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An Uneasy Settlement in Chicago

by Stephen Lester

The Chicago Symphony Orchestra recently concluded negotiations that had extended beyond the expiration of the former collective bargaining agreement. A settlement was reached and ratified on November 6, narrowly averting a strike.

We had expected this negotiation to be difficult. For three years the orchestra had endured meetings at which William Strong, the chairman of the Chicago Symphony Orchestra Association, painted gloomy pictures of the Association's finances. After years of financial and marketing mismanagement that left many trustees angry and audiences drifting away, a new Association president, Deborah Card, was hired last season. Daniel Barenboim's tenure as music director was publicly and awkwardly ended without a successor having been chosen. The media had continually questioned the validity of classical music and symphony orchestras and had portrayed musicians as spoiled, lazy, and greedy.

The first negotiating session began with yet another speech by the Association chairman and continued with the presentation of management proposals to reduce our benefits by $2.75 million per year for each of three years. Management's non–economic proposals sought to turn the clock back 40 years, with over 100 items designed to gut our contract's provisions on working conditions, union and committee representation, and job security.

We knew that we could challenge the trustee's financial assumptions. The chairman's presentations were riddled with inaccuracies and over–generalizations. With the help of financial analyst Ron Bauers we acquired a more accurate understanding of the Association's situation. Reading articles by ICSOM's own Leonard Leibowitz, Richard Levine, and Henry Peyrebrune, we learned about the myth of the "structural deficit." We realized that, while the Association did have short–term problems with working capital and cash flow, it also had a very strong balance sheet showing revenues that more than cover musician expenses. Although ticket sales have slowly declined, revenue remains strong; at the same time, musician costs account for less than one third of the budget.

Over the last decade, especially since the expensive renovation of Orchestra Hall, trustees and management have become less interested in presenting concerts than in undertaking special projects and in advancing social and political agendas. Activities essential to our artistic growth and audience development have been reduced or eliminated. We now do little or no media work. We play fewer youth concerts. Our in–school ensemble program, which used to reach 20,000 students and seniors each year, has been severely cut back, as has our chamber music series. The Association's "business model" has set new and unusual goals for a symphony orchestra. One goal is to modify or re–create an orchestral institution so that it not only gives symphony concerts but does many more things, some musical (presenting non–classical music) and some not (establishing experimental educational programs not involving musicians). These activities were taking place under the Chicago Symphony Orchestra name and were diluting our activities and image, creating audience ambivalence and apathy, and engendering huge increases in staff, budgets, and expenses.

When the easy money of the 1990s disappeared and the trustees realized that the Association could not afford these projects, cutbacks were inevitable. Rather than eliminate the failing activities and initiatives selectively, they decided to cut all programs equally and to force the musicians to shoulder a disproportionate share of the pain. This strategy was reflected in the proposals they put forth in negotiations. We had already seen our non–guaranteed income shrink significantly, resulting in lowered compensation of around 10% in each of the last three years. Under the new proposals, there would be a further reduction in benefits of approximately $25,000 for each musician for each of the next three years, as well as a permanent reduction in the size of the orchestra. This while maintaining a staff that remains larger than the orchestra!

To justify its financial demands, management used a ten–year projection that predicted huge budget shortfalls. Based loosely on a model developed by the Mellon Foundation, this tool was useful in describing the dangers of poor management but was otherwise meaningless. Other economic facts which came to light revealed that there were, in anticipation of these negotiations, several actions coordinated by management and trustees designed to make our financial situation appear worse than it actually was.

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In This Issue

Chairperson's Report

Jan Gippo

It was my honor and pleasure to represent ICSOM in a ceremony at Boston's Symphony Hall commemorating George Zazofsky's contributions to orchestral life. Among his other accomplishments, George was a founder and the first chairman of ICSOM. We were gathered to dedicate a plaque as a lasting memorial to him.

While we should recognize that ICSOM must always strive to serve the current needs of orchestral musicians, it does give perspective to remember the road that those before us have paved. With that in mind, I'd like to devote the rest of this column to allow the condensed words of George's daughter, Erika Zazofsky Goldberg, as spoken at the ceremony, to jog our collective consciousness.

"Professionally, he joined the BSO under Serge Koussevitzky when he was 24 years old. A year after he joined the orchestra, he joined the BSO's union committee and eventually became the head of the BSO committee. He, along with others on the committee, achieved significant gains, including vast improvements in health benefits. Ultimately, he and his colleagues on the committee established a rapport and dialogue with the trustees and the management of the orchestra that was admired and envied by other orchestras. It was his goal that management and the public view the musicians as professional workers. He used to voice frustration at the popular phrase that musicians 'played' while other occupations 'worked.'

