

MEMBERS

NEWSLETTER

Make Every Musician Benefit from Efficient Responsible Service

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A ONE-ISSUE NEGOTIATION

The Broadway Negotiations

THE recent negotiations between Local 802 and the League of American Theatres and Producers (League) were, in many ways, unique in recent Broadway history.

To begin with, most of the negotiation was done in small off-the-record discussions rather than in the customary larger meetings with the full negotiating teams on each side. Also, according to negotiating committee members, 802's proposals were essentially dictated by the Union's officers and Legal Counsel.

Pension Diversion Dropped

One exception to this was the eventual ruling out of the diversion of Broadway pension money to Health Benefit contributions. After President Landolfi and 802 Counsel Danny Englestein put significant pressure on the rank-and-file committee members to consider such a diversion, an intense objection to this idea

was expressed by hundreds of musicians across Broadway in a petition. This reaction prompted Landolfi and Englestein to agree not to propose any diversion of pension monies.

Even before the negotiations began officially, Landolfi and Englestein urged that the Union's goal should not be simply to maintain eligibility for Health Benefits Plan A but rather to seek greatly improved health coverage and to propose that musicians share in the employers' cost by negotiating a diversion of a portion of their own money to HBP contributions. As mentioned above, they were persuaded not to propose musicians' pension money for this purpose. They instead chose to seek a wage diversion. (See: *A New Health Plan*, below.)

Focusing on Health Contributions

In order to accomplish this, Landolfi and Englestein pressed the rank-and-file committee to put aside their own principal concerns, the

need to address rampant abuse of the contract's Special Situations provisions and the electronic replacement of acoustic instruments, and instead propose a limited negotiating scope focused entirely on wages and health contributions.

Unwilling to agree to what they saw as a flawed negotiating strategy, or to continue to oppose it and be accused of "obstructionism," four of the committee's twelve members resigned. Most of those who remained did so in hopes of moving the administration toward addressing abuse of Special Situations and electronic replacement. They were unable to accomplish this.

Evaluating the Contract

With Broadway profits at an all time high, some musicians have questioned whether even an improved health plan, much of which will be paid for by the musicians themselves, is worth ignoring Special Situations problems without even a token effort to address them. Those who have spoken to us are disturbed by the tentative agreement, but most expect the contract will be ratified.

The ratification vote will place musicians in a difficult position. Obviously the failure of the contract to deal with musicians' concerns about Special Situations does not bode well for the future of live music on Broadway. Still, rejection of the contract, unsatisfactory as it may be, even with a presumably better health

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A New Health Plan

THE much talked about new Broadway Health Benefits contributions were designed to make theatre musicians eligible for new and better health coverage, provided that they play enough performances. It was to take the form of a new plan which has been informally referred to as Health Benefits Plan A-Plus.

Since the actual plan is not yet in place, many of the details of the new coverage exist only in the memorandum of agreement (MOA). The negotiations themselves centered largely on how much money could be made contractually available for weekly Health Benefits contributions on behalf of theatre musicians.

Funding Components

Questions have arisen as to how much money was eventually earmarked for this purpose. According to the MOA, the total weekly contribution for each orchestra chair will be comprised of several component amounts.

Starting in year one, the total will include: **1)** The existing weekly employer contribution (\$58); **2)** The total of seven \$4 incremental increases which were payable every six months under the previous Agreement but which were not paid (\$28); **3)** Additional \$4 per week incremental employer contribution increases every six months over the coming three years (\$24); and **4)** The diversion of the first year's wage increase to weekly HBP contributions (\$44). This comes to about \$134 per week including the initial \$4 weekly increase, going forward.

It is intended that the new plan will also include a hospitalization component and that the current weekly employer hospitalization contribution of \$29 will be directed to the health plan as well.

After a raise of 3.5% (\$50.75) in the second year of the contract, the third year's raise (another \$44) will also be diverted to HBP.

