

## Thoughts on Restructure

by Laura Ross, ROPA Secretary

This issue contains a report from President Brandt regarding the Investigative Task Force (ITF). The delegates at the 1997 ROPA Conference mandated ROPA's participation in the ITF, which was designed to address two serious concerns of the Players Conference Council's (PCC). The first concern is the funding of our two divisions (Symphonic Services Division [SSD] and Electronic Media Services Division [EMSD]) and the dues burden carried by symphonic and recording musicians. The second concern is the failure of the Restructure Committee's proposals during the 1997 AFM Convention, and a desire to continue that Committee's dialogue on concepts such as Regionalization, Reorganization and Trade Divisions.

One goal of the task force is to track the spending and budgetary allocations for all areas of the Federation. Once there is some understanding of "how things work now" we can better come up with ideas, suggestions, and resolutions to see that our needs are being met. The creation of such practical, well-grounded resolutions is the long-term goal of both the ITF and the Unity Conference this summer in Las Vegas. This will be our chance to affect change together.

The PCC has long contended that recording and symphonic work dues supply over 50% of the Federation's budget each year. In fact, symphonic, recording, and theater & traveling musicians are the only ones contributing a portion of their



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work dues directly to the Federation (except MPTF work that is administered by both the Local & MPTF for 5% work dues). The PCC has stated in the past that such dues should all go to fund "our" departments, and that the "generic" or general office expenses, travel, per diem and salaries for all other employees should be covered by "per capita dues". This is one of the issues the ITF is revisiting in their ongoing discussions.

The Federation has never agreed

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## Update from Milwaukee

by Ravenna A. Helson, chair, Milwaukee Ballet Orchestra negotiating committee

Thanks in part to a timely visit from concerned head of AFM Symphonic Services Division Florence Nelson, there is movement in Milwaukee! Florence brought members of the Milwaukee Symphony and members of the Milwaukee Ballet Orchestra together at a meeting of the Local 8 executive board on Saturday, April 4. This was to be a safe place to air issues so as to keep everyone on the same page. It was effective. The MSO players council became aware for the first time that the Milwaukee Ballet management was refusing to meet with representatives of its orchestra until negotiations with the Milwaukee Symphony had been completed. The players council immediately stated that they would communicate to their management that they would discontinue discussions on the subject of "Ballet collaboration" until Ballet management met with its own people. MSO management was sympathetic to this position and shortly thereafter MBO received a call from its management with a request to meet to "discuss status of negotiations with MSO." We don't know where this will take us, but it's in the right direction. Many thanks to Florence. It's good to have

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# Of Task Forces, Unity Conferences, and Solidarity

*From the First Desk - by Andrew Brandt, ROPA President*

## **The Investigative Task Force**

Since my last writing, the Investigative Task Force (ITF) has been busy. The task force has been expanded to a total of five representatives from the players' conferences and five AFM local officers. The five players' participants have been myself, Robert Levine representing ICSOM, Dennis Dreith representing the Recording Musicians Association, James Ewen representing the Organization of Canadian Symphony Musicians, and Art Linsner representing the Theater Musicians Association. Local officers participating are Bill Moriarity, President of Local 802 in New York City; Richard Totusek, Treasurer of Local 47 in Los Angeles; Denise Westby, President of Local 99, in Portland, Oregon; Jimmy Nixon, President of Local 105 in Spokane, Washington; and Paul Sharpe, President of Local 279, in London, Ontario. We have also been assisted by legal counsel, Lennie Leibowitz and others.

At our first plenary meeting in Milwaukee, the ITF outlined its plans and did basic research into what the duties of a union are. We were ably assisted in that task by the participation of Don Spatz, an instructor at the Meany Center, who pointed out that the primary functions of any union are: to represent workers collectively, to bargain collectively, to finalize and administer contracts, to organize those who are not covered under collective bargaining agreements, and to create an environment which makes all those tasks possible. Organizing is the primary function

of a union. In fact, the AFL-CIO has made organizing workers one of its top priorities. One of the problems that the AFM faces is that many of its members working in nightclubs and for other temporary employers are prohibited by U.S. Court decision from being able to organize effectively. Changing the law or challenging the court decisions should be a priority. Another priority is to structure our Federation to use its resources more effectively and to improve its ability to administer and negotiate contracts and represent our members effectively.