"One story I remember in particular was when my dad first approached management for an increase in salary. Their reaction was, 'That's a lot of money you're asking for,' to which his response was, 'You didn't give up your childhood to practice.'

"In fact, the 1960 census ranked musicians and music teachers 40th in the annual income among 49 professions listed, earning an average of $4,757 annually. In 1962, most musicians in major orchestras were employed little more than six months annually at a yearly salary that was barely a living wage, under $5,000!

"In 1962, ICSOM was born and Boston was one of the first orchestras in America to ratify its bylaws. My father was one of its founders and indeed its first chairperson. He played a major role in shaping the orchestral labor movement at a time in America's history when this was often difficult, and sometimes downright scary!

"But in 1969, a momentous event occurred: the AFM, fearing dual unionism and dilution of its authority, granted ICSOM official status. And a long and tireless dream was realized when the AFM created a full–time symphony department, now the Symphonic Services Division—this was in 1982. And by 1989, the AFM completed this marriage by incorporating into its bylaws an amendment to give ICSOM representation at AFM conventions.

"This marriage of organizations had been especially gratifying to my dad, whose dream it was to not only create this new entity, but to see this marriage

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President's Report
Brian Rood

The 2004-05 fall season began on a somber note for our ICSOM orchestras that were encountering formidable challenges at the table. Opening concerts, usually filled with great excitement and anticipation, were hampered by exceptionally difficult and contentious negotiations, the likes of which many of us have never seen before.

All eyes in the orchestral world were on the events unfolding in Chicago, Cleveland, New York, Philadelphia, and elsewhere as musicians struggled to reach accord. Although each city and orchestra had their own set of issues to work through, there was an unusually pervasive theme to this round of negotiations. Salient similarities could be seen as managements and boards across the country spoke of "structural deficits" and the need for musicians to "share the pain." Committees received financial reports from their managements and boards threatening imminent doom if musicians did not "step up to the table." Also unusual was the number of similar proposals that would have effectively gutted contracts, rolling back essential working conditions gained through decades of hard work and unified resolve.

With the assistance of SSD Executive Director Laura Brownell, I organized five conference calls for the Chicago, Cleveland, National Symphony, New York Philharmonic, and Philadelphia negotiating committees. These calls were often late at night, often after long hours of negotiation, and sometimes after performances as well. These calls saw participation from committee chairpersons, local presidents, attorneys, and full committees.

Given the nature of negotiations, I feared there might be some hesitation to share sensitive information with other committees. This proved not to be the case. Our discussions were remarkably open and candid. Committee chairs were concerned not only with their own negotiations but also with the impact of proposals on other orchestras.

Wages, pensions, and health insurance were the focus of many calls. We spent a great deal of time, however, dealing with proposals that would undermine the ability of orchestras to perform at the high artistic standards our music directors, boards, managements, and audiences have come to expect. Proposals to reduce orchestra complements, to do away with service count provisions, and to institute new scheduling schemes were, in many ways, more unsettling than the uncharacteristically low wage and benefit proposals.

With the unprecedented voracity and determination shown in the attacks on several orchestras, the settlements might have been much worse. The negotiating committees, local presidents, attorneys, and, most of all, rank–and–file musicians deserve our collective appreciation. Their grit, resolve, and expertise not only preserved our standard of living but, more importantly, staved off the draconian proposals that would have greatly impeded the artistic successes of several of the world's finest orchestras.

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Secretary's Report
Laura Ross

The 2004–05 season has, so far, been filled with the usual tasks, writing a conference report for the *International Musician* (which was expanded in the previous *Senza Sordino*), applying changes to the bylaws following the conference and mailing out updated versions, forwarding those changes and all resolutions passed at the 2004 conference to the editor for inclusion in the first *Senza* issue, completing the 2004 conference minutes (which were mailed out a few weeks ago), and attending the mid–winter governing board meeting. I have also been involved in legislative committee activities as we deal with congressional and AFM convention issues. And, of course, I am also very involved in the media discussions.

We've had a busy beginning of the season with some of our largest orchestras negotiating from day to day. Many have been quick to send me their bulletin information, but I still await information from some orchestras who have settled.

Our mid–winter meeting in Atlanta in January was very productive, and we received some good input from conference evaluation sheets as well as additional e–mails from attendees. Ideas are always welcome.