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Next Issue: *The Role of Committees*

A VALUABLE BENEFIT

Broadway Musicians and the AFM Pension

THE American Federation of Musicians and Employers Pension Fund (AFM/EPF) was created in 1959 under the leadership of Federation President Herman Kenin who negotiated it as part of a new 5-year agreement between the AFM and the phonograph record industry. By the middle of 1960, pension coverage was extended to network radio and television musicians, pamphlet B traveling engagements, and the AFM's commercial announcement (jingle) contract.

Pensions for Broadway

In 1960, Actors' Equity conducted a thirteen-day strike against the League of American Theatres and Producers (League). The actors had demanded a jointly administered, non-contributory pension plan and the producers refused to agree. Producer David Merrick publicly proclaimed that Broadway "can't exist with a pension plan." He insisted that such a plan would require an increase in theater prices.

On the eve of the contract's expiration, the League suggested that pensions for the whole industry be established with funds from a repeal of the City's 5% Admissions tax. Equity, which saw this as a pie-in-the-sky suggestion, began its strike (known as the "Broadway Blackout") on June 1, 1960.

On June 8, Mayor Robert Wagner's City Labor Commissioner, Harold Felix, was brought in to mediate the dispute. Apparently with Wagner's blessing, Felix issued a Recommendation of Settlement which included pensions for all Broadway unions to be funded by a rescinding of the 5% tax.

The City did ultimately rescind the tax but a dispute arose between Equity and the League as to just what portion of the total tax relief amount should be credited to Equity members. The League held that the Equity share should be in proportion to their share in the theatre's overall payroll.

Apportioning the Money

The issue was taken to arbitrator Burton Turkus of the American Arbitration Association. Turkus made two awards: one establishing the percentage of the tax relief money to go to Equity and the other doing the same for all of the other participating unions.

In his awards, Turkus relied on signed acceptance by both sides of Harold Felix's recommendations and he concluded that Equity's percentage should be determined by their proportion of the payroll in a given show. To determine that proportion, he decided that Equity's percentage, as well as the percentages of the other theatrical unions, should be determined by the number of musicians in each production.

According to his award, in a production employing 16 or more musicians, Local 802 receives 23% while Equity receives 50%, with the remainder going to the other unions.

Pension contributions are among the most valuable benefits of working on Broadway

With 9-15 musicians, Local 802 receives 18% while Equity receives 55%.

With 5-8 musicians, Local 802 receives 10% while Equity receives 59%.

With 1-4 musicians, Local 802 receives 8% while Equity receives 60%.

In a production with 0 musicians, Local 802 receives 0% while Equity receives 64%. In each case, the remainder is apportioned among the other theatrical unions.

Pension Percentage Rises

Over the next forty years, increases in ticket prices have far exceeded the increases in musicians' weekly pay and, for that reason, the Turkus Award moneys, when calculated as a percent of musicians' aggregate salaries, has reached 20% on occasion. Pension contributions are among the most valuable benefits of working on Broadway and theater musicians are very reluctant to trade them for anything. **MN**

The Broadway Negotiations

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plan, could be counterproductive unless there were reasons to believe that the administration would then go back to the table and negotiate with different priorities.

There appears to be no way to avoid one or the other of these scenarios but, hopefully, Broadway musicians will weigh all of the considerations and make the best decision. At press time, a ratification meeting had been scheduled for Wednesday, May 16, so the result will be known before you read this. **MN**

A New Health Plan

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Participation Fees

As most members know, since January 1, 2007, Plan A participants have been required to pay monthly participation fees of \$50 for individual coverage and \$135 for family coverage. It has been decided that the family premium co-pay (participation fee) for Plan A-Plus will be increased to \$200 per month and the individual fee eliminated.

The total that the HBP can expect to receive annually for each chair on Broadway (including the hospitalization contribution and the participation fee) will exceed \$10,000 for family coverage and \$8000 for individuals.

