitable and to use it as leverage to obtain the best possible package agreement with the League. And as reflected by the economic benefits [we achieved], that is precisely what we did."

Part of that complex background were management's powerful bargaining weapons—the constant threat of the computerized Virtual Pit Orchestra (VPO) and the increasing pressure from nonunion touring shows.

New TMA officers were elected – President: Vicky Smolik (St. Louis); Vice-President: George Troia (Detroit); Secretary-Treasurer: Nancy Schick (St. Louis); Directors: David Schoenbrun (Northern California), Jeff Driskill (Southern California), James Sims (Dallas), Aileen Friedel (St. Louis), Art Linsner (Chicago), Keith Claeys (Detroit), John Spooner (traveling musicians) and At-Large Directors Richard Genovese (Philadelphia) and Richard Tremarello (Milwaukee). Ann Dolan was appointed new *Pit Bulletin* editor.



Mostly Mozart Festival Orchestra Strikes for Job Security

The Mostly Mozart Festival Orchestra, represented by Local 802, New York City, voted on August 5 to ratify an agreement that ended its four-day strike.

The union had proposed a system of peer review in which a committee of musicians would hear an appeal from a musician who had received a notice of non-renewal and be able to either uphold the notice or, if they saw fit, to set it aside; Lincoln Center rejected that proposal, seeking to maintain the previous system, in which an arbitrator from the American Arbitration Association would be the final word.

The compromise agreement calls for arbitration by a three-person panel including a musician, a representative of Lincoln Center and an outside arbitrator. It also provides for an audition committee made up of musicians who will conduct auditions and make recommendations to the music director. Both provisions help to satisfy the musicians' need for more job security as the Mostly Mozart Festival searches for a new music director.

Lincoln Center and the Festival Orchestra also agreed to present two free concerts at Avery Fisher Hall on August 20 and 21, for which the musicians received one week's pay. All of the scheduled performances featuring the Festival Orchestra, nearly two-thirds of the Mostly Mozart Festival, were canceled because of the strike, and were not reinstated. The parts of the Mostly Mozart Festival that featured touring orchestras and artists were not canceled.



Another New York labor story – A majority of the 10 actors who perform daily at the Ellis Island Immigration Museum voted for representation by Actor's Equity in mid-August. The actors, who perform and understudy in shifts, six times a day, seven days a week, in the 30-minute show "Embracing Freedom – The Immigrant Journey in America," receive no benefits or sick pay, the union said. The Statue of Liberty-Ellis Island Foundation fought the actors' efforts to organize.



The 2002 ICSOM/Unity Conference took place in Ottawa, Canada, August 14 - 17. New officers elected were:

Jan Gippo (St. Louis)	Chair
Brian Rood (Kansas City)	President
Laura Ross (Nashville)	Secretary
Scott Weber (Cleveland)	Treasurer
Marsha Schweitzer (Honolulu)	Editor, <i>Senza Sordino</i>

Reports on the Conference will appear in future issues.

Playing At Our Jobs' Funeral

My clock radio woke me up on the morning of July 30, 2002, to these words, "As you may have heard, the Mostly Mozart Festival has been canceled due to a musicians' strike. But you can't preempt what's already done. Here's a recording of the Mozart Clarinet Concerto ..."

Former AFM president James Petrillo, recognizing in the 1940s the threat to live musical work that recordings represented, said that now a musician can play at his own funeral. It seems that we can also now scab our own gigs. In 2000 the New York City Ballet Orchestra was replaced while on strike by possibly its own recorded product. Many pundits say that the Virtual Pit Orchestra (VPO) will virtually replace theater musicians as an entire class, many of whom are now unemployed just as, two or three generations ago, the theater musicians of the 1930s were put out on the street when silent movies became talkies.

We say that orchestras do so little recording that it shouldn't occupy so much of our time and thought and angst. We make our living almost entirely from our live work, we say. But as the NYCB found out during their 2000 strike, and as Hawaii Public Radio—5,000 miles away from the Mostly Mozart labor action—so innocently insinuated, the existence of recordings is increasingly undermining our ability to use our ultimate labor weapon, the strike, to apply pressure in negotiations regarding our live work. Jobs that are not directly lost to displacement by digital substitutions are being eroded by the incessant threat that they could be.

Recordings always have, and will increasingly continue to affect our live work. How long before our recordings (digitally preserved, modified, and enhanced) will cause seasons to be shortened, orchestra size to be reduced, or full-time jobs made part-time? In the brave new digital world, will people flock to concert halls to see and hear us (or our virtual images) on big-screen TVs with DVD surround sound? Will they pay the same ticket price to see and hear us virtually as in reality? What was the effect on live theater when movies were invented? What will be the effect on screen actors when virtual clones can regularly replace their live bodies on movie sets?

When I was in Boston Symphony Hall a few years ago I saw a lobby display of historic old instruments. Included was a tenoroon, the first one I had ever seen "in the flesh." This display led to a recurring nightmare in which a group of schoolchildren is taking a tour through a museum with a similar display of old instruments in glass cases. They stop by a case containing a 20th century bassoon, and one child asks what that funny-looking thing is. The teacher explains that a long time ago people actually used that device to make music, by blowing through the tube. "It sounded much like the 'bassoon' sample that you use in your computer to build music. Now we achieve the same effect so much more easily using electronically generated sounds."

According to the theatre musicians at the recent TMA Conference, the difference between a live pit orchestra and the virtual pit orchestra (VPO) is barely noticed by theater patrons, not even noticed enough to cause significant numbers of them to protest either the diminution of artistic values or the economic

gouging manifest in paying as much for one machine as they once paid for 30 live musicians.

So what?, we say. The theater audience is going for the live action on stage, and the music from the pit is incidental to the experience they are paying for. Symphony orchestras have been dealing successfully with the increasingly visually oriented audience by spicing up our concert production values—adding stage decorations, multimedia programming, background visuals, light shows, big-screen close-ups, more colorful or revealing costumes, etc. But the undeniable fact remains that orchestras exist because of the *sounds*, not the *sights*, they make, and ultimately the fate of orchestras will rest on the public's demand, or lack of it, for the sound of a live orchestra. The ticking time bomb for all of us in the music business is that once the last generation of people who remember what a live orchestra sounds like are dead, so will be the live orchestra, whether in the pit or on stage.

So what is the future of real, live musicians in a digital world? Past technologies have decimated the ranks of musicians, but not destroyed the profession completely. Live musicians working in a genre where recording technology has had the least impact—notably classical music—have fared better than others during the last five decades, but our blessed insulation from the effects of technology is rapidly becoming a thing of the past. An orchestra that has not made a single recording will be just as affected by the insidious indirect effects of the burgeoning digital industry as the most-recorded orchestras.

The Mostly Mozart strike also demonstrates the other major mitigator against our orchestras in the marketplace—global competition. The portions of the Mostly Mozart Festival involving the local orchestra were canceled, but the parts involving foreign orchestras, soloists and chamber groups were not canceled. We have bemoaned for decades the loss of recording work to low-cost Europe, but now, newly liberalized immigration laws and policies have made it easy for employers to replace Americans not only by taking the work across borders, but also by importing foreign musicians to take the work out from under us in our own home towns.

The *New Labor Forum* (see "Labor's View of the Entertainment Industry," page 1) says that the 50 companies that controlled the mass media in America in 1983 had shrunk to 6 companies in 2000. Could it be that the 100 or so orchestras that provide live and recorded music to Americans in 2002 will dwindle to 20 or so by 2020? Which of us will be left? Will most of us then have to reside in exploitation-friendly third-world countries in order to find jobs? Where is the critical mass in the music business—the point at which there are so few practitioners remaining that the species cannot reproduce and becomes extinct? Or becomes an avocation for the independently wealthy because no one can make a living at it anymore?

There are many other scenarios for our future, some not so pessimistic, but in uncertain times like this I remember the maxim, "Hope for the best, but prepare for the worst." So, where do we go from here? What road do we travel? I am haunted by another maxim, "If you don't know (or don't care) where you are going, any road will do."