After the Milwaukee meeting, several of the task force members travelled to New York City to interview field staff, SSD staff, and department heads in the International office. Much to our delight, virtually all of these AFM employees offered us their thoughtful insights into many of the problems of the Federation and also suggested solutions to many of those problems — institutional and otherwise. One observation that was repeated in almost every session was the need for education and continued training for officials (elected and appointed) in all levels of the Federation. The labor field is a constantly changing one and, in a democratic union, the people engaged to serve in this field change. Training them to do their jobs more effectively needs to be an ongoing process.

Our second full meeting of the ITF was in Shreveport, Louisiana. We discussed these interviews, looked at various structural models of other unions, and held informative discussions with AFM President Steve Young who graciously attended at our invitation. Other meetings are scheduled for Tacoma, Washington, and Los Angeles to study and refine various proposals to be brought to the

Unity Conference in Las Vegas in August.

We will also have a presence at the PCC and LCC convocation in Toronto in June and hope to interview and talk with other members of the Federation. The goal of the task force is to gather input from a diverse sample of the AFM's membership as well as others outside the Federation. Feel free to contact me or any members of the ITF if you have suggestions, insight, complaints, or other observations on the Federation. We are all open to your ideas.

## **The Unity Conference**

Planning for the Unity Conference, to be held August 19-23, 1998, at the Riviera Hotel in Las Vegas, continues apace. In addition to the three orchestra conferences (ROPA, ICSOM and OCSM), we will be joined by the Recording Musicians Association (RMA) and the newest players conference, the Theater Musicians Association (TMA). Conference days will alternate between individual conference sessions (ROPA in one room, ICSOM in another room, etc.) and plenary sessions with the representatives and delegates of all the conferences meeting together. The latter sessions will concentrate mostly on the restructure process itself and will consider the recommendations of the Investigative Task Force, among other things. To give us more time, ROPA Delegates will be arriving earlier than usual so we can begin meeting on Wednesday morning (not afternoon, our traditional schedule). The conference will end

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on Sunday at noon or earlier. More complete schedules will be sent out to delegates and attendees as they are finalized.

ROPA's Negotiating Orchestras Workshops will be held August 18th, the Tuesday before the Unity Conference. The focus of these workshops will be changing, however. During the morning and earlier afternoon we will have sessions for those orchestra currently in negotiations. In addition, we are also adding sessions late Tuesday afternoon/early Tuesday evening for those orchestras who will begin negotiations in the coming year. (This will be the main focus for workshops in the future.) Delegates who register to attend the latter session need only arrive in Las Vegas earlier in the day, no additional hotel reservations will be required. ROPA has invited the other orchestra conferences to participate as well, so we may have a broader mix of U.S. and Canadian

orchestra participants in this year's workshops. Those orchestras who are in negotiations or are preparing for negotiation next season may also send members of their orchestra committee or negotiation committee to these workshops as well. We have requested that the AFM send all of its SSD staff (U.S. and Canada) to the Unity Conference, so all orchestras should have an opportunity for individual consultations as well, if they wish.

Because of the greater complexity of having all the players' conferences meet together this summer, we will be requiring delegates to make their reservations earlier this year, by the end of June. All hotel reservations must be made through Susan Levine, who is also available to make your air reservations. Rooms at the Riviera Hotel are actually cheaper than at recent ROPA Conferences, IF you make your reservations through Susan Levine. More information on making reservations will be sent to ROPA Delegates and their locals from

Laura Ross, ROPA Secretary.

### **Crisis in Milwaukee**

Many of the delegates who participate in the ROPA and/or ICSOM internet mailing lists have been following the developing dispute involving the Milwaukee Ballet Orchestra. In brief, the Milwaukee Ballet management has announced that it will disband their ballet orchestra after this season and plans to contract their work out to the Milwaukee Symphony. The ballet orchestra is a seasoned orchestra with tenure and regular auditions, and the members of the orchestra and its orchestra committee have shown that they intend to put up a fight at the negotiation table to save their orchestra. Coincidentally, I was in Milwaukee for the Investigative Task Force on the same day that members of both the ballet orchestra and the Milwaukee Symphony Orchestra received letters from their managements announcing this move. I was able to immediately meet with members of the MBO negotiation committee with the helpful assistance of Lennie Leibowitz, SSD Counsel, and Local 802 President, Bill Moriarity, who also generously donated their time to advise the ballet musicians. Nathan Kahn and Florence Nelson of the SSD have since given extensive support, both on-site and off.

Although this dispute may appear, at least to the public, to pit an ICSOM orchestra (the Milwaukee Symphony Orchestra) against a ROPA orchestra, both conferences are working together in support of the union principal that an injury to one is an injury to all. I

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## **Milwaukee**

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all musicians in Local 8 able to look each other in the eye again. MBO negotiation committee is preparing for a very problematic negotiation.

