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Electronic Media Meeting in Chicago

Representatives of 27 ICSOM orchestras convened at Chicago's O'Hare Hilton on the morning of January 13, 2003, to discuss media issues. The meeting was called by the ICSOM Governing Board. The orchestras which attended were deemed to be those most affected by recording, but all ICSOM orchestras were extended the opportunity to send representatives. ICSOM Chairman Jan Gippo presided, and ICSOM legal counsel Leonard Leibowitz also attended.

In the afternoon, the orchestra representatives, Governing Board and counsel, and officers of locals of the orchestras represented met with AFM leadership and counsel in a meeting chaired by AFM President Tom Lee. A meeting of the ICSOM President's Council was held on Sunday evening in advance of the media meeting; a report is in ICSOM President Brian Rood's column in this issue.

ICSOM orchestras represented at the ICSOM session Monday morning were Atlanta (Michael Moore), Boston (Larry Wolfe), Buffalo (Robert Prokes), Chicago Lyric Opera (Linda Baker, Crozet Duplantier), Chicago Symphony (Steve Lester, Rachel Goldstein), Cincinnati (Paul Frankenfeld), Cleveland (Tom Mansbacher, Scott Weber, Richard Weiner), Columbus (Doug Fisher, Andy Millat), Dallas (Matt Good), Detroit (Stephen Edwards), Honolulu (Marsha Schweitzer), Houston (Larry Thompson), Indianapolis (David Bartolowits, Robert Wood), Los Angeles (Peter Rofé, Meredith Snow), Metropolitan Opera (Duncan Patton), Minnesota (Paul Gunther), Nashville (Bruce Christensen), National (William Foster), New Jersey (Lucinda-Lewis, Jason Lippman), New York Philharmonic (Fiona Simon), Oregon (Fred Sautter), Philadelphia (Bob Grossman), Pittsburgh, (David Gillis), Saint Louis (Gary Smith), Saint Paul Chamber Orchestra (Herb Winslow), San Francisco Symphony (Tom Hemphill), and San Francisco Opera (David Ridge).

Since the founding of ICSOM, orchestras have sought to influence and to participate with the AFM in the negotiation of national media agreements.

The ICSOM Media Committee was established for this purpose and has been at the table for AFM media negotiations for over three decades.

In the past this has been a fairly straightforward matter of ICSOM orchestras mandating positions subsequently taken to the negotiating table by the ICSOM Media Committee and the AFM. This traditional structure of negotiations was succeeded three years ago with establishment of the Electronic Media Forum (EMF). As defined in its recent report, the EMF is a group of senior staff members of North American orchestras and opera companies, orchestral musicians, and elected officers and staff from the AFM, with representatives from the Orchestra Managers' Media Committee, ICSOM, ROPA, and OCSM. Over the past three years, the EMF has negotiated the symphonic Audio-visual and Internet agreements.

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Houston Musicians Fight Concessions

Roger Kaza, associate principal horn of the Houston Symphony and chairman of the Musicians' Negotiating Committee, has submitted the following update on his orchestra's situation.

The Houston Symphony staged a protest walkout on Saturday, February 1, and did not play the concert with Midori scheduled for that evening. The protest specifically targeted February 1, the date management had threatened to impose its most recent offer. Although only a one-day event, the strike was the first in the orchestra's 90-year history. The orchestra has reserved the right to call future protests if there is no progress in the negotiations or if management's offer is imposed.

We have been playing without a contract since October 5, 2002. Management wants a 14% cut in scale and increases in the musicians' portion of health insurance costs. They also want structural changes in contractual rules, including proposals for unlimited division of the orchestra and cutting five string positions by attrition. This latest bomb, along with eleven other proposed changes, was dropped on us on January 18, over three months after the contract expired. The players have recently filed charges of bad-faith negotiating with the National Labor Relations Board.

The players have done everything in their power to avoid the current situation. We formed a negotiating committee 20 months ago and sought to begin talks over a year ago. In February of 2002 management asked for a one-year contract extension. The players agreed, provided there would be a modest increase in seniority pay, which had never been adjusted since its inception in 1982. In July management agreed to add \$200,000 towards

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Chairperson's Report

Jan Gippo



My assessment of the historic meeting of ICSOM orchestra representatives in Chicago was that there was much more agreement than disparity. Although there are some specifics that need to be discussed, refined, and agreed upon by all the members, there was clearly consensus on major issues: national agreements are preferred to local pacts; most orchestras clearly favor up-front payments to back-end or contingency payments; and all orchestras indicated that they would support duly ratified national agreements.

These areas of agreement are tremendous building blocks for unification throughout ICSOM. The agreements that need attention are Radio-to-Non-Commercial and Limited Pressing. Because these are unilateral agreements—policies promulgated by the AFM rather than national contracts negotiated with employers—we can start talking now to find amendments acceptable to all orchestras and to be able to present recommendations to the Federation in short order.

I want to thank all the participants at the Chicago meeting for their time, goodwill, and excellent manner of discussion. I hope we can have more such meetings to address and act upon other issues that affect ICSOM orchestras. The communication we had in Chicago must continue for us to be effective, and I look forward to other such gatherings of the creative brain trust of the symphony orchestra industry.

The Chicago meeting also reinforces my answer to a question I hear from time to time: Is ICSOM relevant? My answer is always a resounding YES.

The relevance of ICSOM is the relevance of collective action. ICSOM is the major orchestras' forum for collective action. Individual orchestras standing alone cannot accomplish nearly as much as they can by acting together. When our orchestras have identified a problem and have come to consensus, success has been dramatic. We have an effective communications network. We sought, and now have, an AFM (SSD) symphony department. We fought for, and now have, an AFM strike fund. We established an ICSOM Emergency Relief Fund. We created a national conductor evaluation program. On these issues and many more there was concern, discussion, consensus, a call to action, and an effective settlement in favor of ICSOM.

The Chicago meeting is yet another example. We convened representatives from 27 orchestras to discuss the future of recordings, the terms under which recordings will be done, and the manner in which those terms will be negotiated. Each of these issues is quite important to every member orchestra, and in order for the Governing Board to present any media agenda on behalf of all member orchestras, we must know what our orchestras want. To that end the Governing Board provided a forum for the discussion of issues upon which our member orchestras want to undertake collective action, and now we can proceed to act on their behalf. That is relevance!