Marsha Schweitzer, Editor

Newslets

The Governing Board regrets to inform ICSOM members that due to a variety of problems that came up this year, the 2001-02 ICSOM Directories were not printed. For next season plans are being made to enable each delegate to update his/her own orchestra's information online, as the wage charts are now done. Emeriti updates will be done similarly to the way they are handled now. Hard copies will be created and mailed out as in past years.



After their final concert at Blossom Music Center on August 24th, the Cleveland Orchestra musicians honored their retiring colleagues **Charles Couch**, trumpet, and **Robert Zimmer**, violin and librarian, at a backstage party. Mr. Couch was the Cleveland Orchestra's ICSOM delegate from 1986 to 1991.



Shreveport On, San Jose Off

We have a contract settlement in Shreveport. It's not something we are happy about, but it does save our core, which was on the chopping block, so to speak. We took a 9% pay cut (from \$15,600 down to \$14,200, base pay, principal pay is down to \$17,000), we lost five core positions (from 29 down to 24), three of which were unfilled, anyway. No agreement is in place as to which players will lose their jobs, although at least three players will likely leave this summer in any case. We saved our 5% AFM pension, the \$800 health payment remains in place.

You may remember Andy Brandt's message [*Senza Sordino*, June 2002] about the "non-renewal" notices that were sent to every contracted musician in the Shreveport Symphony. This was the board executive committee's way of saying it wanted to axe the core and go completely per service. As you can see, this did not happen, but we took a pretty heavy hit.

Yours in Solidarity,
Henry Edwards
Shreveport Symphony ROPA Rep

On a even sourer note, the San Jose Symphony is in the process of Chapter 11 bankruptcy. There will be no 2002-2003 season. When the orchestra will resume concerts is uncertain. – Ed.



“The stage is not merely the meeting place of all the arts, but is also the return of art to life.”

– Oscar Wilde (1854-1900)
Anglo-Irish playwright, author

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A Conference of the American Federation of Musicians - AFL-CIO

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ICSOM Holds 40th Anniversary Conference

ICSOM delegates gathered in the Ottawa Marriott Hotel August 14–17 for ICSOM’s annual conference, held in conjunction with the annual meetings of the Regional Orchestra Players’ Association (ROPA) and the Organization of Canadian Symphony Musicians (OCSM). This was the second such Unity conference in recent years, and 45 of ICSOM’s 51 orchestras were represented.

The 2002 conference marked the fortieth anniversary of the founding of ICSOM in 1962 and was dedicated to the memory of ICSOM’s first chairman, George Zazofsky. Several delegates who attended the formative meetings in 1962 and 1963 were present on this historic occasion: Wayne Barrington from Chicago, George Rhodes from Indianapolis (attending with his wife, Olive, later a delegate from Indianapolis), and Gino Raffaelli from Cleveland (ICSOM’s first treasurer). Also attending were former chairman Brad Buckley (St. Louis Symphony), former secretary Nancy Griffin (Seattle Symphony), and former treasurers Florence Nelson and Penny Anderson Brill (Pittsburgh Symphony). A preliminary copy of a review of ICSOM’s forty years, prepared by Tom Hall (Chicago Symphony), was available for attendees to examine.

Regrettably absent for the first time in many decades was ICSOM legal counsel Leonard Leibowitz, unable to attend because of illness.

Plenary Sessions

AFM President Tom Lee, Vice–President from Canada David Jandrisch, Secretary–Treasurer Florence Nelson, Symphonic Services Division (SSD) Director Janice Galassi, and SSD Canada Supervisor Laura Brownell addressed the delegates. American Symphony Orchestra League (ASOL) President Charles Olton and Orchestras Canada Executive Director Elisabeth Whitlock reported on their respective organizations. Karen Schnackenberg spoke about the activities of the Major Orchestra Librarians’ Association (MOLA).

Plenary sessions featured panel discussions on important issues. One panel addressed artistic issues and the roles played by musicians, conductors, executive directors, and union personnel. Another panel looked at orchestras in financial trouble. St. Louis faced a massive deficit and had to find a solution, San Jose faced bankruptcy under Chapter 11

(reorganization) or Chapter 7 (dissolution), and Toronto continued to confront problems caused by changes in government funding.

Members of the Electronic Media Forum (EMF) reported on the fact-finding report and survey that the EMF is distributing to solicit input from orchestras about the field of electronic media. This was a major concern, since ICSOM orchestras have differing ideas about how to deal with media. Some want to explore new ways to generate additional income, while others oppose local autonomy and want everything to be set on a national level.

Penny Anderson Brill presented a workshop on “Music and Wellness” as part of one plenary session, and delegates were also able to attend smaller breakout sessions on hearing loss, playing with injuries and pain, and reading financial audits.

ICSOM Conference Sessions

ICSOM chairman Robert Levine reported his activities during the past season. He reviewed travels, cited accomplishments, and spoke about contacts with the ASOL and other organizations. Reports by the other ICSOM officers were presented in writing and are contained in the *ICSOM Delegate Manual*.

Resolutions passed by delegates addressed:

- distribution of the EMF survey and collection of input;
- formation of a joint union–management task force to examine rising costs of health insurance;
- participation in a study of the impact of musical activity on certain illnesses associated with aging;
- institution and implementation of a program to collect and analyze orchestras’ financial data;
- increasing ICSOM officers’ honoraria;
- amendment of the ICSOM bylaws to transfer all authority from the Executive Committee to the entire Governing Board;
- recognition of the founders of ICSOM, especially George Zazofsky;
- player conference input to the appointment of the director of the AFM Symphonic Services Division;
- appointment of a rank–and–file orchestra musician to the board of the AFM–Employers’ Pension Fund;
- exploration of the feasibility of the creation of an ICSOM financial network; and
- location of the 2003 conference.

The full texts of resolutions are published elsewhere in this issue.

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Chairperson's Report

Jan Gippo



It has been difficult for the new ICSOM officers to get up to speed with the daily functions and tasks of the Governing Board, but we have been coping very well indeed.

After the August conference and one week of vacation, I arrived home to find a letter of resignation from our treasurer, Scott Weber, of the Cleveland Orchestra. Almost all other business was stopped so we could look for a replacement. We were fortunate to have Member-at-Large Michael Moore, from the Atlanta Symphony, volunteer to fill the position. Michael immediately took control, filed all the federal forms on deadline, set up accounts, and made improvements in our telephone service. He has done an outstanding job.

We then needed to find someone to take Michael's member-at-large post, and we asked Richard Levine, of the San Diego Symphony, to do so. Richard graciously accepted, and he has done a stellar job and provided excellent counsel.

Two months into getting a handle on the resolutions passed at the 2002 conference, all the new suggested activities, and the flow of information, *Senza Sordino* Editor Marsha Schweitzer resigned. We were fortunate to get former editor Tom Hall to serve for one year.

We were now ready to start the new course. It was apparent that there was quite a bit of anger, tension, and disillusionment at the 2002 conference. The Governing Board believed that its first and most urgent job was to try to heal the wounds and answer the questions of the membership about the direction of ICSOM and the leadership of the Governing Board. First, I sought to improve communications among Governing Board members by instituting conference calls every two weeks, and this has proved to be very effective. Every Governing Board member has important responsibilities, and such communication among all of us is vital. Second, we have been contacting ICSOM delegates and asking *them* to be involved all the time, not just once a year at the conference. The work of ICSOM needs everyone's help, so there will be much more information flowing to ICSOM orchestra members this year, and we hope to hear back from each orchestra about its needs and concerns.

It was my judgment that the chairman needed to talk to the committees of the orchestras most vocal about the past dysfunction. I was invited to attend the Recording Musicians Association (RMA) conference in Los Angeles, and I took that opportunity to talk with the Los Angeles Philharmonic's committee. Two weeks later I met with the committees of the Cleveland Orchestra and Chicago Symphony. We discussed media, communication, and orchestra participation in ICSOM. The discussions were very positive, with all three committees being assured that communications will be significantly improved and that all points of view will be considered before any final decisions are reached. I mentioned to each committee the possibility of convening the President's Council, a meeting of all the committee chairs or appointed spokespersons, to be able to speak to each other face to face about all the questions that were raised with our conversations. I also met with the New York Philharmonic in early December. Each orchestra was interested in the President's

Council and willing to participate. Because it is a President's Council meeting, I will leave the rest of the story to ICSOM President Brian Rood.