Improved Benefits

The new benefits will be an increase in the annual benefit cap from \$50,000 to \$250,000, a return to the pre-January 2007 Plan A out-of-network and prescription drug benefits, and the elimination of the premium co-pay for individuals. With hospitalization included, subs without enough contributions may be able to qualify.

Regular players will have to average 5.7 shows per week to qualify for hospitalization coverage. Current regulars as of March 4 will, however, be grandfathered with respect to the automatic hospitalization.

Presumably, musicians who do not average 5.7 shows per week may still be covered by Plan A or, if they get enough contributions from other work, by Plan A-Plus. Along the same lines, it may be possible for non-theatre musicians to qualify for the new Plan A-Plus if they receive enough contributions.

Subs May Benefit

It is clear that there are improved benefits in the new health plan and that both subs and non-theatre musicians will have at least a chance of qualifying for them. A few musicians who have heard some of the details of the new plan have expressed objections, since the wage diversions combined with the premium co-pays (for family coverage only) will amount to significant new costs for them. Nevertheless, even these costs are probably less than the cost of buying similar coverage on one's own. **MN**

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LA Musicians Consider Decertification

DETERIORATING relations between LA film musicians and the AFM have apparently reached the point where the musicians are exploring the possibility of decertifying the Federation as exclusive collective bargaining representative and electing another union to represent them.

The recent simultaneous promulgation by the AFM's International Executive Board (IEB) of two conflicting Video Game Music agreements has resulted in what many California musicians see as an intolerable situation, reminiscent of the one almost fifty years ago which prompted the formation of the Musicians' Guild of America in 1958.

Video Game Music Proposals

In June of 2006, The LA RMA completed a comprehensive (29 page) proposed AFM agreement for the recording of video game music. Much like other AFM media agreements, the proposed terms included overtime provisions, break times within and between sessions, payment for reuse and new use, grievance and arbitration language and music preparation rates and working conditions, among other details.

In October, a committee (assembled earlier that year by Local 802 Recording Supervisor Jay Schaffner) devised a much less detailed proposal for an AFM Video Games Music agreement. After consultation with New York musicians who had done nonunion video game sessions and who had been told by those

employers that they might be willing to file Union contracts, if the rates were lower, Schaffner's committee sought to create a one-page agreement at significantly lower scales, with fewer work rules and restrictions on reuse and new use and with no limit on the number of minutes of music that could be recorded per session.

On October 31, the resulting document was presented by Schaffner to the IEB as 802's proposal for an AFM Video Game Music agreement. This was done without the knowledge or approval of 802's Executive Board.

Although the Los Angeles proposal had been sent to Schaffner in June, it had not been shown to his 802 recording committee during the discussions they held in creating their own proposal.

IEB Approves Two Agreements

In an unprecedented move, the IEB decided to promulgate both agreements on a 1-year

trial basis. Angry and dismayed at the IEB's action, the Los Angeles musicians established their own union for purposes of video game music work and began signing up employer signatories.

In late April of this year, news reports emerged stating that the LA film and television musicians were meeting to consider decertification of the AFM as their Exclusive Collective Bargaining Representative for Film and Television agreements. If such a decertification should occur, it would have a devastating effect on AFM finances.

Potential Impact of Decertification

Although representatives of the Los Angeles RMA have stated that they are extremely reluctant to take this step, it appears possible that, as the musicians who do the bulk of the work under these AFM agreements, they would be likely to have enough votes to carry such a decertification election. **MN**

Espinosa to Challenge Lee for AFM Presidency

ON April 23, Los Angeles Local 47 President Hal Espinosa announced his intention to run for president of The American Federation Of Musicians. He will be running against incumbent Tom Lee who has held the position since 2003.

Lee has been embroiled in conflicts with Los Angeles musicians and the LA Recording Musicians Association for some time, and Espinosa, who is also a member of the Federation's International Executive Board, has expressed criticism of Lee on several occasions in the past year or so.