President's Report

Brian Rood



The President's Council was formed in 1984 to increase orchestra input to the Governing Board beyond the contribution of delegates to annual conferences. The Council may be composed of delegates, committee chairs, or any orchestra members the ICSOM president feels can be helpful in keeping the Governing Board informed of the issues confronting ICSOM orchestras. The Council was used sporadically in the 1980s and 1990s, and the Governing Board elected in 2002 sought to revive this valuable medium for communication with our orchestras.

A President's Council meeting was held in Chicago on January 12 to help ICSOM prepare for the electronic media summit meeting sponsored by the AFM the following day. Everyone who has attended recent ICSOM conferences is aware how important and potentially divisive media has become. The Governing Board recognized that in order to repair the fragmentation present across ICSOM's boundaries, opportunities were needed for musicians to speak out and be heard and understood. This meeting provided an environment where musicians were able to discuss the issues, ask questions of each other, and gain a better understanding of how their colleagues around the country view media.

The Governing Board met late Sunday night with musician representatives from eleven orchestras that hold widely differing views on electronic media. The goal was to bring into focus the disparity of opinions from orchestra to orchestra. The meeting began with each orchestra offering a brief description of its media issues and concerns with national agreements. Topics included national rates, local control, upfront payments, bargaining formats, radio broadcasts, streaming, self-produced recordings, and orchestra ownership of product. Orchestra representatives did appear to agree on having national rates for commercial product. A concern voiced strongly was that orchestras should not put themselves in the position of possibly harming another directly or indirectly through its media work.

Possibilities for future discussions include conference calls with orchestra representatives and the Governing Board, and additional meetings to bring together again those orchestras with disparate opinions.

Eight original ICSOM charter member orchestras were represented at this President's Council meeting. The combined experience and wisdom present that January night further impressed upon me just how powerful solidarity and self-determination are in realizing the gains we all enjoy today. Current economic difficulties make it more important than ever for ICSOM to summon all its resources to ensure the vitality and future of our orchestras. This is why ICSOM was originally conceived and why ICSOM continues to be relevant today.

Secretary's Report

Laura Ross



As official taker of notes and keeper of lists for ICSOM I have had a busy time of late.

I continue to post minutes of all ICSOM Governing Board conference calls on the ICSOM website. I am preparing a policy book for the ICSOM Governing Board so

new officers will know what past practice has been. I have also accepted the additional responsibility of keeping the *Senza Sordino* and *ICSOM Directory* mailing lists up to date—they are similar, with nearly 1,200 entries. (Note that while the return labels on *Senza Sordino* mailings have Tom Hall's name on them as editor, the return address is mine. Any changes of address for *Senza Sordino* should be directed my way.)

Another duty is to compile the media surveys that have been received from ICSOM orchestra committees and to report the results to the Governing Board. This input will be valuable in assisting us in the selection of a new ICSOM Media Committee to deal with our ongoing concerns in this field. I also took copious notes of the Chicago media meeting for the Governing Board.

I am now assembling suggestions from officers, delegates, and orchestra members for topics and issues they want to see addressed during upcoming Governing Board conference calls, at the Governing Board's annual mid-winter meeting on February 24, and at the annual conference this summer. Anyone desiring to make suggestions for our mid-winter meeting, the policy book, the annual conference, or for anything else should submit them to me at lar2vln@comcast.net by February 20.

By now delegates should have received the minutes of the 2002 ICSOM Conference. Put a copy in your ICSOM delegate manual and make some copies for your orchestra members to read. Please contact me if there are any recommended changes to the minutes. Formal approval of the minutes will take place at the 2003 conference. Thanks to former ICSOM Secretary Cindy Lewis and to *Senza Sordino* Editor Tom Hall for their assistance in preparing these minutes.

[And congratulations to Cindy on the publication of her new book, *Broken Embouchures*. It's about embouchure problems, and it is available at www.embouchures.com.]

The Governing Board will soon begin preparing resolutions to be put forward for consideration at the 2003 conference, addressing policies our orchestras should follow and proposing amendments to ICSOM bylaws. (One resolution will call for removing the onerous requirement that bylaw ratification votes be sent by registered mail. Unfortunately, we will have to follow this antiquated process until such a bylaw is ratified.) We hope to have many resolutions ready for distribution when delegates receive their pre-conference mailing this spring.

Thanks to those of you who have provided assistance. I, in turn, am here to assist you and your orchestras. ICSOM is about communication. Please do not hesitate to contact me.

Treasurer's Report

Michael Moore



ICSOM maintains two special funds established over the years by delegates to ICSOM conferences.

The **Mendelson Fund** memorializes the late Ralph Mendelson, a violist in the New York Philharmonic for 26 years and chairman of ICSOM from 1970 to 1974. In 1982 and 1984 ICSOM and the Association of Arts

Administration Educators (AAAE) gave the Mendelson award for the best paper written by a graduate student on labor relations in the symphonic or operatic field. Winners received a cash award of \$500, and copies of the winning paper were distributed to the memberships of ICSOM and the AAEE, to selected libraries and foundations, and to others supportive of symphony and orchestra musicians. The Mendelson Fund was subsequently used to annually provide a \$500 scholarship to the Congress of Strings until that organization's discontinuation. The Mendelson Fund is now maintained by contributions mandated by ICSOM bylaws (\$1.00 *per capita* from dues) and provides scholarships for winners of the Sphinx Competition. As reported in Brian Rood's column in the last issue, the Sphinx Organization supports young minority-group musicians.

The Mendelson Fund currently contains approximately \$30,000. One dollar from each of ICSOM's 4,173 musicians plus a yearly withdrawal of \$327 (from \$480 interest earned) provides the \$4,500 we give in scholarships. The fund is currently self-perpetuating.

The ICSOM **Emergency Relief Fund** (ERF) provides loans to ICSOM orchestras requesting financial aid during work stoppages or other emergencies, under conditions set forth in the ICSOM bylaws. The ERF was conceived and created by ICSOM orchestras in 1965, five years before the establishment of the AFM Symphony-Opera Strike Fund. In its early years, the ERF was able to lend amounts up to \$2,000 to orchestras that needed help during strikes and lockouts. The money could be used to aid musicians in any way as determined by the orchestra.