I then began to look at some of the broader issues that affect all of ICSOM. The Houston Symphony is in a quandary not knowing whom to bargain with and who can make decisions for management. I have offered ICSOM's help in any way the orchestra might want it. We will keep a close eye on their situation.

Each ICSOM chairman has had projects that he or she has championed. I have chosen TEMPO, the political action arm of the Federation. By federal law, no union can use dues for political action. Money must be donated to a specific fund and not commingled with operational funds. The Federation needs money to effectively lobby Senators and Representatives to support legislation that will benefit our industry. Two areas that we are working on are health care and copyright protection, specifically the Digital Millennium Copyright Act (DMCA) and Copyright Arbitration Royalty Panel (CARP). These matters directly affect us and our management's ability to limit costs and make money. I will be writing more on these issues in the near future, but for now please talk among yourselves about the need for a lobbying effort on Capitol Hill. With the shape of the new government, we need all the presence we can muster. It is said that one person can make a difference. Just think what 5,000 musicians in unison could sound like!

I have made it clear to the Governing Board that I would like to see the 2003 conference agenda be delegate-driven. That means that we want to discuss what our musicians think is important. We want to implement programs and initiatives that are presented by the orchestras through their delegates. Now is the time to make union democracy work, and democracy works best when every person is engaged and participates. I am confident that ICSOM is effective and will become even more influential in the future. It is up to you, the musicians, to monitor and empower your delegate to participate in the debate. With true open dialogue we will, at least, know each other's position. At best, we will compromise, agree, and move toward solutions acceptable to us all.



President's Report

Brian Rood



The past four months have proven to be both exciting and challenging for me as I began my new role with ICSOM. I have enjoyed meeting and working with new people, re-establishing old friendships and learning more about the many important issues facing ICSOM orchestras. As president, I am responsible for supervising the internal programs of our organization. One important theme you will continue to hear from the Governing Board is that we are here to serve you, the musicians of ICSOM. In return, we ask that you let us know what your concerns and issues are. The opportunities for communication with us include the officers and members-at-large as well as your delegates. We look forward to hearing from you.

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Electronic Media and President's Council Meeting

An electronic media summit meeting in partnership with the AFM is scheduled for January 13 in Chicago. Representatives from orchestras most affected by recording and by AFM agreements will meet to discuss media issues. AFM President Tom Lee and ICSOM Chairperson Jan Gipponi have worked together on the structure of this symposium. A meeting of the President's Council—orchestra representatives, Governing Board members, and ICSOM counsel Leonard Leibowitz—will convene in the morning. An afternoon session, led by AFM President Tom Lee, will include local officers of those orchestras present, AFM General Counsel George Cohen, and other AFM officers and staff. This meeting will be an opportunity for all participants to learn yet more about the direction our orchestras wish to take regarding recording opportunities in the future.

Sphinx Competition

Since 1976 ICSOM has been involved in programs that provide assistance to minority-group musicians, notably the Music Assistance Fund. The New York Philharmonic established the Music Assistance Fund in 1965 to provide scholarship support to minority-group classical musicians. The program later came under the supervision of the American Symphony Orchestra League, and last winter the League and the Sphinx Organization created a partnership to establish what is now the Sphinx Music Assistance Fund.

The Sphinx Organization sponsors the Sphinx Competition, which promotes the development of string performance experience among African-American and Latino youths. The competition is open to all junior high, high school, and college-age Latino and African-American string players. Unlike many competitions, Sphinx strives to provide a nurturing education environment for these talented young players by offering audition and performance experience, various training activities, and mentoring opportunities with jury members. They also work with the Sphinx Symphony, composed of African-American and Latino musicians from top professional orchestras around the country. All competition participants receive scholarships towards their educational pursuits through the Sphinx Music Assistance Fund, and those demonstrating need are eligible to receive the use of a quality instrument through the Sphinx Instrument Fund.

This year ICSOM provided scholarship awards in the amount of \$500 to each of the 2002 senior semi-finalists. These awards may be applied only for music education expenses during the 2002–2003 year, including school tuition, private lessons, summer music school expenses, and acquisition and maintenance of a primary string instrument.

The ICSOM scholarship recipients for 2002 are:

Mariana Green, 23, of New York City (violin)
Bryan Hernandez-Luch, 24, of West Valley City, Utah (violin)
Patrice Jackson, 19, of New Haven, Connecticut (cello)
Shelby Latin, 20, of Bloomington, Indiana (violin)
Jessie Montgomery, 19, of New York City (violin)
Aristides Rivas, 22, of Waco, Texas (cello)
Carl St. Jacques, 21, of Bloomington, Indiana (viola)
Naria Underwood, 20, of Pensacola, Florida (violin)

Secretary's Report

Laura Ross



Serving as the secretary of ICSOM is an awesome task, but, as many of you may be aware, I do have some experience: I spent six years serving as ROPA's secretary. I have been a member of the Nashville Symphony violin section since 1984. I am currently the union steward of the orchestra, and I also serve on Local 257's executive board. I have served on numerous AFM committees over the years: the AFM Public Relations Committee, the AFM Restructure Committee, and secretary of the Measures and Benefits Committee at the 2001 AFM Convention. I was also the ROPA Electronic Media Committee chair from 1989 to 2000, and I served on the Electronic Media Forum (EMF) from 1998 to 2002.

Since August, I have built a new database for ICSOM mailings and will maintain the Senza Sordino mailing list. I've constructed a new ICSOM officer and delegate roster that was sent out in the second delegate mailing in October. (Updates will be sent out periodically and complete rosters will be distributed 2–3 times a year.) I've produced seven orchestra settlement bulletins and hope to have more for distribution very soon. I've been sending out letters of welcome to new orchestra delegates and have begun putting together a policy book that will keep all policies of ICSOM and the Governing Board in one place to be given to all incoming officers. I have been working with Tom Hall to update the ICSOM Delegate Manual.

I am also in the process of updating the ICSOM bylaws to bring them in accord with resolutions passed at the 2002 conference. Two such resolutions (numbers 5 and 7) required orchestra ratification. I have recently tallied ballots for 41 orchestras, and both of these resolutions have been ratified, with 40 votes in favor and one abstention.

I have been working with the AFM to get the EMF Fact Report and Survey out to ICSOM orchestras. The results of these surveys will be collated by orchestra committees and returned to me by January 6, 2003, so I can make copies for the Governing Board and the ICSOM Electronic Media Committee. The originals will then be sent on to the AFM to be included in the complete survey results.

One of the Governing Board's first decisions was to post the minutes of its conference calls on the ICSOM website. I hope to have minutes approved and posted within a week or two of each conversation. Please check out <http://www.ICSOM.org> and click on "2002–2003 Governing Board Minutes."

The minutes of the 2002 conference are currently undergoing review. Thanks to former secretary Cindy Lewis for keeping excellent notes during the conference—I could not have done it without her! I'd also like to thank Cindy for her years of hard work and dedication to ICSOM. She has always been a wonderful resource for information over the years.

Our greatest asset is being able to share information, histories, and ideas. It's my task to pass on as much information as I receive in a timely manner. ICSOM delegates are our link to that information. Please encourage your delegate to keep in touch when changes occur and when you need our help getting the word out.

I'd like to thank those of you who have sent kind thoughts our way. Some know how much I have missed being as involved as I was when I was ROPA secretary, and I thank you all for the opportunity to serve once again.

Treasurer's Report

Michael Moore



I did not seek the position of treasurer at the past ICSOM conference. Circumstances have led me to accept this monumental job on your behalf, and I am grateful for the opportunity to serve ICSOM in this capacity. The past two months have been very educational and rewarding for me.

Here is a summary of the activity of the treasurer's office to date.