Putting on another hat, as a member of the ICSOM Legislative Committee, I like to point out that this committee has two major tasks ahead of it this year. Leslie Shank from the Saint Paul Chamber Orchestra and Nancy Stutsman from the Kennedy Center Orchestra chair this committee that must address possible changes to the AFM bylaws at the 2005 AFM Convention in July as well as deal with issues in Washington. This committee is one of ICSOM's most important committees, and I urge you to offer whatever assistance you can if your orchestra is contacted.

One concern I have is that, while I am personally saddened by the November election results, I also know we must find ways to work with our all of our senators and representatives and with the White House to forward issues that are of great importance to us. Sadly, many Republicans have not been willing to listen to our issues in the past because unions generally (but not always) support Democratic candidates. Regardless of which candidates the AFM or any union has supported in the past, we cannot and must not be marginalized by that attitude and must find ways to build coalitions with others.

I don't say this lightly. There is one issue that has been of great concern to me in my multiple roles as Secretary of ICSOM, as a member of the ICSOM Legislative Committee, as an officer of my local, and as a participant in the AFM-EPF: the extension of the amortization schedule of multi–employer pension funds. Last April, on the heels of tax day, the House approved this very extension for single–employer pension funds. Unfortunately, the House and the President, who threatened to veto the bill if multi–employer funds were included, stated they would never allow provisions for multi-employer funds. There was a short battle in the Senate but the threat of a veto and harm to all pension funds caused them to vote in favor of the single–employer extension.

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Member–at–Large Report
Lynn Rosen

The 2004–05 season marks the Indianapolis Symphony's 75th anniversary. There have been many activities to celebrate the occasion, including a local half–hour PBS special and a new book about the orchestra's history entitled *Crescendo* (advertised in the *International Musician*).

Indianapolis has just ended a CEO search that included musician involvement. Replacing the retiring CEO, Richard Hoffert, will be Simon Crookall. He's coming from the Royal Scottish National Orchestra in Glasgow.

Utah Symphony musicians are currently "playing and talking" while negotiations continue. Musicians and the union strongly advocated that management hire an independent consultant to evaluate all aspects of the organization, including the musicians' contract. This has been done and the evaluation is ongoing.

Ticket sales are lower than in the past, and fundraising revenues are below expectations; expenses (mostly our salaries) are within the budget. Musicians are expressing great concern over the long–range direction—both artistic and fiscal—of the Utah Symphony since it merged with the Utah Opera.

If negotiations conclude successfully by April 2005, the Utah Symphony will embark on an 18–day European tour to Germany, Austria, and Slovenia. We eagerly await both events.

The Phoenix Symphony has completed a search for a new music director, announcing Michael Christie as its choice to start in 2005–06. The 30–year–old has just ended a three–year term as music director of the Queensland Symphony of Australia, where he will continue to serve as principal guest conductor. He served as an associate conductor of the Helsinki Philharmonic for three years and, since 2000, as music director of the Colorado Music Festival.

Greg Falkenstein, co–chair of the musicians' committee, was a member of the search committee, which unanimously recommended Christie. Orchestra musicians, elected by their colleagues, made up the majority of that committee. Greg noted that there were other strong candidates but that Christie "most closely fit the profile that we had painstakingly developed." "Not only is he an exciting, talented conductor, but he has demonstrated the vision necessary to take our orchestra to the next level," Greg said.

Dallas Symphony is currently enjoying the fruits of a new five–year contract. Single–ticket sales are on the rise; the endowment is hovering around $90 million; and the DSO has just released two CDs (Beethoven's 9th, commemorating the 15th anniversary of the DSO's home, the Meyerson Symphony Center, and Rachmaninoff piano concertos with Stephen Hough).

ICSOM delegate James Nickel commented on some innovative theme programming and community connections, including a collaboration between the DSO and the Six Floor Museum in a performance of Bernstein's *Mass* and a new chamber music series at the Nasher Sculpture Center.

There are also incredible innovations displayed on the symphony's three websites: www.dallassymphony.com, www.dsodiscover.com, and

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Secretary's Report
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What kind of thinking is that? Especially since multi–employer pension funds benefit employers as well, since they don't have to worry as much (though the managers are concerned) about adequate funding levels. The costs to maintain a pension fund with so many different employers contributing to the fund is much lower too.

With the exception of a handful of ICSOM orchestras, most of our orchestras have either been participants in the AFM-EPF for years or have frozen their previous pension funds and moved to the AFM-EPF. This is of vital concern to all our members.

As a 45–year–old with at least 20 years to go before I can collect pension at the highest level, I am concerned about Social Security (and the potential lack thereof). We must all take this seriously.

I have already spoken to a few of our AFM trustees who are also very concerned about receiving this extension. Their concerns were stated in the most recent *Pension Notes*. I have also spoken to AFM Legislative Director Hal Ponder about when we might begin to work on this issue. He believes we can start educating Congress as early as January.