In 1974, when it became clear that the ERF could not continue to provide adequate loans without an increase in assets, ICSOM orchestras ratified a bylaw permitting an amount equal to \$2 per musician in each member orchestra to be taken from dues payments and added to the assets of the ERF. As a result, the amount of money available to member orchestras increased from \$10,000 to \$23,000 in one year. This procedure was suspended in 1980, and the fund is now sustained without help from dues payments.

The cash balance in the Fund as of December 31, 2002, was \$228,816. The amount currently available to each orchestra, 15% of that amount, is \$34,322.

If only six orchestras needed to borrow the full 15% from the fund, the ERF would be nearly depleted. Delegates should be prepared to discuss the ERF, and proposals to increase it, including reinstating the \$2 taken from dues, at the 2003 ICSOM conference.

Editor's Report

Tom Hall



Our December issue ran to twelve pages and provided coverage of the 2002 conference, wording of all resolutions passed at that conference, and reports from every member of the Governing Board. The present issue continues to show your ICSOM Governing Board at work, looking to the rank-and-file constituency for direction and input. The Chicago

meeting on electronic media, to which more than half the ICSOM member orchestras sent representatives, is a prime example.

Several issues came into focus for me at this meeting.

I was reminded that leadership has two sides. A governing body must lead its constituents in the way they wish to go, or the leaders will soon find they have no troops marching behind them. A governing body must also use its collective judgment about what is right and best for those it leads, even if the followers disagree. It's a tricky matter of balance.

There are orchestras who believe that one national contract should govern all, even if that means lost work opportunities for some. Some orchestras advocate allowing local variation to generate more work, even if that makes it more difficult for other orchestras to negotiate higher rates for similar work. The difficult task is to reconcile these differing points of view and find something that is acceptable to all even if not fully satisfactory to everyone.

An oft-mentioned concept in all of this is *flexibility*. We heard this nice-sounding buzzword a lot in Chicago. It's hard to object to flexibility, but it's a problematic concept. How much flexibility is too little or too much, and how much is just right? If flexibility allows orchestras to compete against themselves and undercut each other, it's no good. If flexibility is lacking to the point where work dries up, that's no good either.

Flexibility is also an issue for the AFM. Is the Federation leadership to be flexible in enforcing national agreements? If orchestras, backed by their locals, appeal to the Federation for "variances"—less favorable deviations from a national agreement—does the AFM say OK and risk the wrath of other orchestras, or does it insist on strict adherence to the agreement and alienate musicians who might lose work as a result?

Your ICSOM leadership continues to address these difficult issues as the call for media negotiations goes out. Your input continues to be an important factor in what will result.

A reminder that dues were to have been paid by December 31, 2002. As of this printing, several orchestras had still not submitted dues. If your orchestra has not yet collected dues, please do so and send them to the treasurer as soon as possible. Dues provide nearly all of ICSOM funding.

Member-at-Large Report

Richard Levine

The ICSOM Governing Board maintains a direct link to its constituent orchestras through its members-at-large. Each of us is assigned a list of orchestras with which we attempt to maintain close contact. Our goal as members-at-large is to keep abreast of notable situations in our orchestras, both as they arise and on a continuing basis. In addition, we try to maintain an open line of communication so that delegates have a ready resource available whenever they may need it. Of course, communication is a two-way street, so delegates do their part by letting their members-at-large know when something significant occurs in their orchestras and by directing their orchestras' concerns to the entire Governing Board through us.

Recent changes in the composition of the Governing Board have seen two new members-at-large put into service. Since neither Paul Ganson nor I have long-standing relationships with our orchestras, the Governing Board has taken this opportunity to redistribute the member-at-large orchestra assignments. Most of the changes were accomplished through a redistribution of orchestras on Paul's list and mine, although there were additional changes. Jay Blumenthal, as before, is maintaining contact with most of the pit orchestras, and we have divided the remaining orchestras with a view to both orchestra size and time zones.

Here are the new member-at-large orchestra assignments:

Jay Blumenthal: Chicago Lyric Opera Orchestra, Houston Symphony Orchestra, Jacksonville Symphony Orchestra, Metropolitan Opera Orchestra, Milwaukee Symphony Orchestra, New York Philharmonic, New York City Ballet Orchestra, New York City Opera Orchestra, North Carolina Symphony, San Francisco Ballet Orchestra, San Francisco Opera Orchestra, Saint Paul Chamber Orchestra, Syracuse Symphony Orchestra.

Paul Ganson: Atlanta Symphony Orchestra, Boston Symphony Orchestra, Buffalo Philharmonic, Charlotte Symphony Orchestra, Cleveland Orchestra, Columbus Symphony Orchestra, Detroit Symphony Orchestra, Florida Philharmonic Orchestra, Grant Park Symphony Orchestra, Louisville Orchestra, Nashville Symphony, Minnesota Orchestra, Rochester Philharmonic Orchestra.

Richard Levine: Alabama Symphony Orchestra, Colorado Symphony, Dallas Symphony Orchestra, Fort Worth Symphony Orchestra, Honolulu Symphony Orchestra, Indianapolis Symphony Orchestra, Kansas City Symphony, Los Angeles Philharmonic Orchestra, Oregon Symphony Orchestra, San Antonio Symphony, San Diego Symphony Orchestra, San Francisco Symphony Orchestra, Utah Symphony Orchestra.

Mary Plaine: Baltimore Symphony Orchestra, Chicago Symphony Orchestra, Cincinnati Symphony Orchestra, Florida Orchestra, Kennedy Center Opera House Orchestra, National Symphony Orchestra, New Jersey Symphony Orchestra, Philadelphia Orchestra, Phoenix Symphony Orchestra, Pittsburgh Symphony Orchestra, Saint Louis Symphony Orchestra, Virginia Symphony.

Member-at-Large Report

Jay Blumenthal

The following report, written by New York Philharmonic ICSOM delegate William Kuyper, was submitted for the December issue but had to be deferred until now. Tour Committee members Carol Webb and Jim Markey contributed to this report on the NYP's recent tour to the Far East.