New accounts have been opened at SouthTrust Bank for the General Fund, Secretary's Fund, Chairman's Fund and *Senza Sordino* Fund. This is a departure from past practice, because the funds are now all linked together at the same bank. Previously, the secretary and *Senza Sordino* editor maintained their own accounts, reporting periodically to the treasurer, who would provide "draws." Our new system is designed to streamline the reimbursement process and enable instant transfers from the General Fund to any of the sub-accounts. The treasurer, secretary, chairman and *Senza Sordino* editor have check-writing privileges and their own check cards. The treasurer is the central comptroller and pays bills not directly related to the aforementioned posts, makes sure money is in all the accounts, collects dues, and submits reports. In addition to the SouthTrust funds, ICSOM has kept three accounts with A.G. Edwards: the AGE General Fund, the Mendelson Fund, and the Emergency Relief Fund.

Asset allocation is overwhelmingly in cash and money funds, with some taxable bonds in the mix. With interest rates presently low, our investment income is modest. We rely on dues in order to operate. The Syracuse Symphony gets the prize for being the first orchestra to pay its dues. Congratulations, Syracuse!

As of December 5, 2002, our balances were:

A.G. Edwards General erf Fund	227,452.62
A.G. Edwards General Fund	23,937.80
A.G. Edwards Mendelson Fund	30,657.20
SouthTrust General Fund	10,071.64
SouthTrust Chairman's Fund	2,573.20
SouthTrust Secretary's Fund	1,883.89
<i>Senza Sordino</i> Fund	8,982.04
Total Cash and Bank Accounts	305,558.39

The treasurer's office is now also billing subscribers to *Senza Sordino*. The job of billing for anything belongs with the treasurer, which allows the other officers to work for ICSOM without quite so much paperwork.

I am also the new administrator of the ICSOM Conductor Evaluation Program. Together with President Rood and the Conductor Evaluation Task Force, we will be bringing recommendations for this program to the 2003 ICSOM conference in Vail.

Editor's Report

Tom Hall

Pursuant to Marsha Schweitzer's resignation, the ICSOM Governing Board has asked me to serve as editor of *Senza Sordino* until the 2003 conference. Robert Levine, another former *Senza Sordino* editor, will handle production and mailing. Secretary Laura Ross will maintain the *Senza Sordino* mailing list, and Treasurer Michael Moore will handle subscription billing. The entire Governing Board will be actively contributing to each issue.

My primary duty will be to edit, and I hereby encourage ICSOM delegates and members of ICSOM orchestras to submit material for publication. All material submitted must come directly from, or with the knowledge and approval of, the ICSOM delegate, with the exception of letters to the editor, which may come from anyone.

Articles, letters, photos and graphics may be submitted in printed form by mail, or in digital form by e-mail or on disk. Digital text should be submitted in Word or imported directly as .txt or .rtf files. Photographs submitted should be black and white glossies as large as possible (up to 8" x 10"). Digital photos and graphics should be provided as .tif files, scanned at 300 dpi.

I look forward to working with the Governing Board and to serving ICSOM once again as *Senza Sordino* editor.

