

# MEMBERS

## NEWSLETTER

Make Every Musician Benefit from Efficient Responsible Service

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### ANOTHER THREAT TO LIVE MUSIC

## Disc Jockeys and the Clubdate Field

**U**P until the mid-1970s, musicians working in clubdates, hotels and night clubs were the largest segment of Local 802's membership.

These musicians specialize in providing music for dancing, listening and show presentations at weddings, corporate parties and other social functions. Their unique skills include having a vast musical repertoire and the ability to play polished "arranged" performances of virtually any music and with any combination of instruments—all without recourse to written music.

Players with broad mastery of the contemporary and standard pop, ethnic and semi-classical repertoires and the greatest on-the-job flexibility have enjoyed long and busy careers at country clubs, catering houses, hotels and night clubs all over the greater New York area.

### A Declining Industry

Unfortunately, 802 musicians in these fields have suffered from several factors which have reduced the amount of work over the past generation. Nonunion competition and the general downsizing of the typical clubdate band have been key elements in this decline, but the replacement of live bands by disc jockeys has also shrunk employment in this field.

The growing use of disc jockeys as the sole source of musical entertainment at New York social events has become a major concern. At first, the playing of records at parties was seen as simply a lower cost expedient in comparison with the use of live bands. However, it has now become clear that disc jockeys are often paid as much, if not more than the price of the live orchestras they replace.

In some circles, the playing of commercially available records at upscale parties has

actually become a sort of status symbol among those who apparently don't recognize the value of live music.

### Record Industry Changes

One key factor which has contributed to this trend has been a change in the priorities of record producers themselves. As recording and editing techniques have become more sophisticated and the sound of records has become more processed, producers have gradually replaced their long-time emphasis on choosing potential hit songs with a new concentration on creating hit recordings.

This trend has also resulted in a significant reduction in the sales of sheet music. While most popular songs in the past were available in this form and were often performed by other artists in various other venues, today, more  
*(continued on page 4)*

### AN IMPORTANT DISCUSSION

## February Membership Meeting

**W**HEN 300 members submitted a petition requesting a special meeting to discuss the Radio City negotiations, meeting notice requirements in 802 bylaws prevented the scheduling of a meeting any sooner than mid-May. To avoid such a lengthy delay, the Executive Board agreed to put the topic on the agenda of the already regularly scheduled February meeting.

Although the notice to the membership of the meeting's agenda appeared in the January *Allegro* which reached members only a few days before the meeting, Recording Vice President Dennison did get word out to the signers of the petition and workplace notices were also posted.

Even with such short notice, the meeting convened at about 3 p.m. with more than 180 members present and lasted for more than 3 hours until the quorum (125 members) was lost. Discussion then continued for another 30 or 40 minutes in the absence of a quorum.

The meeting was marked by contention and occasional hostility, reflecting the controversial nature of the negotiations themselves. However, all of the members present conducted themselves in an orderly manner and many views were exchanged.

Difficult (and sometimes angry) questions were raised during the discussion and the Radio City Orchestra Rank-and-File Committee was present to give answers, address comments from the floor and to describe many of the events and developments they had lived through during the negotiations.

Although the disappointing outcome of the Radio City contract set a fairly negative tone to the meeting, the evenhanded chairmanship of President Lennon, the attentive behavior of the members present, the guidance of a parliamentarian and authoritative commentary by the Radio City Committee (all but one, of whom, were present) contributed to a useful and informative discussion.

When the meeting was over, clear differences of opinion remained and all of the hostility had not dissipated. However, the fact that the meeting actually took place at all with such short notice, that a quorum was achieved and held for so long and that so many members had a chance to ask questions, make statements and gain information was a credit to the good will and open-mindedness of the members who attended. **MN**

### IN THIS ISSUE

<i>Disc Jockeys and the Clubdate Field</i> .....	1
<i>February Membership Meeting</i> .....	1
<i>Radio City Time-Line</i> .....	2
<i>Charges Withdrawn</i> .....	3
<i>Please Subscribe or Renew Now</i> .....	3
<i>Credit Card Issue Addressed</i> .....	4

Next Issue: **The Federation**

## THE ORCHESTRA COMMITTEE REPORTS

# Radio City Time-Line

Many members have no doubt seen a widely circulated *Radio City Time-Line* purporting to outline the key events of the recent *Radio City Music Hall* negotiations.