Anxiety on Tour: The New York Philharmonic in Manila

by Bill Kuyper

Once again the touring musicians of the New York Philharmonic found themselves in a situation of heightened anxiety because of the threat of terrorism. On September 11, 2001, they were stranded in Germany, fearful of what was happening in America and wondering how they were going to get home. On October 21, 2002, they were on tour in Manila, the Philippines, concerned about their security in the face of a bombing in the city.

From the time it was announced, the October segment of the 2002 Asian Tour, celebrating Citigroup's *100 Years in Asia*, had an element of risk. The political situation and domestic security in India, Malaysia, Singapore, and the Philippines were unstable, with frequent threatening reports and events. In the spring, the orchestra's appearance in Mumbai (Bombay) was canceled. The orchestra's tour committee kept the security issue before management on a regular basis.

At the opening of the 2002-2003 season, just before the tour, reports of new violence in the Philippines brought heightened concern to our membership. Management assured us that this activity was in the south and not a threat in Manila itself. In spite of this, many members expressed grave concern about performing in Manila. Local 802 was asked to assess possible consequences for any New York Philharmonic musician who might refuse to go on the tour. A letter from Local 802 was sent October 10 advising us that any "wild cat" action might be illegal and therefore might put a musician in jeopardy of disciplinary action. In the end, the tour began as revised, with Mumbai canceled and an extra concert scheduled for Singapore. The orchestra left New York for Beijing on Sunday, October 13.

In the wee hours of Saturday, October 19, musicians found message lights flashing in their hotel rooms. A recorded voice informed them that a special communication had been put under the doors of their rooms. The memo explained that in light of a bombing in Manila the day before, and after extensive meetings with security forces, our schedule would be changed and that we would leave the city Sunday, a day early, our day off. It also stated that since the New York Philharmonic was not directly threatened, the Saturday concert would still be performed. Additional security measures would be put in place to assure our safety. A general meeting of the touring group was announced for 9:00 AM.

Attendance at that meeting was high. Zarin Mehta, Philharmonic executive director, told the group about events and meetings with security and Citigroup officials. He reviewed the situation and confirmed both the schedule change and the decision to perform the concert that evening as scheduled. Our tour security consultant, Charles "Chuck" Lee, Jr., gave assurances of the heightened security measures and shared his dissatisfaction with the operation of our police escort to the concert Friday night. Local officials had promised to do better Saturday.

Questions and comments by musicians covered many aspects of the situation:

- not giving in to a threat;
- acknowledging escalated danger;
- expressing the belief that danger was everywhere, even at home at Lincoln Center;
- telling how the union, as represented by the tour committee at the time of a reported bomb threat in Bombay in 1984, allowed each musician to decide if he or she could and would perform;
- reminding the membership of Local 802's October 10 letter advising us about the concerns of a "wild cat" action;
- questioning what the role of a musician should be in the face of today's troubling, often dangerous, political scene; and
- asking for a closed orchestra meeting.

After words of encouragement and appreciation from management, the meeting was dismissed without any change of status. Some 25-30 musicians stayed behind for further discussion, but no formal action was proposed or acted upon.

We were thankful that the concert that night, and the departure Sunday morning, took place without incident.

This writer ponders the following questions:

- What is the role of a musician in today's often dangerous political scene? For years we have seen ourselves as "goodwill ambassadors."
- When is a situation too dangerous? Who defines the level of danger?
- What individual rights should a musician have in regard to his or her personal safety when being presented in a musical performance at a time of escalated danger?
- What is the role of the AFM and its locals once an orchestra is at a distant location and the level of danger escalates? Should orchestra committees be given full authorization to act as an agent of the union?

Member-at-Large Report **Mary Plaine**

Some readers of the paragraphs about the Saint Louis Symphony in the last issue of Senza Sordino asked for additional information. The Saint Louis ICSOM delegate has written the following piece to explain the activities of the musicians in her orchestra.

The St. Louis Symphony Orchestra Forum **by Tina Ward**

The St. Louis Symphony Orchestra (SLSO) Forum was formed in September 2001. Despite the remarkable \$40 million challenge grant from the Taylor family (Enterprise Rental Car) in December 2000, the severity of the SLSO's financial crisis was evident. The management approached the musicians asking for deferral of the \$50 weekly scale increase called for in the collective bargaining agreement. The musicians accepted the concession on the condition they be able to discuss the financial situation and possible outcomes with board and management. The SLSO Forum was established as the discussion vehicle, with the Musicians' Council (the nine-member orchestra committee), selected trustees, and senior staff sitting at the same table.

During the first SLSO Forum sessions, the musicians were intent on making the point of how a business plan that immediately cut \$7 million out of the Symphony's budget, including musician pay cuts of up to one-third of scale, would disastrously affect the organization. Trustees voiced their concern that the organization live "within its means." Thus the early sessions were unsatisfying and unproductive. A musician-led effort to retain a summer season by revamping the venue and repertoire, which had been entirely pops for 25 years, failed as time ran out before new programming could be put in place. It became clear that it would be logistically impossible and economically unfeasible to salvage the series in the short term. However, learning on all sides took place. Musicians and board members began to see each other as human beings and understand each other's language.

A negotiating team was elected and the orchestra agreed to a concessionary contract with less than a 10% reduction in scale. A business plan required the raising of \$29 million cash in hand in less than a year. The SLSO Forum continued to meet. The direction of the meetings was vague. Issues of who would set agendas and chair meetings remained unresolved. The meetings were used to discuss foundation support and the kind of music director the SLSO needed. One productive discussion was about uncommitted services in May and June, and it was decided to commit this resource to community outreach. Thus a successful series of free concerts in area parks, supported by local government, was born.

The SLSO Forum continued to lack focus, and the musicians requested outside facilitation. With some staff and trustee support for a facilitator, John McCann, with whom some SLSO Forum members had worked in Mellon Foundation's Orchestra Forum meetings, was bought in to facilitate the session in May 2002. Following the success of that session, the group met in September 2002 without a facilitator and agreed to a year-

long agenda of discussing core values and vision. The decision was made to use a local facilitator, and ground rules were established.

Now in its second year, the SLSO Forum has become a non-policy-making discussion group allowing musicians, trustees, and staff to speak to issues that may determine the future direction of the St Louis Symphony. This group is still very young and the dynamics are evolving, but it holds the potential of becoming a vehicle for productive and meaningful discussion.