Member-at-Large Reports

~~~~~  
**Jay Blumenthal**

Much is happening in our ICSOM orchestras that is of interest to our membership. Tours, media projects and new contracts are but a few of the items reported by the delegates. Below are some newsworthy items, some good and some disturbing, to keep us up to date on what is happening with our member orchestras.

### *Chicago Lyric Opera*

Delegate Linda Baker reports that, due to a loss of sponsorship, the Lyric Opera is no longer broadcasting its opening night performances live on WFMT radio. Unless the sponsorship crisis can be addressed, Lyric broadcasts will no longer follow the Met's Saturday afternoon series in May and June.

On a lighter note, the orchestra's resident barbershop quartet, the Quarter Tones, is rehearsing for an upcoming benefit performance. The group has performed at numerous functions, including Lyric's annual "Fantasy of the Opera" fundraiser.

### *Milwaukee Symphony*

Delegate Helen Reich says representatives from the musicians, board, and management have formed a task force addressing the MSO's financial and artistic challenges and have been meeting since last spring. The task force met twice this fall with Paul Boulian and Fred Zenone of the Symphony

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Orchestra Institute and have plans for further meetings. Paul and Fred have facilitated discussions about the orchestra's short-term financial viability and have focused discussions towards prioritizing other areas.

The orchestra recently ratified a new health insurance plan which offers benefits substantially equivalent to the previous plan. Prescription co-pays are higher because lower ones are no longer offered. Premium costs have risen 18.5%, but the expected rise in cost was closer to 28%. It is less because the MSO is self-insuring the differences in deductibles and out-of-pocket maximums between the previous and current plans.

MSO musicians are developing their own web site.

### **San Francisco Ballet Orchestra**

Delegate Brian Lee mentions that the SFBO's protracted search for a new music director continues, with a number of new candidates being brought in during the upcoming season. Management is also looking at a new recording project, details of which are unknown at this time.

### **North Carolina Symphony**

Newly elected delegate Beth Lunsford reports that the North Carolina Symphony is currently engaged in a search for a new music director, and the musicians are actively involved. Last season a search committee was convened, with a novel structure consisting of four musicians elected by the orchestra, and four representatives of the board and management. The chairperson of the search committee is a musician. The search committee is assessing opinions through orchestra surveys and audience emails to the NCS website. Guest conductors are booked through 2003.

### **New York City Opera Orchestra**

Bruce Revesz notes changes in membership: New to the orchestra are principal violist Daniel Panner, cellist Elizabeth Anderson, principal trombonist Thomas Hutchinson, and second trumpet (currently acting principal) Donald Batchelder. Robert Hauck (principal trombone) and John Wion (principal flute) have retired.

The NYCO has operated with no deficit for over five years, but a deficit is projected for this season, due to the high cost of security. Attendance seems to be very good at most performances. The idea of a new opera house is still alive in newspaper articles, but the location is still unresolved.

### **Syracuse Symphony**

SSO committee chair Rose MacArthur reports that New York State Senator Nancy Lorraine Hoffman paid a surprise visit to a rehearsal October 23 to announce a grant of \$100,000 to help reduce the orchestra's deficit, and to announce an additional \$100,000 to be contributed to the musicians' pension fund. A committee is being formed to study the Symphony's pension plan and determine the best means to improve what is presently a woefully inadequate pension.

### **New York City Ballet Orchestra**

New York City Ballet Orchestra contract negotiations have concluded. An orchestra meeting took place on November 7, 2002, to discuss the results of the negotiation. The new contract was ratified two full weeks before the beginning of the season. This is a most unusual occurrence: negotiations

usually conclude at the eleventh hour and fifty-ninth minute. The NYCB fall/winter season began on November 26 with a gala opening-night performance, followed by a six-week run of the *The Nutcracker*. This will be followed by eight weeks of repertoire performances.

### **Metropolitan Opera Orchestra**

Long-time delegate Marvin Topolsky mentioned a recent Carnegie Hall concert with a program of Mahler's First Symphony and the Nielsen Flute Concerto, featuring Michael Parloff. Marvin also mentioned an upcoming Met tour to St. Petersburg next spring.

### **Houston Symphony**

Delegate Dave Waters provides the following update since the flooding of the orchestra's concert hall last year:

"Since the day after the flood, massive work has been underway to save and restore Jones Hall, which is owned by the city. We were able to start the season in the hall in September 2001. Below the stage level, all offices areas have been redesigned and rebuilt, and the staff moved back in a few months ago. The dressing rooms have been rebuilt as well. Most of our music library was sent to a company that froze and treated it, and most of it has come back dry and unstuck but not very useful to play concerts with. Most parts can be copied, but they do not lie flat—and they all still smell. For the past year and a half, the library and work has been at the home of the HSO librarian, Tom Takaro. Meanwhile, the HSO and the city found a place far above ground level to build a new library—mostly above the Green Room—and it will be finished in about two months. Our rehearsal room will be ready this month.

"We want to thank all the orchestras and individuals who helped us throughout this ordeal, with money, music, and other valuable support. We feel very moved to be in such a wonderful and close organization of fellow orchestra musicians."

### **San Francisco Opera Orchestra**

Delegate David Ridge reports that the Opera is currently busy playing the fall season. The repertoire this year includes *Turandot*, *Ariadne auf Naxos*, *Otello*, *The Abduction from the Seraglio*, *Kát'a Kabanová*, *Hansel and Gretel*, *Alcina*, *Madama Butterfly*, *il Trovatore*, and *la Damnation de Faust*. The highlight of the season has been the American stage premiere of Olivier Messiaen's five-hour opera, *Saint Francois d'Assise*.

In an effort to cut production costs in the face of a \$7.7 million budget shortfall, the Opera has cut one production from the company's 2003–2004 season and replaced another with a less expensive project. The changes will save the Opera approximately \$2 million. Even with the changes, the coming season still includes a sizable proportion of unusual and challenging repertoire. There are no changes planned to the repertoire for the current season. The changes will not completely close the projected financial gap for next year. General Director Pamela Rosenberg has said it will take several years to return the company to financial health.

The orchestra has recorded its first all-orchestral CD, featuring entr'actes from Shostakovich's *Lady Macbeth of Mtsensk*, the *Four Sea Interludes* and *Passacaglia* from Britten's *Peter Grimes*, and the *Symphonic Dances* from Bernstein's *West Side Story*. The CD will soon be released on the Arabesque

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## Resolutions

### ***The following resolutions were passed at the 2002 ICSOM conference.***

Whereas, ICSOM has always depended on orchestra committees to represent the views of individual orchestras; and

Whereas, The ICSOM Media Committee—in consultation with ROPA, OCSM, and the AFM—has decided to meet the requirement for “input from the field,” contained in Motion #17 of the 2001 ICSOM Conference by producing and distributing a survey on the relevant topics; therefore, be it

**Resolved,** That the delegates to the 2002 Conference direct the ICSOM Media Committee to distribute the survey to the orchestra committees of all ICSOM orchestras, with instruction to the orchestra committees to fill out the survey on behalf of their orchestra, after consultation with their orchestra.

*Submitted by the Governing Board*



Whereas, Health insurance premiums for employers in the United States have been rising rapidly and are projected to continue to do so; and

Whereas, Such increases inevitably impact local collective bargaining to the detriment of the musicians; and

Whereas, The leadership of ICSOM, ROPA, Local 802, and the AFM have met with representatives of orchestral employers to discuss forming a joint union-management task force to investigate the problem and explore the possibility of an industry-wide initiative to ameliorate the increases, as was done during the 1980s; therefore, be it

**Resolved,** That the delegates to the 2002 ICSOM Conference authorize and direct the Governing Board to appoint ICSOM representatives to such a task force, with the goal of providing a report on the problem and proposals for possible solutions to the 2003 ICSOM Conference.

*Submitted by the Governing Board*



Whereas, ICSOM has been approached by Dr. Mark Grant, a specialist in the fields of geriatrics and epidemiology, who wishes to study the impact of musical activity on the development and incidence of certain illnesses associated with aging; and

Whereas, Dr. Grant's proposal includes standard protocols, required by the US government and all reputable medical research institutions, governing the study of human subjects, including stringent privacy protections for volunteer participants, and

Whereas, Dr. Grant's proposal requires a pool of volunteer participants who will agree to provide answers to a survey and to be interviewed by him or his assistants; and

Whereas, It is the interests of ICSOM, its member orchestras, and their member musicians to more fully understand the impact of a lifetime spent in the performance of music on musicians' health and well-being; therefore, be it

**Resolved,** That the delegates to the 2002 ICSOM Conference authorize the Governing Board to assist Dr. Grant in locating musicians who might wish to participate in his study.

*Submitted by the Governing Board*



Whereas, Ongoing collection and analysis of data regarding individual orchestras' financial and organizational condition are essential if musicians are to be able to prevent their employers' financial and organizational problems from threatening gains in compensation and working conditions achieved by musicians through collective bargaining; and

Whereas, The proper organization and funding of a project to collect and analyze such data for all AFM orchestras is beyond the resources of the three Symphonic Player Conferences; and

Whereas, Prevention of situations of financial crisis, such as those described in plenary sessions of the Unity 2 Conference held in August 2002 in Ottawa, is far cheaper for the union and better for the musicians' well-being than is dealing with those situations once they have become full-blown crises threatening musicians' livelihoods; therefore, be it