We need your participation when we begin our letter writing campaigns to Congress. We also need to build a coalition with our managers, possibly through ASOL, as well as our board members. Many of these people have great influence (and even personal connections to our state representatives), and with their help we may be successful in changing the attitude we saw in Washington DC last April.

We'll find out soon enough how willing the Republicans are to work with Democrats and the millions who did not vote for them. Regardless, we need to head this off at the pass to protect our future and those of our colleague now and in the future.

President's Report
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Committee chairs told me that the communication that occurred in those ICSOM calls was "invaluable and essential to our success" and "an integral tool in defending our orchestra's core values." Also expressed was the adage that "orchestra memberships continue to nurture this new spirit of collaboration not only during negotiation periods but also as day–to–day issues arise."

I close this column with the following quote from Lew Waldeck. In 1983 Lew became the first director of the Symphonic Services Division. Regrettably, January 26 marked the first anniversary of his passing.

There is no end
To our imagination
When we are confronted
With the improbable.

Legislative Committee Report
Leslie Shank

The Legislative Committee held a conference call meeting on December 13, 2004. In attendance were Leslie Ludena (San Francisco Opera), Hal Ponder (AFM Legislative Director), Helen Reich (Milwaukee), Laura Ross (Nashville), Leslie Shank (Saint Paul Chamber Orchestra), and Nancy Stutsman (Kennedy Center Orchestra). Hal Ponder started the meeting by detailing what our challenges in Congress will be this session.

Copyright legislation dealing with piracy will be reintroduced. Although similar legislation did not pass last session, it now has more bipartisan support. The overtime pay issue will come up again and is already being worked on by the AFL–CIO. We need to deal with the issue of media concentration now that consolidation has been made easier. This has led to less airtime for many types of music, forcing some artists to perform for free in exchange for playtime. Another important topic for all of us is airline carry–on luggage. Hal Ponder and Eric Beers are currently working with twelve major carriers to change their policies so that the measurement of musical instruments would be in linear inches rather than in cubic inches. Delta has recently changed their policy to allow for linear inches, however their limit needs to be increased.

Our first consideration for this legislative session, however, is likely to be pension reform. The Republicans are very likely to have a new bill in February. Our challenge will be to get multi–employer pension relief into that bill, something that we aimed for last session but were unable to accomplish. We all agreed that, in addition to fighting off negative attacks against multi–employer funds (the true purpose of which is union busting), we need to enlist our boards and managements to write to our senators and representatives, since multi–employer pension relief is beneficial to the employers as well as to the employees.

We will also be active in organizing resolutions and bylaw language for the national AFM convention in July. We will need volunteers to help us keep track of AFM board members/officers who are members of ICSOM orchestras.

Hal also mentioned that Arts Advocacy Day, in Washington, would be March 15th this year. There will be workshops and preparation on the 14th, and the 15th will be used for lobbying. Last year's topics included NEA funding and Canadian musician visas.

Finally, the committee strongly urges anyone who is interested in helping with these important national issues to please join us on this committee. I think we can all agree that we can gain strength in numbers and from a unity of efforts. If you are interested, please e-mail me at minnfiddler@visi.com.

Leslie Shank is a violinist with The Saint Paul Chamber Orchestra. Leslie and Nancy Stutsman (Kennedy Center Orchestra) are co–chairs of ICSOM's Legislative Committee.

Chairperson's Report
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of services occur. And this is why I am especially pleased and proud to welcome the participation at this ceremony of the AFM.

"It is noteworthy that before ICSOM, only one orchestra, Boston, participated directly in the negotiation of its own contract. No orchestras had the opportunity to approve contracts negotiated for them by union representatives who, being ill–informed about symphony orchestra matters, concluded agreements that incorporated token salary increases and minimal improvements in working conditions. No orchestra could hire its own attorney to participate in these negotiations. Today, most orchestras have bargaining representation and may form committees, elect their own officers, and conduct their own affairs. AFM bylaws allow orchestras to retain legal counsel of choice, and contract ratification became a part of Federation bylaws in 1983.

"My father's dream has indeed been realized! He once wrote: 'If the word "Philharmonic" means "brotherhood," the word "symphony" means "in union." ' If you don't have that, you don't have anything. Today, I am pleased to report we not only have a union, a marriage; we have a marriage of unions! And for that my family wishes to thank you all for sharing this dream with us."

MAL Report
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www.dsokids.com. The DSO Kids site contains resources for both teachers and students, including photos and in–depth bios of musicians, and even a *Who Am I?* quiz that asks students to identify orchestra musicians.