In January 2003 John McCann presented the first of a series of workshops on communications and leadership training that he will be giving over the next six months. The training is available to any musician willing to make the commitment to attend and do the required reading and homework assignments. The first session focused on our core values and purpose as individuals, a seminar group, and an institution. The thirteen musicians who attended this session were excited by the concepts and experiences. Directly following the session was a meeting of the SLSO Forum.

Those musicians who participated in the training and also in the SLSO Forum felt better informed to discuss the SLSO's core values. Already the benefits of the communications and leadership training could be practically applied.



*The following update on the **Phoenix Symphony** was prepared with the assistance of Phoenix ICSOM delegate John Lofton.*

There have been several changes in Phoenix since our report in the last issue of *Senza Sordino*. A new president and CEO has been hired. Maryellen Gleason is an accomplished businesswoman whose educational background includes a Bachelor's degree from Harvard University and an MBA from the Kellogg Business School at Northwestern University. She has lived in Phoenix for most of the past 17 years. Her husband performs with the PSO as principal trombone. Ms. Gleason became the strongest candidate based upon her knowledge of the local terrain, her track record of success, and her confidence in her ability to turn around the symphony organization.

Since her arrival in December 2002 several changes have occurred. The PSO is initiating a capital campaign with a goal of \$30-35 million; about \$5 million will go to the operations budget and the rest will go into the endowment. The PSO has hired Susan Wahlen to head the campaign; she recently did a similar campaign in Cleveland. There have also been several changes in our office personnel. We now have a new marketing director, a new director of finance and administration, a new general manager, and a new operations manager. Additionally, we have engaged a public-relations firm to replace our departing PR manager.

PSO musicians are hoping to engage the board in reviewing our mission and developing a vision of the future. We want to use this process to help

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Phoenix

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our orchestra to achieve organizational integrity and to develop artistically. We have identified funding sources and engaged the Symphony Orchestra Institute to assist us, and we hope to begin this process by May.



The following news from the **Pittsburgh Symphony** is submitted by orchestra committee chair Hampton Mallory on behalf of Pittsburgh ICSOM delegate Chris Allen.

The Pittsburgh Symphony is in a very uncertain period right now, with some positive signs and a lot of negative signs visible simultaneously.

The orchestra is in a financial crisis. A deficit of \$1.5 million is expected for this season. While this amount is not terribly large as a percentage of the budget (around \$29 million), the organization is operating perilously close to the edge since the operating reserve portion of the endowment has been depleted. The value of Pittsburgh's endowment has declined from \$130 million in 2000 to less than \$90 million today. The orchestra faces a severe cash-flow problem later this season, and only some fast financial footwork will enable the organization to meet payroll in July or August. Senior staff has taken a 10% pay cut, and middle managers an 8% cut. Strict cost-cutting measures are being deployed, including some repertoire changes to minimize extra player expenses.

Pittsburgh is in the midst of an accelerated annual fund drive, spearheaded by a \$100,000 challenge gift offered by the musicians. The musician challenge will be met if 1,000 subscribers (out of 4,000 non-donor subscriber households) who have not previously given to the annual fund donate a total of at least \$100,000 this season. Since December 6, individual members of the orchestra have made a series of "curtain speeches" directly to the public, explaining the challenge and asking for support. So far, those speeches have been well received, and the fundraising is moving along at a promising pace. The players will continue to speak to the public over the next few months to update them on the progress of the challenge.

In addition to the bad financial news, the orchestra is looking for a new music director, managing director, board president, development director, and assistant conductor, all more or less at the same time. As if that weren't enough, the players are in the final year of a five-year labor agreement, due to expire on August 31, 2003. At this point there is little reason for optimism about the negotiations. The board is very focused on the financial bottom line, aggravated by a sharp falloff in attendance this season at both the classical and pops series.

The music director search is underway behind closed doors (there are six musicians on that committee), the manager search is just being organized, and there is no heir apparent for the board presidency. Through all of this, the musicians are trying to stay upbeat and confident. The PSO has weathered many other challenges in its distinguished history, and its musicians remain committed to doing everything they can to maintain the viability and artistic integrity of the orchestra well into the future.

ICSOM Online Robert Levine

The Internet is the most significant advance in communications technology in our lifetimes. ICSOM was a very early adopter of the Internet as a way to communicate and distribute information

The ICSOM Governing Board began to use email to communicate in 1993. An online news service letter, *DOS Orchestra*—with apologies to the German publication *Das Orchester*—was established in June 1994, and 58 issues were published and sent to subscribers via e-mail. *DOS Orchestra* was superseded in June 1996 by a new service, the Internet mailing list **Orchestra-L**, which provides news and a forum for discussion. The subscriber list has grown steadily over the years and now consists of several hundred subscribers on five continents. *Orchestra-L* is open to unionized orchestral musicians and related unionized professionals only, and is intended as a forum for them to share their professional concerns and exchange information and ideas. ICSOM musicians can subscribe by sending a request to me at rtl@icsom.org.

ICSOM set up its website, www.icsom.org, in January 1995 (less than two years after the first version what was to become Netscape Navigator was released by the National Center for Supercomputing Applications), thereby becoming the first support organization in the orchestral field to do so. The website has grown in content ever since. It now contains all ICSOM settlement bulletins since 1994, all issues of *Senza Sordino* since 1993, and a wealth of other information, including proceedings of recent Governing Board meetings, ICSOM conferences, ICSOM financial statements, and links to other useful information and relevant websites.

Media-L has just been established. This forum will allow extension of the dialog which took place at the Chicago media summit reported elsewhere in this issue. Representatives of ICSOM orchestras who attended the Chicago meetings were automatically subscribed. Any other musicians who are members of AFM orchestras and are interested in participating in discussion of electronic media issues are welcome to join by sending a request to me at rtl@icsom.org.

Another electronic "first" for ICSOM has been the **ICSOM CD-ROM**. The first version of this project, made possible by the advent of the recordable Compact Disc, was produced in 1997. The contents included many of the collective bargaining agreements then in effect covering AFM symphonic orchestras, as well as the entire archive of *Senza Sordino*, ICSOM bulletins for the previous few years, and other material of interest to the orchestral labor activist. All documents were in the Adobe® .pdf format. The disk was usable on both Macintosh and MS Windows computers, and included the software necessary to read and search through the files. Several versions have been produced since 1997, and a new version will be available by this summer's ICSOM conference.