**Resolved,** That the delegates to the 2002 ICSOM Conference urge the AFM to institute such a comprehensive program under the auspices of the Symphonic Services Division; and be it further

**Resolved,** That the AFM be urged to involve Ronald Bauers in the design and implementation of such a program; and be it further

**Resolved,** That the delegates to the 2002 ICSOM Conference authorize the Governing Board to work with AFM leadership to ensure that such a program is fully implemented.

*Submitted by the Governing Board*



Whereas, The honoraria for ICSOM officers have not increased for many years; and

Whereas, Most other ICSOM expenses, as well as the Consumer Price Index, have risen substantially since the last increase in officers' honoraria; therefore, be it

**Resolved,** That the following amendments to the ICSOM Bylaws be adopted by the 2002 ICSOM Conference and referred to ICSOM member orchestras for ratification as required by Article XI, Section 2, of the ICSOM Bylaws.

### ARTICLE VIII – DUES AND FINANCES

Section 7. The Chairperson, President, Secretary, Treasurer, and Editor of *Senza Sordino* shall each receive a yearly honorarium of ~~\$1,500~~ \$2,000. The Secretary shall also receive an additional ~~\$500~~ \$700 in recognition of his/her efforts in compiling, preparing, and distributing the minutes of the Annual Conference. The Editor of *Senza Sordino* shall also receive an additional honorarium of ~~\$100~~ \$150 per edition of *Senza Sordino* in recognition of his/her efforts in the preparation and distribution of said publication.

*Submitted by David Angus (Rochester) and Robert Levine*



Whereas, ICSOM Bylaws specify a more active role in the governance of ICSOM for the Executive Committee than for the Governing Board as a whole; and

Whereas, It is in the interests of ICSOM that Members-at-Large participate in all governance decisions made by ICSOM's elected leadership; therefore, be it

**Resolved,** That the following amendments to the ICSOM Bylaws be adopted by the 2002 ICSOM Conference; and be it further

**Resolved,** That the ICSOM Governing Board be directed to bring to the 2003 ICSOM Conference any further amendments to the Bylaws necessary to expunge all references to the Executive Committee and to transfer any remaining authority of the Executive Committee to the Governing Board.

*Submitted by David Angus (Rochester) and Robert Levine*

[The amendments referred to were presented in a form too long to be printed here. All of the changes involved substituting “Governing Board” for “Executive Committee” and similar modifications.]



Whereas, It is in the interests of ICSOM that Members-at-Large participate in all governance decisions made by ICSOM's elected leadership; therefore, be it

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**Resolved**, That the following amendments to the ICSOM Bylaws be adopted by the 2002 ICSOM Conference and referred to ICSOM member orchestras for ratification as required by Article XI, Section 2, of the ICSOM bylaws.

#### ARTICLE VIII – DUES AND FINANCES

Section 4.(d) The ICSOM Executive Committee Governing Board may borrow from the ERF such amount as it deems necessary. It shall repay such loan(s) on the same terms and conditions as any ICSOM orchestra, except that the term of the loan shall be no longer than one year from the date it is made.

Submitted by David Angus (Rochester) and Robert Levine



Whereas, The grassroots musicians' movement which became ICSOM was formed to demand basic union rights, including ratification, committee recognition, and representation; and

Whereas, The networking organization that became ICSOM transformed the symphony profession and is unique in labor history; therefore, be it

**Resolved**, That the founding members of ICSOM be honored at this 40<sup>th</sup> Anniversary ICSOM Conference and recognized for their vision and determination in empowering themselves by establishing a network of communication and mutual support.

Submitted by Julie Ayer (Minnesota)



Whereas, The 2002 Conference of the International Conference of Symphony and Opera Musicians marks the fortieth anniversary of ICSOM, a meeting distinguished by the presence of persons present at the formative conferences in 1962 and 1963 and by the publication of materials related to the history of ICSOM; and

Whereas, It is especially appropriate on this occasion to remember and honor the founders of ICSOM; and

Whereas, One of the most dynamic forces in the formation and success of ICSOM was ICSOM's first chairman, George Zazofsky, now deceased; and

Whereas, No memorial currently exists in the name of George Zazofsky; therefore, be it

**Resolved**, That the 2002 ICSOM Conference be dedicated to the memory of George Zazofsky; and, be it further

**Resolved**, That the ICSOM Governing Board explore, and be prepared to recommend to the delegates to the 2003 ICSOM conference, ways to more permanently honor the memory of George Zazofsky.

Submitted by David Angus (Rochester) for Tom Hall



Whereas, The International Executive Board adopted elements of the Roehl Report in 1989; and

Whereas, That action established a Symphonic Services Division (SSD) Steering Committee and the principle of consultation by the AFM President with the heads of the three symphonic player conferences on issues of SSD direction and policy; and

Whereas, The most important issue of SSD direction is who is to serve as Director of SSD; therefore, be it

**Resolved**, That the 2002 ICSOM Conference urges the AFM President to consult with the heads of the three symphonic player conferences prior to making future appointments to the position of Director of SSD; and be it further

**Resolved**, That the 2002 ICSOM Conference urges the AFM President not to appoint individuals to the position of Director of SSD who are not acceptable to the heads of the three symphonic player conferences.

Submitted by John Koen (Philadelphia)

Whereas, A significant and growing number of ICSOM orchestras have the AFM-EP Fund as their primary pension plan; and

Whereas, The AFM-EP Fund is also the primary pension plan for numerous ROPA orchestras; and

Whereas, The AFM-EP Fund also serves symphonic musicians who do electronic media work under AFM collective bargaining agreements; and

Whereas, The interests of symphonic musicians would be better addressed by the inclusion of a rank-and-file symphonic musician as one of the Trustees of the Board of the AFM-EP Fund appointed by the AFM President; therefore, be it

**Resolved**, That the 2002 ICSOM Conference directs the Governing Board to submit legislation to the 2003 AFM Convention that establishes, as a new policy of the AFM, the inclusion of a rank-and-file symphonic musician, selected in consultation with the Players' Conference Council, among the Trustees appointed by the AFM President to the Boards of the American Federation of Musicians and Employers' Pension Fund.

Submitted by Nancy Agres (Indianapolis)

*AFM bylaws, Article 27, Section 11 (Current language, for reference)*

As a matter of policy, at least one rank-and-file musician, selected in consultation with the Players' Conferences Council, shall be included among the Trustees appointed by the President to the Board of the American Federation of Musicians' and Employers' Pension fund (U.S.).



Whereas, Robert Grossman, Master Homebrewer and ICSOM delegate from the Philadelphia Orchestra, discharged with great distinction the commission given him by the 2001 ICSOM Conference by creating the 40th Anniversary Commemorative Beer, *Esprit de boire* (Spirit of Drink); and

Whereas, Robert Grossman spent a great amount of personal time, from November 2001 to June 2002, crafting, blending and bottling *Esprit de boire*; and

Whereas, Robert Grossman was unable to attend the conference in person to receive the congratulations of the conference; therefore, be it

**Resolved**, That the delegates of the 2002 ICSOM Conference express its gratitude and appreciation to Robert Grossman and bestow upon him the title "ICSOM Bräumeister."

Submitted by John Koen (Philadelphia)



Whereas, The financial strength and security of ICSOM is paramount to the overall health of our industry; and

Whereas, Communication among ICSOM member orchestras is essential in this period of extreme economic uncertainty; therefore, be it

**Resolved**, That the ICSOM Governing Board appoint a committee to explore the feasibility of the creation of a financial network within ICSOM to assist member orchestras during times of labor unrest and to identify new areas in which symphonic musicians may interact to create new economic opportunities for their mutual benefit.

Submitted by John Paul Lindberg (Virginia)



Whereas, The annual ICSOM conference is a valuable tool for sharing, organizing, and experiencing trade union values; and

Whereas, Recent hosted conferences have proved valuable to the host orchestra; therefore, be it

**Resolved**, That the delegates to the 2002 ICSOM Conference authorize the ICSOM Governing Board to appoint a committee to identify all member orchestras interested in hosting the 2003 ICSOM conference and to submit such information to the Governing Board by mid-October, 2002; and be it further

**Resolved**, That if no orchestra is interested in hosting the 2003 ICSOM conference, or if such proposals are deemed unacceptable to the Governing Board, the 2003 ICSOM conference will be held in Vail, Colorado.

Submitted by the Governing Board

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label. The San Francisco Opera does not have a recording contract with any one label; recording is done on a project-by-project basis. Over the last several years the company has released performances on Sony, Teldec, Deutsche Grammophon, and Erato. The company's production of *The Merry Widow* was recorded by PBS and will be broadcast on Christmas night locally and during the holiday season nationally.

The San Francisco Opera Orchestra is in the fifth year of a five-year contract. The current contract runs through August 17, 2003.



## Richard Levine

### Indianapolis Symphony

Indianapolis is in the final year of a four-year agreement. They are working with their new music director, Mario Venzago, who will conduct only three weeks this season due to prior commitments.

### Alabama Symphony

This orchestra is also in a negotiation year. The current executive director, Kathy Yarbrough, will be leaving at the end of December. No replacement or interim has been named at this time.

### Colorado Symphony

Having already performed *Hell's Angels* (1998–99), *Route 66* (1998), and *Sunset Strip* (1999) this season, the Colorado Symphony and its music director, Marin Alsop, are now recording an album that includes two other compositions by Michael Daugherty. *Philadelphia Stories*, commissioned and given its premiere performance by the Philadelphia Orchestra in 2001, will be coupled with *UFO for Solo Percussion and Orchestra* (1999), with percussionist Evelyn Glennie.

### Buffalo Philharmonic

Only briefly into their new contract, the Buffalo musicians continue to closely monitor their orchestra's financial situation. Their management is already talking of cash flow problems.