# Cafeteria Plans 101

by Patricia Poalch, ROPA Counsel

A “cafeteria plan” is a plan that permits employees to choose between cash and one or more non-taxable benefits. Among the benefits that may be offered are medical benefits, disability benefits, life insurance, and coverage under a dependent care assistance program. Participants in a cafeteria plan use cash to “purchase” the benefits. The cash may come from either employer contributions or deductions from the employees’ wages, or a mixture of the two. Because the cash is converted into a nontaxable benefit of equivalent value *before* it is taxed, the employee saves all the federal income taxes (and social security taxes) that he or she would otherwise have to pay on the cash.

The benefits offered under a cafeteria plan most commonly include any or all of the following:

- Coverage under a group health insurance plan or health maintenance organization.
- Coverage under a medical reimbursement plan (also known as a “flexible spending account”) that reimburses employees’ out-of-pocket medical expenses such as co-pays and items not covered under the health insurance plan.
- Coverage under a disability plan that covers employees for dismemberment or disfigurement, or provides disability income (however, if coverage for a disability income plan is paid on a pre-tax basis under a cafeteria plan, any amounts received upon disability will be taxable).
- Coverage under a group term life insurance plan (up to \$50,000 of coverage).

- Coverage under a dependent care assistance program, usually structured as a dependent care reimbursement program or “flexible spending account” that reimburses employees’ out-of-pocket expenses for dependents to a maximum of \$5,000 per year.

Cafeteria plans generally require employees to make elections for the upcoming year by the end of the preceding year. In order to preserve the nontaxable status of the benefits, elections to receive particular nontaxable benefits must be irrevocable throughout an entire “period of coverage” (generally, the calendar year). For example, if an individual elects to reduce his or her salary by \$40 per pay period in order to purchase coverage under a medical plan, that election generally must remain in effect for the entire year. However, there are limited exceptions to this rule permitting changes in elections if the premium for an insured health plan change, or if there is a change in the employee’s, spouse’s or dependent’s employment status, work schedule, or residence or worksite; or a change in the eligibility of the employee’s dependent for coverage. Changes may also be made when there has been a significant change in the employee’s or spouse’s health coverage attributable to the spouse’s employment. Election changes are limited to changes that are consistent with the change in family status.

Reimbursements under a medical reimbursement plan may be paid *only* to reimburse expenses incurred during the period of coverage. Therefore, any amounts the

employee has elected to contribute for coverage under the medical reimbursement plan, but that has not been used for benefits by the end of the year, must be forfeited by the employee. ***However, don’t let management tell you that there is no way for musicians to benefit from this leftover money.*** The total used amounts may be pooled and returned to all of the employees as “premium refunds.” The refund may not be allocated based on individual claims experience, and so no individual employee really receives back the precise amount of his or her unused funds. But, at least the money is returned to the participating employees, as a group. If you have a union-negotiated cafeteria plan, the treatment of unused funds is a proper subject at the bargaining table.

This article is intended only as a general summary of the features of cafeteria plans. The Internal Revenue Code, which governs the treatment of these plans, sets forth a number of additional requirements and limitations. Accordingly, no cafeteria plan should be implemented without first consulting with legal counsel.

## HELP WANTED

*The Leading Tone* needs an editor, effective August, 1998. Competent writer desired. Computer and desktop publishing experience helpful. Interested? Contact:

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## Task Forces, Unity and Solidarity

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have told the ballet musicians that ROPA will do everything in our power to assist them. Also, a letter-writing campaign to members of the MSO and their players council has resulted in a large number of letters asking the MSO musicians to support their colleagues in the ballet. The latest issue of ICSOM's newsletter, *Senza Sordino*, includes a statement from the ICSOM Governing Board strongly urging, "the musicians of the Milwaukee Symphony Orchestra to refuse to take over the work currently performed by their colleagues in the Milwaukee Ballet Orchestra." As noted on the front page of this issue, progress is being made in getting the Milwaukee Ballet management back to the negotiation table.

I anticipate that all orchestra musicians in the United States (and

other nations) will continue to support the ballet musicians in their difficult struggle. It is in conflict like this that members of our Federation come to grips with the problems and strengths of working collectively. The principals of solidarity are as essential in Milwaukee, New York, San Francisco, Shreveport, Ottawa, or Vancouver as they are in your home town. If we fail to follow these precepts, then no number of task forces, restructure plans, or Unity Conferences will save our Federation. Let us hope that, when August rolls around, we will all be able to say to our colleagues that we remained true to our principals and made a difference in Milwaukee and elsewhere.