One final item: Dallas is still searching for a new music director, as Andrew Litton's tenure ends in 2006.

After eight months of bargaining, Minnesota Orchestra musicians ratified a three–year contract the day after Thanksgiving. The new agreement contains a first–year salary freeze (the second consecutive contract to have such a freeze) and other concessions that will save $1.2 million in musician costs over last year. Improvements were made in areas including touring, paternity leave, scheduling, and seniority pay.

The Los Angeles Philharmonic celebrates its twentieth consecutive season of visits by its current music director, Esa–Pekka Salonen. A special concert in November included a tribute video for the occasion.

Chicago Settlement

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These included lowering the goal to be raised for the annual fund, lowering ticket prices, failing to contribute anything to the pension fund over a seven-year period (necessitating huge payments into the fund in the next several years), and lowering the draw on the endowment to the minimum of 5%. All of these actions had a huge effect on revenues and expenses, giving the budget for this year and next especially large deficits. The purpose of this strategy was to make the situation look as bad as possible.

Management has also attempted to undermine our union representation, to divide the orchestra, and to control all information and discussion in the media and the community about the orchestra and classical music. The new Association president started meeting with members of the orchestra privately, ostensibly seeking their input while promoting her own ideas. The Association leadership worked in concert with boards of other orchestras that were negotiating contracts, and proposals put to these orchestras were strikingly similar in language and substance. The degree of communication was unprecedented. There was a unified attempt to push most of the major orchestras down by reducing benefits and weakening working conditions.

In response to this situation, we were fortunate to have an experienced negotiating team, supremely capable legal counsel, and the support of Local 10–208, the AFM, and ICSOM. Most important was the overwhelming support of the orchestra. We had lively orchestra meetings during which many questions were asked and answered. There was considerable e–mail discussion in which our negotiations were examined and critiqued. All of this brought us together in great solidarity.

We were willing to look at the Association's problems and work to help solve them, but we also sought commitment from the trustees that the CSO would remain world–class. We realized that we would need to help the Association dig itself out of the hole into which they put themselves. Even though we had only a handful of negotiating proposals, we were willing to be flexible as long as our basic working conditions and fundamental benefit structure remained intact.

However, in this negotiation the trustees sought to impose unusually severe measures and seemed to be inviting a strike. Negotiations took place with minimal progress.Because a great gulf still existed between the Association and the Union after five months of negotiation, a mediator was engaged in October. Retired federal judge Abner Mikva proved to be both determined and understanding. He was extremely adept at grasping complex issues and very skillful in fashioning mutually acceptable compromises. Without his efforts we would probably be walking a picket line right now.

We realized that a strike might have serious long–term effects, including a catastrophic impact on future revenues. A strike might have changed the Chicago Symphony Orchestra for decades, even permanently. We strongly believed that a work stoppage was a last resort, one to be avoided—but not at all costs. We were ready to strike if necessary, and picket signs were printed and picket captains appointed in early November. Our view has always been that a strike can be avoided only if both sides believe it can occur, and that one is apt to occur when one side erroneously believes the other will back down. We believe that both sides must have been aware of the enormity of the consequences of a strike, and this contributed in no small measure to reaching a settlement.

In the end, we accepted a back–loaded wage package: the first year has a wage freeze, but our scale at the end of the three–year term will be competitive with our peer orchestras. Our pension remains at $63,000, but management has agreed to guarantee a $70,000 retirement benefit and to make that figure the basis for determining future pensions. To preserve the quality of our medical insurance, we agreed to contribute a small amount toward premiums. Finally, the Association may leave up to five positions vacated by attrition unfilled, but, at the end of the contract, our orchestra size remains officially at 111. We were also successful in keeping out of our collective bargaining agreement any media provisions that violate AFM contracts or agreements.

It would be nice to say that all is well and that we expect the future to be harmonious and successful. That is unfortunately not the case. There is no question that the Association wishes to continue to change the orchestra in ways that will make our artistic mission more difficult and less relevant. The orchestra is suffering because of misguided beliefs, anti–musician attitudes, and poor management.

We call upon our management and trustees to listen to musicians, to work with the musicians through their elected representatives, and to give up transparent efforts to divide and conquer the orchestra. We call upon them to listen to audiences about the sort of programming concertgoers want. We call upon them to stop spending time, money, and emotional resources trying to dismantle a great cultural establishment and instead to assume a positive attitude and to promote and expand our orchestra's presence in society aggressively. Of course this would cost money, but "controlling costs" by smearing the reputation of musicians, by collusion among organizations, and by openly doubting the future of classical music can only be damaging to all of us. Ultimately, our entire society will suffer. Across the nation, symphony orchestras have never had better musicians, better playing, and better concerts. Can the same be said for organizational leadership?