### Columbus Symphony

Columbus is in the first year of a five-year contract that adds additional weeks of employment, culminating in the fifth year with a fifty-two week season. They are in the beginning stages of a music director search, with four musicians representing the orchestra on the sixteen-member search committee. Their agreement requires a vote of approval from the musicians of the final candidates. A local fine-arts critic has seized on these provisions as proof that, in her words, "the inmates are running the asylum," that the symphony board is under the musicians' thumbs, and that musicians conspired to get rid of their present music director, Alessandro Siciliani. This is certainly not the case, as their relations with management and the board are the best they've been in years. The public relations battle is heating up.

### Charlotte Symphony

In a novel turn of events, the Charlotte Musicians' Association, AFM Local 342, has been charged by the management of the Charlotte Symphony Orchestra with filing frivolous grievances. SSD's Nathan Kahn's recent "Dog and Pony" show was well-received by the musicians of the orchestra. They expect to begin contract negotiations this summer.

### Atlanta Symphony

Atlanta ended last season in the black. Unlike 1996, when the orchestra endured a 10½-week strike, there seems to be a good feeling of cooperation among board, management, and musicians at this time. Maestros Robert Spano and Donald Runnicles have just had their contracts extended, and the orchestra is on track for a new Symphony Center.

### Florida Philharmonic

The Florida Philharmonic is in the third year of a five-year contract. Their newly hired executive director, Trey Devey, is getting acclimated to his new surroundings as he begins the task of guiding the FPO on a new and improved track. Their recording of selected works of Bernstein (*Symphonic Dances* from *West Side Story*, *Overture to Candide*, and *Symphony No. 2* ["*The Age of Anxiety*"]) has just been released on the Naxos label. They are searching for a new music director, whom they hope to name by the end of the current season. They recently completed a brief tour to Daytona Beach. With mostly new management, musician participation in artistic decision making, and a pending new music director, the FPO feels it is heading in the right direction.

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*This report was prepared with the assistance of delegates Nancy Agres, Lisa Wienhold, Paul Naslund, Robert Prokes, Andy Millat, Bob Rydel, Michael Moore, and Jay Bertolet (in order of the entries above).*

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## Mary Plaine

The following mini-reports from orchestras have been compiled with the assistance of the ICSOM delegates of those orchestras. Apologies to those orchestras whose information was not included below due to time or space constraints.

### Baltimore Symphony

The Baltimore Symphony is in year three of a five-year agreement. After several seasons with balanced budgets, the FY 2002 season ended with a deficit of \$616,000; future seasons will have increasingly larger annual deficits if income does not rise dramatically and expenses are not reduced. Since the spring of 2002 our orchestra committee has been involved in a joint planning committee that also includes senior staff and board and volunteer leaders. Discussions are facilitated by Paul Boulian and Fred Zenone of the Symphony Orchestra Institute. Auditions are scheduled this season for double bass and harp.

### Cincinnati Symphony

Cincinnati ratified a two-year contract agreement on September 28, 2002. The first year's weekly scale will be the same as the going-out rate of the

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previous year (\$1,605) and the second year's weekly scale will be \$1,630 for 26 weeks and \$1,655 for 26 weeks. A \$1,000 bonus will be paid in March 2003. Musicians will continue to receive a \$70/week EMG. Management continues to cover 100% of the health insurance premiums; if the premium increases beyond 15% in the next season, cost-cutting measures will be negotiated. Same-sex domestic partners will be fully covered in the medical plan. Grievance procedure language was incorporated into the CBA for the first time.

In other news, there are plans for four recordings with Telarc, an East Coast tour, and a tour of Japan in the fall of 2003. The orchestra will be inducted into the Classical Music Hall of Fame later this season.

### ***Kennedy Center Opera House and Washington Opera Orchestra***

The musicians of the Kennedy Center Opera House Orchestra and Washington Opera Orchestra reached settlement on a three-year contract on September 6, 2002. The Kennedy Center Opera House will be closed from December 12, 2002, until December 1, 2003; during that time performances will take place at Washington's Constitution Hall. Plans call for ballet performances to take place in the other halls in the Kennedy Center. The Washington Opera will be hiring its own personnel manager and music administrator. The Kennedy Center will continue to use the person who is currently personnel manager.

Auditions for second trumpet will be held in January.

### ***New Jersey Symphony***

The New Jersey Symphony Orchestra is in the final year of a three-year contract. Two out of four auditions previously announced have been postponed. The NJSO is in an ongoing search for a new music director.

### ***Phoenix Symphony***

The Phoenix Symphony is now in year two of a four-year agreement in which the orchestra gave up five weeks. Following is a timeline of recent events in this orchestra.

The PSO began negotiating a new contract in May 2001. When the CBA expired on October 31, 2001, the orchestra agreed to extend the agreement until December 31, 2001. During this interim period the musicians asked for and received a "peer review" of the institution. An industry consultant (Bob Jones, formerly of the Indianapolis and National symphonies) met with all of the constituencies and formulated recommendations regarding the PSO's challenges with respect to its strengths and weaknesses.

Pending the Association's attempt to find additional funding from local foundations and government, the musicians agreed to an additional extension of the contract until February 4, 2002.

The Association presented its offer, which included pay cuts amounting to a 15% reduction in scale retroactive to the expiration date of the contract. The 15% cut included suspension of pension payments and per diem, which are to be restored in the third and fourth year of the contract. Faced with the choice of having the the orchestra fold immediately and come back

as a two-tier orchestra, or for the PSO to remain a full-time orchestra, the musicians reluctantly accepted the concessions.

In April 2002 the orchestra's CEO and president resigned. In May the Association and the musicians asked for the services of the Symphony Orchestra Institute, and in July 2002 agreed to include the PSO in their work. The search process for a new CEO began in August.

### ***Florida Orchestra***

During the 1980's and 1990's the Florida Orchestra, which serves Tampa, St. Petersburg, and Clearwater, was consistently among the most financially troubled orchestras and often on the edge of bankruptcy. In recent years the orchestra has been able to achieve relative financial stability and to grow from a core orchestra into a full-time orchestra with 80 players. There are two main challenges currently facing the orchestra: significantly increasing endowment funds to insure future stability, and solving the problem of being displaced by Broadway touring shows in its only viable performance space in Tampa. Demographically, the Tampa Bay region (population 2.2 million) is capable of supporting the orchestra at a much higher level. It is the orchestra's goal to realize that potential.

### ***Virginia Symphony***

The orchestra has been playing and talking since their CBA expired in August, in part because a few key staff positions, including executive director, have been only recently filled. The orchestra has operated in the red for a number of years, and the board intends to balance the budget this season. The Virginia Symphony also plays for the opera company, which creates additional issues for the new management to understand.

### ***Kansas City Symphony***

The Kansas City Symphony is currently in year five of its nine-year collective bargaining agreement. Main economic terms are negotiated every three years. The eight orchestras whose expense budgets are closest to Kansas City's are identified as the peer-group orchestra index. Averages of this index's minimum annual salary and benefits serve as benchmarks and as starting points for bargaining. In January 2003 the KCS will begin negotiations for years 7-9, having already successfully negotiated years 4-6 in November 1999. One of the orchestra's chief goals this year, besides increasing annual salary, will be to reduce the cost of musician health insurance, particularly for musicians with families.

The orchestra is currently looking for a new music director to succeed Anne Manson. Five musicians elected by the orchestra serve on the Music Director Search Committee.

The KCS general manager was appointed executive director last summer. As is the case with many orchestras, the KCS continues to be affected by the downturn in the economy. Staff salaries were frozen this year, and the general manager position remains unfilled.

Despite financial uncertainty there is much optimism in Kansas City. Plans are underway for a new performing arts center, scheduled to open in 2006. The board of trustees remains steadfast in its commitment to the artistic success of the KCS.

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### **St. Louis Symphony**

Last January the musicians of the St. Louis Symphony agreed to a concessionary modification and extension of their contract. Following that, the SLSO received cash and short-term commitments of \$31 million. This extraordinary support from the St. Louis community will sustain a moderately reduced salary level for the remainder of this contract and will also cover diminishing losses over the next several years.

This good news was tempered by the debilitating illness and subsequent resignation of Music Director Hans Vonk. Maestro Vonk's sudden departure left the SLSO without a conductor for eleven subscription weeks. In less than a month, the artistic staff engaged replacements, and Itzhak Perlman was named music advisor soon thereafter.

The campaign to match the \$40 million Taylor family gift is ahead of schedule, with over \$24 million already committed.

The SLSO Forum, a discussion group composed of the Musicians' Council, board members, and senior staff formed during the financial crisis in September 2001, shows great potential for articulating a vision and creating strategic plans for the SLSO. The financial effect of this concessionary contract will begin to be felt in January 2003, when the musicians' wage structure changes. Although the weekly pay rate has increased, musicians now have ten fewer weeks in their season, resulting in a yearly wage reduction of 8% (more for musicians who earn overscale and/or seniority pay). This level of compensation was the direct result of \$2 million from two local civic leaders designated for "musicians only."

At the end of the current contract in December 2004 the compensation rate may drop unless an additional \$80 million of endowment can be raised in addition to the Taylor gift and matching funds. Clearly, while the orchestra has been saved from imminent bankruptcy, there are still many challenges ahead. Community support has been remarkable, and the orchestra is hopeful that the SLSO will not only survive but also continue to be a world-class symphony orchestra.