Both the AFM and the American Symphony Orchestra League have tread (after some time had passed) in ICSOM's footsteps with their own CD-ROMs, email lists, and websites—yet another example of the leadership role ICSOM has always played in our field.

Media

(continued from page 1)

Concern about media and the EMF was the focus of the March 2002 issue of *Senza Sordino*, entitled "The Great Electronic Media Debate." Many orchestras contributed to this issue, and it was apparent therein and at recent ICSOM conferences that there is disparity of opinion among major players about the content and style of negotiations.

These disagreements came into sharper focus at the Chicago meeting. The time was at hand to determine if collective action on media was indeed possible and what direction it would take. Consensus, if not complete agreement, was needed.

And there did indeed seem to be some consensus. Most orchestras spoke in favor of national agreements, up-front payments, and traditional bargaining. Other orchestras advocated greater flexibility in media agreements, allowing for local control; exploring revenue sharing as an alternative to or supplement to up-front payments; and not completely discontinuing interest-based or facilitated bargaining.

Electronic Media Guarantees (EMGs) and the ways different orchestras use them was also briefly discussed.

At the afternoon session, in addition to addresses by AFM President Tom Lee, AFM Secretary-Treasurer Florence Nelson, AFM General Counsel George Cohen and Associate General Counsel Patricia Polach, ROPA President Barbara Zmich, and ICSOM Chairman Jan Gippo, orchestra representatives again had the opportunity to voice their views before AFM, player conference, and local union leaders.

Toward the end of the session President Lee addressed the issue of enforcement of national media contracts. He has provided a statement on this topic for this issue (see adjacent column).

Counsel Cohen closed the session by observing that the record industry is not what it once was and that most future recording will likely be at a local level, not driven by the recording labels. He recommended that orchestras closely examine the EMF Fact Report. Unilateral agreements—Radio-to-Non-Commercial and Limited Pressing—can be changed if that is what orchestras agree they want. The AFM has captured work that did not fit into the major agreements by negotiating national low budget agreements that work. Any new agreements that incorporate revenue-sharing must require sharing from the first dollar, not after expenses.

Time was too short, and gray areas remained, but these meetings proved to be valuable exercises in bringing ICSOM constituents together to discuss this important issue face to face. The ICSOM Governing Board wishes to thank Brian Rood for all his hard work in making arrangements at the O'Hare Hilton, and to AFM President Tom Lee and local unions for subsidizing these historic meetings.

ICSOM Secretary Laura Ross contributed to this story.

A Statement from AFM President Tom Lee

A union's main source of strength is its members' support. A union can negotiate agreements, but without its members' support, contract enforcement is difficult. Basic to the support of any negotiated agreement is whether or not the bargaining unit or their representatives fully understand all aspects of the proposals. With symphonic recording, the matter is often so complicated that only a few can understand the issue's complexities and nuances. That is why the meeting that I called on January 13, 2003, was so important. It gave the Federation an opportunity to participate with local officers and their player representatives from recording orchestras.

The discussion focused on symphonic recording and more specifically radio-to-non-commercial recording. This discussion was long overdue, and I appreciate the attendees' taking the time to meet with the AFM leadership. It was refreshing to hear directly from orchestra representatives on a topic that had become so divisive.

The controversy surrounding radio-to-non-commercial has been divisive on various levels. This weakens enforcement of the agreement. In a perfect world, the unity of the members of the bargaining unit would negate the need for enforcement procedures. If all members accepted the notion that an injury to one is an injury to all, no one would attempt to work outside the agreement: the enforcement mechanism would simply be the commitment of all members to honor agreements.

When that is not the case, it is up to the members, the locals, and the Federation to deal with enforcement. The most open and direct method of enforcement is for members to work out their differences through member-to-member communication. If this is unsuccessful, the AFM bylaws may then be used for the same purpose.

In my view, the most powerful mechanism for enforcement is through a thorough discussion by all participants. Creative compromises, education, the commitment of members to communicate with each other, and solidarity can ensure that agreements are not violated.

Again, I want the participants to know that the Federation officers appreciate your attendance at this meeting. Through this kind of activity, our symphonic bargaining units participate directly and provide much needed input on Federation agreements. This can only make our union, and your bargaining power, stronger.

TEMPO: A Cause to Support **Jan Gippo, ICSOM Chair**

Culture in America is about money. Every artistic institution in America is vying for the same money from federal, state, and local governments; from grants and foundations; and, most of all, from generous patrons. In every city in the United States, arts institutions in general and symphony orchestras specifically are asking the same patrons over and over again for yearly operating funds and large donations for endowments. This pool of money is not endless, especially considering the rising number of yearly requests and the increase of yearly budgets. The only way arts institutions are going to survive is for the public perception of the arts to change. The public must become sophisticated enough to understand the need for poetry, literature, theater, painting, sculpture, and symphonic music. These are not merely entertainment, but have an artistic view and make meaningful statements about everyday events. These views and commentaries of art are essential for a society to be able to see itself and improve. It is inconceivable that serious music and the other arts wouldn't be at the forefront following national disasters such as the terrorist attacks of 9/11 or the death of a President, or at a wedding or worship service.

In every community in the United States there is some kind of symphonic music, and each one of these orchestras needs public support. Although all the arts are important, it is the symphony orchestra that is the standard-bearer of the artistic institutions in the community. Even communities without museums usually have small symphony orchestras that provide all the arts for that city. Without a change in the understanding of our culture and the understanding that the arts should be the leader of this culture, the arts will suffer and eventually shut down because of apathy and the lack of funds. Each orchestra has some kind of outreach program. These programs are absolutely necessary. They mostly target children, however, and to make a paradigm change in an entire society, just targeting schools will take too long. The leadership of the nation must become interested and excited about the arts in general and symphonic music specifically.