The document was assembled by Bill Denison and Jay Schaffner, who were admittedly not present at the negotiations, and much of it has been called into question by the orchestra's rank-and-file committee members who were actually there. The committee addressed a few of the time-line's inaccuracies at the February meeting and we are making this space available to them now so that they can offer a fuller commentary than time permitted at the meeting.

The *Radio City Committee* consisted of Andy Rodgers (co-chair), Tom Olcott (co-chair), John Babich, Bud Burrigide, Mario DeCiutiis, Mark Johansen, and George Wesner.

## FROM THE RADIO CITY ORCHESTRA COMMITTEE

THE recent contract negotiation between Local 802 and Cablevision/Radio City Entertainment was one of the most contentious and controversial negotiations in Local 802's history. Talks began in June, 2005 and concluded in mid-November, 2005, after twelve negotiating sessions and two days of mediation at Gracie Mansion, under the auspices of Mayor Bloomberg and mediator Frank Macchiarola. Each and every session was marked by management practices and behavior that amounted to the most virulent anti-musician and anti-union negotiation in our experience. We witnessed, among other things: (1) regressive and/or bad faith bargaining by Cablevision which at various times escalated into extortion and threats; (2) at least three unfair labor practices; (3) a musicians' strike/lockout; (4) a Local 1, IATSE pledge to join our picket line, only to have its members "walk out" and then appear on 51st Street, only to vehemently criticize Local 802 and its

officers, never actually to join line, and, in fact, to be supported in that tactic by certain Local 802 officers; (5) the presentation of the *Radio City Christmas* show without a live orchestra; and (6) mediation featuring last minute deception and renegeing on agreed-upon terms by Cablevision/Radio City. The final contract was presented to the *Radio City Orchestra* on November 18, without recommendation by the *Orchestra Committee*, and was ratified by the *Radio City Orchestra* on November 20.

There have been a series of post-mortems on this negotiation, including the promulgation of a "Radio City Timeline" to a large portion of Local 802 members by individuals who were not present at any of the negotiations, and the February 14 membership meeting at which the *Radio City Orchestra Committee* presented its view of the negotiations and attempted to correct the major errors found in the "Timeline." We take this opportunity to reiterate some of the material presented at the February 14 membership meeting and to shed further light on a most difficult negotiation.

The timeline states at its outset that other unions at *Radio City* "have managed to protect their members" and that "most work at *Radio City* or *Madison Square Garden* year round." This is not the case. The *Rockettes*, the cast, the stage managers, the dressers, and the front-of-house staff have all seen their work cut in half by Cablevision/Radio City over the past several years. There are two crews of *Rockettes*, two casts, and so on. The system is designed by management to insure that overtime is minimized. (In fact, one cast was sent home during the run because they were mistakenly scheduled for performances that would have paid them overtime.) None of these bargaining units works year round. The bargaining unit that does work year round is a core group of Local 1 members. To our knowledge their work has not been halved. (Local 1 does not share the content of its contracts with Local 802.)

The clear management objective from Day One of our negotiation was to impose a similar reduction on us. Management proposals on the overtime issue took many forms. At various times they proposed a limitation on the number of shows any musician could perform, thereby limiting the opportunity for overtime shows, a complete ban on overtime for substitutes, a full second orchestra, and a number of other equally unacceptable scenarios, all designed to cut pay through overtime concessions. These proposals appeared, disappeared, and re-appeared countless times. Management's rationale for such cuts was equally ephemeral. The 2004 Christmas show netted

\$78 million for Cablevision/Radio City. Management said it wasn't about the money but about unacceptable business practices, then later stated an objective to save \$400,000 (now about the money) and alternated these rationales with regularity. They rejected all Local 802 proposals to address these issues and, in fact, never addressed any of our proposals.