Stephen Lester, a member of the Chicago Symphony Orchestra negotiating team, is chairman of the Chicago Symphony Orchestra Members Committee and an ICSOM Governing Board member–at–large. Other members of the negotiating team were Roger Cline, Donald Koss, Samuel Magad, and David Sanders. Local 10–208 was represented by President Ed Ward, Tom Beranek, Gary Matts, Louise Thorson, and union attorney Michael C. Greenfield.

Zazofsky et al

by Leonard Leibowitz

As each speaker at the plaque–hanging ceremony in the Cahners–Cabot Room of Boston's Symphony Hall recounted memories of George Zazofsky, the founder of ICSOM, my mind began filling up with names—names I hadn't thought about for some time.

Tom Hall was introduced by Jan Gippo as the "grand old man" of ICSOM, and Tom and I both smiled. "Grand" is certainly an apt description of Tom, but "old" is a relative term. When Tom announced that he became involved with ICSOM in 1982, it sounded to me as if he were a Johnny–come–lately. In 1982 I was attending my twelfth ICSOM conference since my first one in Seattle in 1971. Unlike Tom and most of the other attendees at the ceremony (except, of course, for George's family and some former BSO members), I had actually met George Zazofsky. But he was no longer active in ICSOM when I met him, so it was other names that began floating past my mind's eye.

The folks I remembered were, like George, courageous, committed, and often angry. In 1971, Ralph Mendelsohn from the New York Philharmonic was the chair. If he ever smiled, I never witnessed it. Although he was less active by 1972, I was privileged to know and happy to see again at this year's conference Sam Denov, the successor to George as Chair. While I no longer remember all the offices they held, I remember Dave Smiley from the San Francisco Symphony; Vance Beach, Editor of *Senza Sordino* from the Los Angeles Philharmonic; Bob Maisel, Secretary of ICSOM from St. Louis; and Melanie Burrell from the Denver Symphony, who after serving ICSOM in several capacities would later become the first and only woman to be elected chair. Soon there was Brad Buckley and John Palanchian, followed closely by Fred Zenone and Florence Nelson—giants all. Nancy Griffin from Seattle, and Carolyn Parks from the Kennedy Center Opera House Orchestra were joined by Irv Segall from Philadelphia and *Senza Sordino* Editor Henry Shaw from Cincinnati.

Although by 1971, ICSOM had been awarded conference status by the AFM, the charge of "dual unionism" lingered amongst some AFM officials and many local union officers. And that was only one of the struggles to be fought on the local union level.

I cannot go on from here without reporting one of the most significant events in ICSOM's history—the engagement of I. Philip Sipser as counsel in 1969. It was Sipser who advised and negotiated the terms of the merger of ICSOM and the AFM. Part of that transaction was the creation of the AFM Symphony Strike Fund.

The battlefield in the early '70s was at the local union level. Incredibly, the struggles included simply being present at the bargaining table, having negotiation counsel, and even having the right of ratification! During the term of AFM President Vic Fuentealba, who appointed Lew Waldeck to head the newly–created Symphonic Services Division, the relationship between ICSOM and the Federation improved in the '80s to the point of actually affecting the relationships on the local level.

Today it is difficult to imagine how those fundamental rights were so long denied to symphony, opera, and ballet musicians. For those of us who remember, and for some of the people that made it happen, it is remarkable to realize how far ICSOM, ROPA, OCSM and the other player conferences have come. For the most part, today's struggles are being waged by a united union fully supporting the efforts of working musicians. George, and maybe even Ralph, would have smiled.

Musicians and others gathered in Boston to honor George Zazofsky. *Left to right*: Barbara Owens, Mark Volpe, Lawrence Wolfe, Erika Zazofsky Goldberg, Tom Hall, Tom Lee, Jan Gippo, Leonard Leibowitz, Brian Rood, Fenwick Smith, and Laura Brownell.

New York Philharmonic Settlement

by Dawn Hannay

Negotiations for our latest agreement began with some degree of trepidation. Our last negotiations concluded in 1998 with a six–year deal, which at that time was a ground–breaking achievement. As most orchestras now know all too well, the economic climate has changed substantially during the intervening years, especially since 9/11. All the other top orchestras had negotiated since 1998, so we were no longer in the lead financially. The Society was facing a $4 million deficit, and, like many other pension plans around the country, ours was substantially underfunded due to the drop in the stock market. Both our management and music director had changed since 1998, and we had little sense of our new leadership's negotiating style.