## Action

writes in Arts on the Line. Arts on the Line explains that although in the debate, music licensing fees were disturbingly characterized as government taxes imposed on small business, "This is just not true at any level at all. In fact songwriters constitute the SMALLEST of businesses and their royalties are no different in concept than those collected by others such as Newt Gingrich, when writing books....Most songwriters earn \$10,000 a year or less and the average fees paid by businesses licensing music amount to \$1.58 a day.... You had all heard the refrain (to use a songwriting term) from Congressional debate on the NEA: 'If the arts are so good let them prove themselves on the free marketplace.' Unfortunately the same Congressmen who say this when convenient, try whenever possible to LIMIT ACCESS to the free market for these very artists....The same Representatives that cry the shrillest for 'property rights' no longer seem to care when those rights extend to artists."

The recorded vote on the amendment was ayes 297, noes 112, not voting 22. The bill will now move to The Senate. "Please let your Senators know how you feel on this issue," Finkelstein says.

### Source:

Richard S. Finkelstein, ARTS ON THE LINE (arts-alert-usa) <http://spot.colorado.edu/~finkelst/aotl.htm>

The full debate text is available at <http://spot.colorado.edu/~finkelst/copyrt.htm>

## Action Alert

On March 25, the House passed what Representative Sensenbrenner (R-WI) called his "Fairness in Music Licensing Act" as an amendment to the Copyright Extension Act. According to ARTS ON THE LINE, the act would end most rights of composers and songwriters to collect royalty payments from those who use their music to enhance their business atmosphere.

Arts on the Line reports that for years restaurants, hotels, bars, and other businesses who use their music to enhance their business atmosphere have been complaining about license fees in order to end most rights of composers and songwriters to collect royalty payments. Congress required that these businesses and the licensing agencies such as ASCAP and BMI negotiate a new arrangement. In the end the music representatives were able to reach agreement with representatives of the beverage industry, but talks broke down with the restaurants and hotel industries. "The feeling of the songwriters was that the powerful hotel/restaurant lobby became unwilling to negotiate a compromise when powerful friends in congress were willing to legislate a FULL victory for their business friends," Richard Finkelstein

## Restructure

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with the PCC's position, claiming that recording work dues do not cover all the expenses of running EMSD, and that some symphonic work dues must be diverted to other areas such as the International Musician and organizing departments. Symphonic musicians get frustrated when they consider the size of their dues contribution and yet see the SSD as overworked and under-funded. However, let us not forget that all the problems are not necessarily with the Federation alone. (For the purpose of Federation work dues assessment, AFM bylaws require a symphony orchestra to employ 60 musicians with personal service contracts performing at least 15 concerts. The organization must also employ a conductor in a substantially permanent capacity. In other words, many ballet, opera, and chamber orchestras and some of our smaller per-service ROPA and OCSM orchestras are exempt from paying AFM symphonic work dues.)

In the January 1998 volume of *Senza Sordino*, ICSOM President Robert Levine posed a number of questions about work dues in comparison to other unions and also discussed those hard working volunteers you fondly call your orchestra committee. Rather than either casting stones or wholeheartedly agreeing, let me add my two-cents and share some thoughts I have had and have heard expressed by others. Discuss these ideas and others with your colleagues, consider what you think and form your own conclusions.

Is our dues burden unfair when compared to other unions? We can compare our union to any other union but it won't really be a fair evaluation because we are so unlike everyone else. Comparing the AFM to the Screen Actor's Guild (SAG) is not

reasonable because SAG is only really viable in New York and Los Angeles. The American Federation of Television and Radio Artists (AFTRA) is currently going through a huge reorganization but their 30 locals nationwide (as opposed to almost 300 in the AFM) are often perceived as having less clout in areas of the country that do not have large amounts of film, radio and television work. Comparing us to the United Auto Workers (UAW) or Teamsters that generally represent full-time workers who are employed by for-profit corporations may not be the best example either. Why? Because most orchestras are considered part-time, their salaries are based upon the generosity of donors and the whim of the public, and no conditions are the same in any two orchestras.

The Restructure Committee opened a dialog regarding the possibility that "trade divisions" could help solve our funding dilemmas. But, unlike our recording colleagues in the AFM and our brothers and sisters in unions across the country, we are not working with a national agreement. Local conditions dictate much of what is contained in our collective bargaining agreements (CBA). Many advocate the "pure trade union" that would have the Federation in control of symphonic negotiations and working conditions instead of our locals. The questions to pose here are: Do we really want to cut ourselves off from the rest of the musical community - those who can and do rally around us as our colleagues in the union when we need their support? Or do we cut them off the "gravy train" of work dues support and risk alienating them to create a "replacement"

workforce? Let's not forget that we also have to hire extras that don't normally belong to our division.