Espinosa, who has worked as a trumpet player in both New York and Los Angeles over the past 40 years, is a highly respected musician and Union leader. His integrity and long dedication to the interests of professional musicians and the Union are well established.

At a meeting in late April, the MEMBERS Party Steering Committee voted unanimously to endorse Hal Espinosa for President of the AFM.

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The AFM Convention

THE biennial convention of the American Federation of Musicians will take place from June 18 thru 20 in Las Vegas, Nevada. The delegates will consider and vote on several proposals and will elect candidates for AFM office to serve for the next term.

That term and the interval between conventions is presently 2 years. As has often been the case in the past, proposals have been submitted to extend those periods to 3 years.

Over the years, rank-and-file member awareness of the AFM and its affairs has declined. Many of us are only conscious of the Federation's role in our lives when we do electronic media work under national contract agreements. In hopes of helping musicians appreciate the value of the AFM and its relevance to their lives, we intend to publish analyses of its role and structure in future issues.

In the present limited space, we can touch only briefly on a few important aspects of our parent Union.

Why a Federation?

A national structure can be a source of strength for local organizations and this is particularly true of the musicians' Union. A federation can coordinate and fund political, legislative and public relations strategies more effectively than individual locals. It can also establish standards for traveling musicians and help the various locals cooperate.

In an electronic age, where media production can take place virtually anywhere in the U.S., a national union can establish consistent standards across the country and prevent electronic media wage competition among locals.

Also, the dangers of potential strike breakers and "temporary replacements" undermining job actions of musicians working in "live" venues in symphonic and theatre orchestras is reduced by the fact that the majority of players of professional caliber aspire to musical careers, and are reluctant to alienate themselves from established musicians and the AFM.

Internal Problems

Unfortunately, the Federation has been plagued for decades with critical problems of many kinds: fiscal crises, power struggles and structural issues.

Many musicians believe that the potential strength of the Federation as a labor union is undermined by its internal structure which gives the balance of political power to hundreds of small locals across the country which negotiate no contracts, have very little musical employment in their jurisdictions and whose

members have virtually no stake in the AFM as a collective bargaining representative.

In many of these locals, the key concerns are the continuance of MPF funding and the desire to pay as little as possible to the AFM. This has often permitted them to be used by AFM political leaders to empower them to ignore and even subvert the interests of working musicians and the locals in the large entertainment centers where these musicians are employed.

The Convention

If the AFM is to survive and serve its members who work as musicians, the influence of these musicians and the locals that represent them must reflect their stake in the AFM as a labor union.

Hopefully, Local 802's delegates to the AFM Convention will act in every way possible to protect and advance the interests of members working in the music industries. **MN**

110 In The Shade

MUSICIANS in the Roundabout production of *110 In The Shade* have expressed frustration about what they saw as a violation of the Limited Pressing agreement, which was allowed by the Union.

Before the show's first rehearsal, the orchestra was notified that they would be doing an original cast album under 802's Limited Pressing agreement. Some of those familiar with that agreement noted that it specifically excludes "Original Cast Albums." Calls to the Local 802 Recording Department went unanswered.

802 Recording Supervisor Jay Schaffner and Vice President Bill Dennison came to the orchestra and told them that the Limited Pressing Agreement could be used because the recording would not be called an "Original Cast Album."

When the musicians decided not to do the recording under those terms, the Roundabout offered to make a one-time payment of \$500 to each of the musicians, in addition to the recording scale to be paid by the album producer.

With the \$500 fee added, the musicians agreed to do the recording which was indeed filed as a Limited Pressing.

Many orchestra members are disturbed that the Union permitted the album to be done as a Limited Pressing, and feel that the 802 Recording Department actually encourages producers to call cast albums something else in order to subvert the recording agreement.

The fact that a sign recently appeared in the theatre lobby announcing the new recording as the "Original Cast Album" seems to confirm suspicions that the rationale for permitting the lower scale was only a subterfuge. **MN**

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