Here is where TEMPO, the political action fund of the Federation, becomes particularly important. It is on Capitol Hill that the battle for recognition is fought. With enough money, there is access to lawmakers. Once in the door, our case can be stated, and we can keep stating our case as long as that door is open. So just what is our case? I believe that we need to show that we are not simply making a plea for more federal funding, but that we are interested in becoming self-sustaining with legislative help. We need to be heard on topics that affect us directly: carry-on baggage regulations, royalties, copyright, tax issues, the National Endowment for the Arts, and, most important, fund-raising laws and mechanisms that could make giving much more attractive to the patron-investors we need.

Individuals must fund TEMPO; no money can come from the operating budget of the Federation. With that in mind, I propose that each ICSOM orchestra member pledge \$10.00 a year to TEMPO. A payroll check-off of \$1.00 a week for ten weeks, or \$2.00 for five pay periods, or a one-time deduction of \$10.00, is easy to arrange. This money would be marked for TEMPO and would be sent to the Federation along with the AFM Strike Fund payment. The orchestra's accountant would only have to send a list of names with the amount to the Federation to be able to show the IRS that there were separate funds specifically earmarked for TEMPO. Those orchestras with-

out a mechanism for dues check-off would need to develop another way to contribute.

ICSOM would have a sub-committee consisting of governing board members, delegates, and other orchestra musicians that would stay in touch with our AFM legislative director in Washington, Hal Ponder, and make progress reports to our membership. At the 2002 ICSOM Conference I stated that we would think outside of the box and that we would think globally. Here is our first call to action. The symphony orchestra industry of the United States is very important and influential. I believe we can make our presence known, and with Senators and Representatives speaking about us and for us, we will get the attention we need. It is then up to us to "close the deal." More on that in the future.

I hope you will all participate. Try it for two years. Your risk is only \$20.00, but your gain could be astonishing.

Directory Update

As you read this issue of *Senza Sordino* the 2002–2003 ICSOM Directory is at the printers for production and mailing to your orchestra's ICSOM delegate.

Despite the good intentions of all involved, the arrival of the directories in the hands of ICSOM orchestra musicians always seems to be a month or so later than was planned. The Governing Board decided, as it has in the past, that it was better to wait until all delegates had updated their orchestras' information than to go to press on the original schedule with some orchestras left out. This year we tried a new system for allowing delegates to update directory information, which involved using an online database service called *Quickbase*. But, because it was a new system for us, there were some teething problems that also pushed the schedule back. We hope that, now that the data is in the proper format for online updating, we will be able to let delegates begin the updating process in September, which should advance the schedule considerably.

The burning question in everyone's mind when they receive their ICSOM Directory is, of course, "what the heck is that piece of music printed on the cover"? We will try to pick a work that will make answering that question as challenging as possible.

Mary Plaine and Robert Levine
ICSOM Directory Supervisors

Fred Sautter (Oregon Symphony) has resigned his position as ICSOM Governing Board member-at-large. The Governing Board, in accordance with ICSOM bylaws, has appointed Paul Ganson (Detroit Symphony) to fill the unexpired term. Elections for all member-at-large positions will be held at the 2003 ICSOM Conference.

Counsel's Report

Leonard Leibowitz

Another Opening, Another Blow



In my experience, this is the worst of times. During the last thirty years I have witnessed “troubled orchestras,” and even an occasional “lost orchestra,” but never to the extent and seriousness we have experienced since just before the turn of the century. Over these last few years we have suffered through fiscal crises in the orchestras of Saint Louis, Houston, Toronto, Phoenix, Milwaukee, Baltimore, Buffalo, Louisville, Colorado Springs, and

others. We have heard rumblings of impending difficulties in Pittsburgh, Cleveland, and even the mighty Chicago Symphony. It appears that we may have lost the orchestras of San Jose and Tulsa.

Typically, the first sign of trouble is an inquiry I receive from the musicians' committee chair: “Our board (and/or management) has asked us to re-open the contract in order to deal with the accumulated (or projected) budget deficit. If we don't agree, they say they will be forced to file for bankruptcy. What should we do?”

Typically, my answer is: do not agree to reopen—yet. That is, you may (and should) agree to meet with them, listen to their concerns, and ask a lot of questions. “How did this happen?” “What steps have you taken to remedy the situation before coming to us?” “Will you open the books to our accountant?” “What do you want us to do?” And, perhaps most important, “If we agree to some concessions, do you have a plan to prevent this from happening again in the foreseeable future?”

Verification

If you agree to make concessions based upon your collective analysis of the situation, you should be willing to re-open the contract in order to implement the agreed-upon changes only after you have been given satisfactory answers to the following questions:

- Is the situation truly as bad as they describe it?
- Are your own accountants satisfied that they have received all the data they need, and are they convinced that the books reveal that which management alleges?
- Have you gotten an analysis of the books which explains how and why the crisis has occurred?
- Are there steps other than (or at least in addition to) musician concessions which can be taken to rectify the problem? If so, are they willing to take those steps?
- What is the state of the endowment fund? What is the current value? How much of it is restricted? Are the restrictions donor-imposed or board-imposed? Who controls the fund—the board, or a separate entity created to hold and administer it? What happens to the money in the event the institution dissolves?

- If there is no agreement to reopen, and they choose to file for bankruptcy protection, will it be pursuant to Chapter 7 or Chapter 11?
- And, finally, what is the plan for the future and does it appear to you and your accountants to be viable?

Concessions

If you have agreed, albeit reluctantly, to make concessions, you will have to decide the form that those concessions should take. Some thoughts:

Cut weeks rather than wages. It may be that there is not sufficient demand in your town for as many weeks of work as you would like. Or perhaps your management has been unable to fully exploit the potential demand that really does exist. Not all orchestras have a year-round contract. But whether or not you have achieved a 52-week contract, the more important consideration, in my opinion, is to maintain reasonable and proper compensation for the weeks that you *are* working.

Most of the arguments we make at the bargaining table—cost of living increases, comparisons with similarly-situated orchestras, the stress and practice time involved in doing the job properly—are made to persuade our employers of the value of our services and to seek appropriate financial (and other) recognition of that value. Thus it appears to me that agreeing to work for a lower salary is the very last concession that should be made, if ever.

And, of course, cutting weeks allows musicians to find other work during those dark weeks, or to receive unemployment insurance, or perhaps just to take some much-needed rest.

Moreover, if you cut salary but not weeks, the board and the community have lost nothing as a result of the crisis for which they are responsible! That is, they get the same amount of music from you, but you get paid less for it.