The Restructure Committee also considered "regionalization." I myself am more of an advocate of the regional concept. Like the national trade union concept there would be better access to information and a well-equipped and funded staff ready to assist at any moment, but regionalization would allow us the option of having someone closer than New York or Los Angeles to help. Regional offices could also provide a place for regional meetings of orchestras for discussions, collaborations, forums, workshops, etc. To discontinue duplication of services, to consolidate reports, to standardize billing, and to allow orchestra musicians to work in multiple locals could be a few of the benefits of regionalization. Some locals, especially those that exist almost completely on MPTF, will have to make some hard decisions and merge with other locals for the greater good of all its members. (During every Phonograph negotiation MPTF is under attack. We cannot always assume it will be there, no matter how important it is to providing free, live music to the public.)

When we get into a discussion about work dues and the amount orchestras pay to support their locals, the question must be asked - what is the local doing for the orchestra? This is especially important to ask of those locals that are supported by symphonic work dues in excess of 50% of the budget. Does your local do everything required by the AFM Bylaws - do they support your grievances & arbitration, do they supply competent representation

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## Restructure

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during negotiations, are they paying expenses to maintain your CBA, and are they sending your delegate to the ROPA Conference each year? These are the requirements, but what else do they do for you?

A large number of ROPA orchestras do not have a union steward. Those locals that do provide a steward may not be compensating that person in any meaningful way. Most orchestras still depend upon the volunteer orchestra committee member to take care of all their problems. Is this right or fair? Probably not, especially if you are not getting anything from your local. The steward is the on-site union representative and liaison between the orchestra and the union and management and the union. They are there to enforce the rules. Is that the job your committee is doing? You should have both - the elected body to

represent the orchestra and the union/orchestra representative with the knowledge and backing of the local.

There is another school of thought that believes that the role of the individual Player Conferences should be increased and possibly funded through our work dues. We are already the volunteer information gatherers. Wouldn't it make sense to fund studies with the network already set up in each Conference? Wouldn't it be nice to finally have the funds necessary to provide more services? Our officers are constantly asked for advice - why not give them more training and expand their roles and that of the Conferences? We pay the most money, shouldn't we have a larger role in controlling our destiny?

These are but half-formed ideas and concepts like so many others out

there meant to visualize how best to fix, fund and redesign the AFM. There are many intelligent and innovative members in the AFM, yet it will be a huge job to explore and agree on what the AFM of the 21st Century should resemble. These are precarious times, but full of possibilities as well. The Task Force has begun to investigate and will have much to report to us at the Unity Conference this summer. What an incredible opportunity that we can be active participants this summer in trying to shape the AFM of the future and to formulate out PCC Convention resolutions as one body. United we succeed - divided we achieve nothing.

AFM - American Federation of Musicians

SSD - Symphonic Services Division

EMSD - Electronic Media Services Division

OSP - Orchestra Services Program

RIMPTF - Recording Industry Music Performance Trust Fund (was MPTF - Music Performance Trust Fund)

PCC - Players Conference Council

LCC - Locals Conference Council

IEB - International Executive Board

IM - International Musician

CBA - Collective Bargaining Agreement

ROPA - (you should know this by now!) Regional Orchestra Players' Association

OCSM - Organization of Canadian Symphony Musicians

ICSOM - International Conference of Symphony and Opera Musicians

TMA - Theatre Musicians' Association

MOLA - Major Orchestra Librarians Association

RMA - Recording Musicians Association

AFM-EP - AFM Employer Pension Fund

ERF - Emergency Relief Fund

SPF - Special Payments Fund

DFR - Duty of Fair Representation

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## Alphabet Soup

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ULP - Unfair Labor Practice

NLRB - National Labor Relations Board

ASOL - American Symphony Orchestra League

SOI - Symphony Orchestra Institute

AFL-CIO - American Federation of Labor - Congress of Industrial Organizations

DPE - Department for Professional Employees - AFL-CIO

AGMA - American Guild of Musical Artists

AFTRA - American Federation of Television and Radio Artists

SAG- Screen Actors Guild

DGA - Directors Guild of America (not AFL-CIO)

WGA - Writers' Guild [East - AFL-CIO; West - non AFL-CIO]

AEA - Actors' Equity Association

CWA - Communication Workers of America

IATSE - International Alliance of Theater and Stage Employees

DIDO - Dollar In-Dollar Out (or Dues In-Dues Out)

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