We assembled the strongest and most experienced committee possible. Fiona Simon, Ken Mirkin, Newton Mansfield, and I had all worked on previous contract committees, and Jim Markey proved to be an invaluable new addition. Also on our team were David Lennon, the new president of Local 802; Bruce Simon, a brilliant attorney; and Bill Moriarity, the Local's former president and AFM official, who temporarily came out of retirement to assist.

We were determined from the start to keep the bargaining as simple, straightforward, and cooperative as possible. After polling the orchestra, we decided to begin with touring conditions. This was a neglected area of our contract, and we felt that we could all work together on it with minimal acrimony in order to get a sense of how things were likely to go later in the process.

Our initial set of proposals was submitted in February of 2004. It was the end of May before we received a response. Despite the delay, we quickly reached a successful conclusion to the touring issues, with improvements in runout language, per diems, maximum days of touring, and days of break after tours, to give a few examples. This success was encouraging, but due to a busy out–of–town summer schedule we were unable to tackle the more substantive and problematic areas until after our return to New York in September—a mere two weeks before the expiration of our agreement.

As we had anticipated, the pension was the most difficult issue. There was an underfunding of $8 million caused both by the downturn in the market and by a failure of the previous management to make adequate contributions (contrary to the urging of the actuaries). Further, there was a projected shortfall of an additional $10 million during the term of the contract. We were informed in August 2004 that, although the board had approved a transfer of $10 million from the endowment to stabilize the fund, we would need additional contributions of approximately $8 million during the term of the contract simply to maintain current benefit levels. Our professionals, after reviewing the fund, agreed with management's assessment.

While we did not receive the same volume of draconian proposals faced by our colleagues in Chicago, Philadelphia, and Cleveland, our management and board of directors were adamant in their determination to freeze the pension benefit and to implement a wage freeze in the first year of the contract. As in 1998, they also proposed contributions from the musicians toward health–care costs—this time despite 3% premium reductions in each of the past two years. While it was a relief that we were not facing actual cuts, we were determined that we would not recommend a package without salary and pension benefits that would keep us competitive in the years to come.

Over a period of weeks we had numerous meetings at which the atmosphere was professional but unproductive. More progress was made in off–the–record meetings; then, with a timely strike–authorization vote from the orchestra, we finally began to edge towards an agreement. A deadline for an October tour to Asia also gave us needed leverage to get things moving.

A crucial breakthrough was a creative and innovative idea from Bill Moriarity and Bruce Simon, which we all agreed upon. We proposed not only that any pension increase during this contract (anticipated in the third year) be fully retroactive, but also that whatever increases are negotiated in the next contract be retroactive for everyone retiring during this contract. Barring any unforeseen changes to IRS regulations, the pension plan will be fully stabilized by then, enabling us to focus on negotiating higher benefit levels.

Savings in health–care costs were accomplished through relatively small changes in co–payments and out–of–pocket contributions. We avoided major contributions to our health plan by convincing management to bank those savings toward future increases. We just received the good news that the increase in premiums will be much less than projected, making it virtually certain that enough funds will be banked to avoid any need for musician contributions during this contract.

The impasse over the proposed wage freeze was resolved by dividing the increases into six–month increments. This saved the Society money while still providing modest raises. We also negotiated long–overdue improvements in benefits such as instrument, life, and long–term disability insurance.

The orchestra approved the new agreement nearly unanimously just before our Asian tour. While the final product is far short of what we might have wished for, we feel grateful that in the current climate we were able to hold steady at the forefront of American orchestras. We hope that our moderate success in staving off major cuts will be of assistance to our colleagues around the country, and we were distressed to learn of the current situation in St. Louis. We wish everyone well, and hope that we can all work together for a return to peace and prosperity for the entire arts community.

Dawn Hannay has been a violist in the New York Philharmonic since 1979. She has served on numerous committees for the past 20 years and has led the musicians' negotiating committees for the past three negotiations.

Should National Symphonic Media Agreements Be Abandoned?

by Douglas Fisher

For many years there has been tension between individual orchestras and the AFM on issues related to electronic media. The issues are numerous and complex. After thinking about these issues over a long period of time, I have concluded that they can be boiled down to this one basic question: Should national symphonic media agreements be abandoned?