The Timeline also refers to the October 6 negotiating session, implying that there was a deal to be made at that time, and that the negotiating team behaved in an unnecessarily antagonistic manner. The account of the meeting is incorrect on many particulars, which we outlined at some length on February 14. There are several real points, widely misunderstood. One, the management proposal was not a "status quo" offer, but one that embodied other pay concessions to which we had not agreed. Two, their two year proposal was preceded by a two orchestra proposal. Three, the Local 802 negotiating team attempted to propose a series of counter-proposals concerning health insurance and organists' compensation, but was told by management lawyer Gerry Kauff: "That's it! There's no more." The inappropriate and obscene language cited in the Timeline did not happen. Fourth, and perhaps most important, is that the proposal on the table at that time was not one that we could present to the orchestra with any hope of ratification. Further, since management proposals for overtime reduction occurred in various forms from meeting to meeting and never truly disappeared, we understood that overtime reductions were never off the table. Local 802's public statements citing management pay-cut proposals accurately described the prevailing and unrelenting management bargaining pattern and were not "lies" as Dolan and Cablevision/Radio City claimed. Indeed, management proposals to reduce overtime re-appeared by October 18.

The Timeline contains a number of other mischaracterizations. It makes no mention of the threatening letter sent to the orchestra and all subs on October 18, the first of several unfair labor practices. It makes no mention of *Radio City's* attempt to form a scab orchestra using members of the Katrina-ravaged *New Orleans Local* (at bargain-basement rates and with a *Radio City* claim that that plan had Local 802 support). It does not mention that Jim Dolan's demand for an apology (i.e., a public admission of lying by David Lennon, and, by extension, Local 802 in general) is also an unfair labor practice, making a collective bargaining agreement contingent on a non-mandatory subject of bargaining. It makes no mention of Dolan's statement of October 28 that he did not care if the show went on or not. It makes no mention of David Lennon's proposed statement of November 2, designed to appease Jim Dolan and viewed favorably by all of the labor union heads present at that meet-

(continued on page 4)

## MEMBERS NEWSLETTER

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**F**ORMAL charges alleging actions harmful to the Union, filed earlier this year by 8 officers against Recording Vice President Bill Dennison and Executive Board Member Jay Schaffner, were withdrawn on January 31.

The charging parties included Executive Board members John Babich, Tino Gagliardi, Jack Gale, Bobby Shankin, Art Weiss and Mary Whitaker and top officers David Lennon and Jay Blumenthal.

Unlike charges against officers which have been filed at Local 802 in the past, which were simply placed on the agenda of an upcoming membership meeting to be heard and acted on by a 7-member committee elected at that meeting, these charges immediately became the subject of numerous e-mails, phone calls and informal conversations among members.

The charging parties withdrew the charges less than three weeks after they had been filed, citing widespread prejudicial discussion of the matter, the unanticipated lengthy delay before a membership meeting could be convened to hear the charges (May 16 at the earliest) and the damage that such a great delay in addressing the charges would be likely to do to the Union's ability to function while the issue was pending.

**Meeting Notification Problems**

The unexpected difficulty in scheduling a special meeting to hear the charges resulted from apparent conflicts among three Local 802 bylaw provisions with respect to requirements for notice to the membership of the scheduling of meetings.

**Article I, Section 1.(e)** states that the President can call a meeting of the membership at any time but does not say how much

notification the membership must be given for the date and time of such meetings.

**Article V, Section 7.(e)** (the procedure for charges against officers) requires that charges be placed on the agenda of the first meeting convened no less than 30 days after notice is published in *Allegro* that charges will be heard. This provision dates from an earlier time when 802 membership meetings were held every month (except August). There are now only three regular membership meetings per year, one every four months.

**Article VII, Section 4.(b)** (the only reference in the bylaws as to the amount of notice required for the date of a meeting) requires that notice of the time and date of

membership meeting, evidence, witnesses and testimony will not be heard and no decision will be rendered by an elected membership committee.

**Publishing the Charges?**

Consideration had been given to publishing the charges in *Allegro* along with the notification to the membership of the meeting to hear the charges. Dennison and Schaffner objected to this and threatened legal action if the charges were published, on the grounds that (1) there is no bylaw requirement that charges be published and (2) charges filed against officers had not been published in *Allegro* in the past.

Based on these points, President Lennon decided that the charges should not be published and they became moot when they were withdrawn on January 31.

# Charges Withdrawn

each *regular* meeting of the local (in February, June and October) be no less than 90 days after publication in *Allegro*.

**Bylaw Gap**

This is the same problem which made it impossible for the recording vice president to schedule a special meeting requested by a membership petition any sooner than 90 days after the receipt of the petition (see "February Membership Meeting" on page 1).