### **Fred Sautter**

#### **Los Angeles Philharmonic**

The Philharmonic is midway in a six-year contract. Meredith Snow, on sabbatical, is continuing to serve as ICSOM delegate. There is strong feeling in the orchestra about fundamental union principles and basic democratic processes: votes and surveys should be conducted with each musician's participation and results tabulated as one-musician—one-vote. LA has voiced its support for national media contracts with upfront payments.

#### **Detroit Symphony**

Detroit is in the second of a four-year contract. There is a small deficit. They are looking forward to the potential of the upcoming President's Council meeting in solving some of ICSOM's media issues. Detroit has an LIOC (Local Internet Oversight Committee) which is looking into some issues to be reported in a future issue of *Senza Sordino*.

### **San Antonio Symphony**

This orchestra is in the first year of a three-year contract that resulted in large cuts in the season length and in salaries. Musicians are performing at a high level artistically but are having to piece together incomes with outside activities. There have been payroll problems. One positive note is the announcement of a new music director, much anticipated and, one hopes, a boost to the financial picture.

### **Utah Symphony and Opera**

Utah's next negotiation is in 2004. The LIOC is working on an agreement with management about the broadcasting and streaming of concerts. Younger members are becoming involved on the orchestra committee. Delegate Lynn Rosen spoke highly of Penny Anderson Brill's presentation at the 2002 ICSOM Conference.

### **Chicago Symphony**

The Chicago Symphony's contract is up in September 2004. They are looking for an executive director, and there is a deficit. They voice solidarity and call for strong unionism to be renewed in ICSOM. Input from all voices is a necessity for this, and they look forward to the upcoming President's Council meeting on media. Chicago voices support for upfront payments and national contracts with guaranteed minimums for media activities.

### **San Francisco Symphony**

The San Francisco Symphony CBA expires in November of 2005. The orchestra is involved in various media projects: CD's, public television, and the Internet. There is a feeling that media issues could have been handled better and that the President's Council should serve well to that end.

### **Oregon Symphony**

Oregon will soon begin negotiations for a new contract; the current contract expires in August. Relations with management are generally good, especially since the large deficit influences so many things. A Strategic Plan drives the organization and its finances. Oregon has been recording regularly under SRLA and voices support for upfront payments and national media contracts. The orchestra does not have an LIOC, and streaming is turned off during radio broadcasts.

### **Cleveland Orchestra**

Cleveland's last year under the current contract is 2003-2004. Strong union principals are adhered to in Cleveland. Cleveland delegate Scott Weber found the last few ICSOM conferences needing improvement and suggested sessions on basic unionism and issues specific to current events in the symphonic industry. Cleveland is no longer broadcast on the radio. The LIOC found issue with the lack of "new use" payments with simultaneous Internet streaming. When payment was not forthcoming for streaming, broadcasts ceased, and the musicians' loss in payments has been substantial.

Cleveland reminds us that we ICSOM orchestras need to revisit our union roots, look at why we stand together, and remember the history of how

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## **Counsel's Report**

### **Leonard Leibowitz**

### **Yeshiva Revisited**

In an article I recently wrote for the *International Musician* entitled "Beware of the Music Police," and in a subsequent exchange of letters with the *IM* editor, I referred to the U.S. Supreme Court's decision in the case of *NLRB vs. Yeshiva University Faculty Association*, 444 U.S. 572, 100 S. Ct. 856, 103 LRRM 2526 (1980). Because it has been some time since I've discussed this case and its implications for symphony orchestras, a brief review and update are in order.

The full-time faculty at Yeshiva University in New York City sought to be represented by the Faculty Association. A petition for certification by the National Labor Relations Board had been filed seeking confirmation that the Association was indeed the exclusive bargaining agent of the faculty.

After an election, the NLRB certified the Union despite the University's position that the faculty was "supervisory and managerial," that faculty members were therefore not "employees" under the National Labor Relations Act, and that the Board could not certify a union of supervisors and managers.

Thus, if the Supreme Court agreed with the University, the certification would be null and void, and the University would have no obligation to recognize or bargain with the Union, effectively denying the faculty the right to be unionized.

After oral argument, the Supreme Court held that

a private university's full-time faculty members whose authority in academic matters was absolute, who decided what courses would be offered, when they would be scheduled, and to whom they would be taught, who determined teaching methods, grading policies, and matriculation standards, and who effectively decided which students would be admitted, retained and graduated, exercised supervisory and managerial functions and were therefore excluded from the category of employees entitled to benefits of collective bargaining under the National Labor Relations Act.

Further, the Court noted:

The controlling consideration is that the faculty exercises authority which in any other context unquestionably would be managerial, its authority in academic matters being absolute. The faculty's professional interests—as applied to governance at a university like Yeshiva which depends on the professional judgment of its faculty to formulate and apply policies—cannot be separated from those of the institution, and thus it cannot be said that a faculty member exercising independent judgment acts primarily in his own interest and does not represent the interest of his employer.

Although the impact of *Yeshiva* has been somewhat diluted by later decisions, the basic proposition that the "exercise of authority which in any other context unquestionably would be managerial" is still applicable.

Members of many ICSOM orchestras already exercise some of that authority. Musicians are intimately involved in the hiring of musicians through their participation in audition committees. Peer review committees have

significant input in the non-renewal process including, in many cases, the ability to make a final and binding decision overruling the music director. In many of our institutions musicians sit as full voting members of the orchestra board, in some cases on the executive committee, and they serve on other standing and *ad hoc* committees, like music director search committees.

While I do not believe that the exercise of these functions in orchestras approaches the extent of the *Yeshiva* situation, the more we assume these kinds of functions the greater the risk of one day losing one of our greatest assets: the right to organize and be represented by a union.

## **Directory Update**

The 2003–2004 *ICSOM Directory* is being co-produced this year by Robert Levine and Mary Plaine. By the time this issue of *Senza Sordino* reaches its readers, each orchestra delegate will have used a web-based data system to make corrections, additions, and deletions to his or her orchestra's personnel list. The plan is to have the book to our members by the beginning of February. Delegates will receive updates as necessary on the progress of the directories if there are any unforeseen problems.

*Mary Plaine*

*(continued from page 10)*

we won the pay and conditions we have. National media agreements, with all their benefits, are the result of intense past negotiations. We also need to open our eyes to management's practiced approach of diffusing solidarity through "inclusion," "facilitation," and other "divide and conquer" approaches.

### **Rochester Philharmonic**

Rochester has just begun negotiations for a new contract; their current agreement expires in August 2003.

### **Boston Symphony**

Boston is in the first year of a four-year contract. In the new contract, there are some new audition procedures after many years of no changes. Boston will be without a music director for the next two seasons. Their LIOC is developing a task force to look into creative uses of the Internet for the BSO. The ICSOM President's Council meeting is much anticipated.

(continued from page 1)

Officers were elected: Chairperson Jan Gippo (St. Louis Symphony), President Brian Rood (Kansas City Symphony), Secretary Laura Ross (Nashville Symphony), Treasurer Scott Weber (Cleveland Orchestra), and *Senza Sordino* Editor Marsha Schweitzer (Honolulu Symphony). Gratitude was expressed to officers leaving their posts after many years of service: Robert Levine (chairman since 1996), David Angus (president since 1990), Lucinda-Lewis (secretary since 1990), and Stephanie Treck (treasurer since 1994).

Following the conference, Scott Weber and Marsha Schweitzer chose to resign their positions. Michael Moore has been appointed to serve as treasurer and Tom Hall as editor of *Senza Sordino* until elections are held at the 2003 conference. Richard Levine has been appointed to serve Michael Moore's unexpired term as member-at-large.

Brad Buckley, ICSOM chairperson emeritus, also stepped down as chair of the ICSOM Electronic Media Committee, paving the way for the new Governing Board to appoint a successor. Brad first served on the Media Committee in the negotiation of the Symphony-Opera-Ballet Audio-Visual Agreement in 1982 and has served on every media negotiating team since. His knowledge and insight will be missed.

Unity II was expertly planned and coordinated by OCSM's Francine Schutzman (National Arts Centre Orchestra), to whom many thanks are due. The social highlight was a party for all attendees on the terrace of the National Arts Centre. Tom Hall served once again as conference coordinator for ICSOM.

The 2003 ICSOM conference will be held August 20-23 at the Antlers at Vail, in Vail, Colorado.

*This report was compiled by ICSOM Secretary Laura Ross and Senza Sordino Editor Tom Hall.*

## A Reminder from the Treasurer

ICSOM dues are now due. The deadline for payment is December 31, 2002.

Please remember that members of ICSOM are orchestras, not individuals. The calculation of dues is based on the number of contracted musicians in each orchestra, but ICSOM does not assess individual orchestra members. Each orchestra is free to determine the method of collecting its ICSOM dues.

Michael Moore



*Senza Sordino* is the official voice of ICSOM and reflects ICSOM policy. However, there are many topics discussed in *Senza Sordino* on which ICSOM has no official policy; the opinions thus expressed in *Senza Sordino* are those of the author(s) and not necessarily of ICSOM, its officers or members. Articles and letters expressing differing viewpoints are welcomed.

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A Conference of the American Federation of Musicians — AFL—CIO

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