Think loans. Before you agree to make concessions which will involve complete loss of income which you will never recover, consider proposing that any financial concessions you make are to be treated as loans from individual musicians, to be paid back at some agreed-upon date or time in the future.

In 1985, the dancers of American Ballet Theatre were asked to make concessions due to a fiscal crisis. At the time, their collective bargaining agreement guaranteed them 36 weeks of work. In response to the crisis, the dancers agreed to reduce the guarantee for the upcoming year to 26 weeks, as a loan to the company. That is, the amount of earnings, including pension contributions, that each dancer lost by the cut of ten weeks was carried on the books of the company as an outstanding debt to each dancer. Since dancers' careers are relatively short, each of those dancers was paid back the full amount of the loan, with interest, as they retired, quit, or otherwise left the employ of ABT. Although the time of repayment may have to be shorter for symphony musicians, the concept is still viable.

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Counsel

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Be creative. There are many other possible areas of concession, including those which relate to the easing of certain work rule limitations, which might save management money without actually cutting salary or weeks.

Rehabilitation

The agreement to make concessions should include a plan of rehabilitation and restoration. Indeed, depending on when restoration is made, the plan may also include increases and/or improvements toward the end of the concession period. That is, if the concessions are to occur immediately, you should insist on extending the current collective bargaining agreement by some period of time within which you are returned to the level of compensation you were enjoying before the concessions, and that level of compensation should be improved in accordance with your best estimate of the level at which you would be had there been no concessions. If you fail to provide for such rehabilitation at the time of making the concessions, you will have given up your best opportunity to achieve restoration and improvements.

Having said that, there is, of course, no guarantee that your management will fulfill the terms of the added contract period, but it's better to have a plan in writing than nothing but another negotiation in the future.

Equality of Sacrifice

With the possible exception of some shamefully low-paid staff, everyone else in the organization should suffer losses at least equal to those suffered by the musicians. The reasons for insisting on this condition before making concessions appear to me to be self-evident.

Non-economic Improvements

There is no better time to achieve improvement in working conditions, job security, and other areas which have little or no economic impact to the board than when you are making the kind of sacrifices mentioned above. With the exception of job security issues, many of these items were probably proposed by the union in earlier negotiations but were dropped along the way when economics became paramount. Review your contract and your bargaining notes from the recent past and insist that some of those items be part of the deal.

Bankruptcy

If, after all of this, you and your management nevertheless reach impasse and you refuse to re-open the contract, they may file for protection under the Bankruptcy Act. In that case you may need legal assistance, but you ought to be somewhat familiar with some basics.

Under Chapter 11 the institution remains in business under the aegis of a bankruptcy judge, during which time a trustee in bankruptcy, appointed by the judge, attempts to work with the board, management, and a group of creditors ("Creditors' Committee") to agree on a plan of reorganization

which will include paying off the creditors (usually in some substantially reduced amount) and continuing in business pursuant to the plan, but without the ongoing oversight of the judge or trustee.

Section 1113 of the Bankruptcy Act describes a procedure for a debtor in Chapter 11 to seek to have the judge set aside the collective bargaining agreement if he or she believes it is onerous and will prevent the debtor from ever achieving solvency. It is a very complicated procedure, but for our purposes it requires that the debtor first attempt to negotiate changes in the contract with the union which are "fair and equitable" to all before applying to the court for rejection of the contract. In the event the collective bargaining agreement is set aside, the union has a right to strike, appeal the decision, or both.

Under Chapter 7 the debtor is seeking to dissolve the enterprise. It calls for the gathering of all assets of the organization, liquidating them, paying off the creditors with the proceeds, and going out of business.

My fervent prayer is that for those of you who have not already faced any of this, that all of the above remains irrelevant to you.

ICSOM Conference Information



The 2003 ICSOM Conference will be held from August 20 to August 23 at The Antlers at Vail, Colorado. Additional information will be made available in future issues of Senza Sordino and via bulletin and Orchestra-L.

Houston

(continued from page 1)

seniority, but a month later they reneged on this offer and began asking for concessions, citing "deteriorating economics."

The orchestra feels tremendously betrayed by the turn of events. In 1997 a tumultuous negotiation was settled on the eve of a strike deadline. Immediately after, the musicians agreed to participate in an extensive examination of the HSO's inner workings, a series of task forces supervised by Chicago's Henry Fogel. This process, which helped heal the bitterness of that negotiation, ultimately led to a report recommending numerous structural changes in the organization. The selection of a new board president, Rodney Margolis; the appointment of a new executive director, Ann Kennedy; and, most important, the crafting of a mission statement in November 2000, gave the musicians a sense that the HSO had finally found its way. Financially, the Society had shown a surplus for three straight years, and the chairman of the board proclaimed publicly that the Houston Symphony was in "the best financial shape of its history."

This was before the current economic downturn, of course, and it is tempting to blame the HSO's trouble on the catastrophic collapse of corporate giant Enron, a sagging economy, and a devastating flood which wiped out the symphony offices and music library in June of 2001. The current projected deficit of \$2.3 million, however, has in fact almost nothing to do with these factors. It is caused by the disappearance of a large capital campaign bridge fund (up to \$2 million annually) and of the loss of revenue from Houston Grand Opera (\$800,000 annually, at its peak.) Both of these eventualities were known five years ago, yet no replacement revenues were put in place. Ticket sales, corporate and individual contributions, and foundation grants have been virtually flat for three or more years. The Society claims it has a financial plan in the works but continues to delay its announcement. The musicians have offered concessions totaling over \$500,000, but most have been dismissed or downplayed by the Society's negotiating team.

The negotiations have proceeded ponderously because of the management's insistence on the wage cut, because there has been great difficulty in scheduling meetings, and because the players are negotiating directly with board members. Astonishingly, CEO Ann Kennedy has recused herself from the talks.

In December ICSOM Chairman Jan Gippo and Counsel Len Leibowitz came to Houston to discuss the situation with us. Their insights were appreciated by all.

By the time you read this our situation may have changed substantially. Music Director Hans Graf is back in town, and pressure is building from all sides. The musicians of the Houston Symphony have created a website, www.upbeat.org. Please check the site for an explanation of our position in detail and for the latest developments.

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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