All of us know that, today, the orchestral recording market internationally is a mere shadow of what it once was. Unless there is a new revolution in technology equal to the introduction of the Compact Disc, or unless there is a cultural shift internationally in musical preferences, the market will not be revived. In spite of this fact, media exposure remains a vital necessity to those orchestras whose fame and relatively good fortunes are, in large part, due to the critical acclaim (not volume of sales) achieved through their media activity. The Cleveland Orchestra and the Philadelphia Orchestra, along with many others, are known worldwide primarily because of their recordings and broadcasts. Such international recognition makes it far easier for them to build and sustain local support in the form of ticket sales and contributions.

In general, for decades smaller orchestras have wanted to negotiate their own media agreements because most of them cannot afford the rates called for in the national agreements. At the same time, larger orchestras have wanted to uphold and maintain national agreements in part because those agreements protect against the real danger of direct competition among orchestras, which would inevitably result in a "race to the bottom" with regard to pay scales.

Given the above facts, it is somewhat understandable but also quite ironic that the members of the Cleveland and Philadelphia orchestras agreed to accept contractual terms that directly undercut existing national media scales and thus directly violate AFM bylaws—with the blessings of the AFM locals that represent them and perhaps some national officers.

Our nationally elected AFM officers are duty bound to enforce those bylaws. As such, they are required to investigate and if necessary, punish any and all members and local officers in both cities who may be responsible. In reality though, because these two cities possess a great deal of political power at AFM conventions, any national officer who wishes to be smoothly re–elected will likely take no action against those members or local officers whatsoever.

So where does this leave us? Officially we are required by AFM bylaws to uphold the national media agreements, which the AFM has negotiated on our behalf at great expense. In reality, it has been recently demonstrated that locals can in fact negotiate their own media agreements without fear of reprisal by our nationally elected AFM officers.

Has the time come for AFM bylaws to reflect reality? Should every orchestra be permitted to negotiate its own media agreements as Cleveland and Philadelphia did?

These are critical questions that must be answered. When some orchestras are passively allowed this freedom while others uphold the bylaws, serious divisions are the result.

Regardless of whether you favor national media agreements or locally negotiated agreements, we must together agree on which way to go and have the strength and courage to uphold and enforce our collective decision, regardless of political considerations. If we fail to deal with this one basic question, the divisions between orchestras and the AFM will deepen with potentially disastrous results.

Douglas Fisher is a bassoonist with the Columbus Symphony Orchestra and President of the Central Ohio Federation of Musicians, Local 103 AFM.

[Editor's Note: The above letter was submitted for publication well before the media summit that took place in Chicago on February 21, 2005. When it became apparent that this issue would be delayed, the letter was published on Orchestra-L in advance of the media summit, where it prompted thought and discussion. Expect to read more about the media summit in the next issue of Senza Sordino.*]*

Columbus Symphony musicians get creative in advertising their highly touted Web site.

Notice to Orchestras That Participate in the AFM–EPF

In 2004, employers and locals were notified by the AFM-EPF(the Fund) that the IRS established a new regulation that went into effect January 1, 2004. This regulation stipulates that the Fund, as a multi–employer pension fund, is required to give participants at least 15 days' advance written notice before any change that will "significantly reduce future benefit accruals." This means that if your orchestra negotiates a reduction in wages and/or pension contribution to the Fund, the Fund must be notified as soon as possible concerning these changes so they can notify all the affected participants.

If your orchestra concludes negotiations prior to the expiration of your CBA, the bargaining parties must contact the Fund as soon as possible following agreement. This way the Fund can determine whether a notice is required and, if it is, the Fund can prepare and send a timely notice to the affected participants. Specifically, the Fund requires that this notice be provided sufficiently in advance of the effective date of the change to allow the Fund to provide affected participants with at least 15 days' advance written notice of the change.

If your CBA has expired but your orchestra continues to negotiate, the Fund will continue to accept pension contributions on your behalf until the Fund either is notified of the terms of the renewed agreement or receives notice that the bargaining parties have bargained to impasse. Normally, when an agreement expires, the Fund will hold all payments in escrow until a signed agreement allows these monies to be credited to the individual musician accounts. (The Fund should always be notified when your orchestra is preparing to negotiate.)

If your orchestra is negotiating under the second set of circumstances (the CBA has expired), and they negotiate reductions in wages and/or pension benefits that are retroactive, this does not entitle the employer to obtain a refund or credit against future contributions for "overpayments" due to these retroactive changes. Employers have always been prohibited from unilaterally taking credits against future contributions to recoup overpayments. Reductions in pension payments may only occur after the CBA has been ratified, the Fund is notified of the changes and the affected participants have been advised by written notice from the Fund at least 15 days in advance of the effective date of the change.f

If you have any question about these new procedures, please contact the Fund office at (212) 284-1277 or (800) 833-8065, ext. 1277.

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