Hopefully, this gap in the Union's bylaws can be addressed so that special meetings called by the president or by the recording vice president in response to a membership petition can be scheduled in a timely manner more consistent with the idea of a "special meeting."

Now that the charges have been withdrawn, they will not be brought before a

**Restoring Normalcy**

Requests were made for copies of the charges during the discussion at the February membership meeting. President Lennon suggested that deference should be paid to the the rights and wishes of the charged parties. Dennison and Schaffner then responded by indicating that, given the fact that the charges had been withdrawn, distributing them would be inappropriate and Lennon agreed with this view.

After the meeting, some members continued to ask for copies of the charges (and apparently some copies are circulating around), but most members have urged all of the parties involved to try to put their differences behind them, strive to find a way to work together and focus the Executive Board on the business of running Local 802 in the best interests of the membership. **MN**

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## INDEPENDENT COUNSEL REPORTS

# Credit Card Issue Addressed

IN early February, the Executive Board discussed questions raised about David Lennon's personal use of his Local 802 credit card. The Board decided to provide all relevant records to 802 Counsel Harvey Mars and direct him to research the facts and the law in this matter, report to the Board as to his analysis of the situation and offer his recommendations on how the Union might best deal with it.

After some consideration, Mars recommended that, in view of recent political divisions on the Board and in order to assure that any such report come from a clearly objective source not directly connected with Local

802, the task of evaluating the case and making appropriate recommendations to the Board would best be assigned to an independent, outside counsel. He suggested retaining Larry Cary Esq. of Cary Kane LLP (and the Cornell Labor Studies Program) for this purpose. The Board agreed with Mars' recommendation and voted unanimously to retain Cary.

During his extensive investigation, Mr. Cary conducted many interviews and reviewed all of the records. In his report to the Executive Board, he determined that, although he believed that Lennon did not intend to defraud the Union, and had repaid the personal amounts charged, and although no established Union

policy had been violated, use of the his Union credit card for personal expenditures was inappropriate and should be discontinued.

Cary made several recommendations to the Board including that Lennon should issue an apology for allowing the situation to occur and for failing to reimburse the charged amounts charged on a more timely basis. He also recommended that Lennon be fined one week's salary.

These recommendations and several others, intended to avoid similar problems in the future, were unanimously adopted by the Board on February 28. These included modifications in check signing procedures, expense report forms and the process for approval of expenditures.

Lennon has also accepted Cary's recommendations. He has agreed to pay the fine and will publish an apology in *Allegro*. **MN**

## Disc Jockeys & Clubdate Field

(continued from page 1)

tunes tend to be heard only on the recordings which introduced them.

The principal strength of the accomplished clubdate musician has always been his or her

ability to play practically any tune in any context. Although, in the past, audiences and party guests were eager to hear a Cole Porter, Irving Berlin, Elvis Presley or Beatles tune played by a live orchestra, the new focus on the original record has actually tended to promote the use of disc jockeys over live bands.

This problem will be difficult for the Union to address effectively. Perhaps some variation on the live music campaign, which 802 developed for Broadway a few years ago, could be adapted to the world of clubdates in hopes of raising public consciousness of the value of live music at social gatherings. **MN**

## Radio City Time-Line

(continued from page 2)

ing, but which Dolan rejected. While the chronology of meetings in November is correct, it neglects to mention that management's proposed scheduling, and subsequent cancellation of negotiating sessions, were dilatory, and deliberately bypassed opportunities to meet and make a deal on previously scheduled dark days. Significantly, it makes no mention

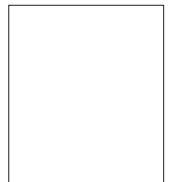
of the November 16 mediation's eleventh-hour (actually more like 2:00 a.m.) renegeing by Cablevision/Radio City on a number of key issues which had been specifically confirmed by the mediator earlier in the evening.

We on the committee suspected early on that Radio City did not actually intend to make a deal. Their bargaining stance had little to do with customary trade-offs and accommodations that characterize good faith bargaining. Our suspicions became certainties as events

played out and bad faith drove out good. With tapes "replacing" The Radio City Music Hall Orchestra, with an employer who literally did not care if the show went on or not, with bargaining tactics that sought domination rather than compromise, and with the employer's awareness of internal dissension in our Local, our committee was left with little choice. We reluctantly accepted a devastatingly regressive contract in order to restore live music to Radio City. **MN**

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