

MEMBERS

NEWSLETTER

Make Every Musician Benefit from Efficient Responsible Service

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New York, NY

LOOKING BACK

A First-Year Review

NOW that a year of Concerned Musicians leadership of Local 802 has passed, the *Newsletter* offers this review of events that shaped the Landolfi administration's stewardship of our Union in 2007, so far.

They hit the ground running. At its first meeting on Tuesday, January 2, the new Executive Board approved \$20,000 for new carpeting on the 2nd floor. One week later, they added \$16,000 for new furniture (also for the 2nd floor) and, on October 9, another \$20,000 for 3rd floor carpeting, bringing the expenditures for furniture and carpeting to over \$56,000.

Broadway Conflicts

Just weeks before Broadway negotiations, President Landolfi transferred Mary Donovan and forced the resignation of Bettina Covo, creating a large hole in 802's Theatre Department and staff experience.

As League negotiations neared, the Theatre Committee encountered administration resistance to musicians' principal negotiating priority: restricting the use of electronics to enlarge the sound of orchestras reduced through Special Situations provisions. Landolfi and 802 counsel Danny Englestein seemed committed to increasing Health Benefits (HBP)

contributions rather than addressing Special Situations. When they suggested to the Theatre Committee that a better health plan could be funded by diverting part of weekly pension contributions to HBP, a firestorm erupted across Broadway. Within days, petitions objecting to any pension diversion, and signed by nearly 300 musicians, were submitted to the negotiating team.

Landolfi later denied ever presenting the pension diversion idea and suggested that, though the petitions were signed by hundreds of members, the names of those who put them together were not given and they might have violated an 802 bylaw barring anonymous communications to the membership.

After Englestein negotiated new health contributions, including the diversion of musicians' raises totaling \$88 per week (\$44 in both the 1st and 3rd years of the contract), some skeptical theatre musicians said they suspected that an agreement had been worked out with the League before the Theatre Committee was involved, trading wage diversions and silence on Special Situations emulations for more employer HBP contributions.

This speculation was fueled by Executive Board minutes from January 9 noting that "Landolfi reported on a meeting with representatives of the League regarding HBP contributions," and those of February 13 reporting

that Englestein "made a presentation to the Board on possible proposals for the upcoming Broadway negotiations that included possible funding sources for an improved HBP?"

A New Pattern?

This appeared to be the beginning of a pattern of the new administration developing negotiating priorities and proposals, and contacting management negotiators, before consulting with rank-and-file committees.

The missed chance to address Special Situations concerns on Broadway, and the cost and uncertainties of the new health plan, left members of the Theatre Negotiating Committee somewhat demoralized.

The theatre community itself was apparently also demoralized, judging from the low voter turnout. The ballot box was open at 802 on May 16 and 17 (a matinee day when 300-plus musicians were working on Broadway within a few blocks of the Union, and the following day up to 8 p.m.). The vote was 128 to 29, a total of only 157 votes out of 1,200-plus eligible musicians, but it was described by the administration as an overwhelming ratification of the agreement. Many who did not vote expressed a feeling of hopelessness, considering what they saw as the little likelihood the administration would address Special Situations issues, even had the contract been defeated.

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WGA, DGA Win 'Back-End' Payments

THE Directors' Guild of America (DGA), helped by the ongoing Writers' Guild of America (WGA) strike, settled for flat fees during the first two years of its three-year deal, but gained a percentage of "producer's gross" ("back-end" payments) during the final year. After the strike ended, the directors reaped the benefits of slightly better terms won in the writers' settlement that were then incorporated into the directors' agreement pursuant to a "favored nations" clause in their contract. While the production shutdown was costly to the film and TV production unions, the long-term outlook for increased revenue is good. The **Screen Actors' Guild (SAG)**, whose contract is up in June, should be able to build on the DGA's and WGA's accomplishments.

Future **AFM** negotiations look cloudier. AFM officers have not built relationships with those stronger unions, but instead have been pursuing opposite direction "one-off" contracts lacking Internet profit sharing and new-use protections. While the WGA, DGA and SAG have negotiating committees almost totally comprised of rank-and-file workers, AFM committees, usually officer-dominated, have limited workplace knowledge and input.

MN

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A First-Year Review

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2007

On March 6, the Executive Board was urged to permit “fight-choreography” rehearsals at *Pirate Queen* to be done with tape rather than with a live drummer. (Use of recordings for such rehearsals is forbidden by 802’s League agreement.) Although the problem stemmed from the producer’s refusal to pay for a drummer, two Actors’ Equity reps were invited to talk to the Board and the issue somehow “morphed” into the need for musicians to show solidarity with actors by agreeing to the tape use. In spite of this pressure, the Board wisely declined to allow the contract to be violated.

On April 3, Landolfi reported that the Broadway production of *Corum Boy* had been classified as “a play with music.” This classification

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was apparently accepted without consultation with the Theatre Committee or a Board vote.

According to minutes of March 20 and April 3, the Coordinating Advisory Committee and the Executive Board gave a total of \$3,200 to the Local 802 Recording Committee (a group put together by 802 Recording Supervisor Jay Schaffner) to develop a Web page with sound capabilities.

Committee Interference

On May 29, the EB voted to send 802 Counsel Harvey Mars to the May 30 Theatre Committee (where the ballot box hours in their election of officers were being discussed) to “insure adherence to bylaws and the fair and equal treatment of all members.” This kind of interference with a rank-and-file committee hadn’t happened since the Arons administration back in 1980. The Committee asked Mars and other 802 staffers to leave and the matter was resolved without incident.

Cast Albums and Limited Pressing

On July 6, a meeting was held to discuss members’ complaints about off-Broadway cast albums being recorded under the Limited Pressing Agreement (LPA), with the apparent encouragement of Recording Supervisor Schaffner. The LPA’s scales are about half of standard AFM Sound Recording rates and they allow 50% more minutes of music per hour worked. Musicians can be required to overdub additional parts for only 50% extra pay and earnings under the agreement are not applied to musicians’ Special Payments credits. Although, in some cases, musicians had been told by 802 reps that the albums would be called “music of” instead of “cast albums” to get around the prohibition, some were released as “cast albums” anyway (with no repercussions from the Union).

The consensus was that the Union should not allow cast album use of the LPA and, at the close of the meeting, Landolfi assured the members

that a committee would be formed to find a solution and that, in the meantime, the practice would stop. However, other cast albums were recorded under the LPA in the following weeks. Landolfi did appoint a committee, and selected Schaffner as its chair, even though it had been his policies that the musicians had complained about in the first place. Seven months have passed with no committee recommendation.

The Radio City Ad

On August 14, the Board voted to buy a \$39,000 ad in a journal celebrating the 75th anniversary of Radio City’s *Christmas Spectacular*. As most members know, no other employer in 802 history has dealt as severe a blow to NY musicians, live music and the collective bargaining process than Radio City and its parent company, Cablevision, did in 2005. Like many 802 members, we are appalled at this outrageous misuse of 802’s limited funds.

Local 802 was the only union which bought an ad in the journal. Other ads were those taken by such global corporations as: American Express, McDonald’s, Coca-Cola, Panasonic etc. Although the text of the ad praised the orchestra’s role in the production, it also “saluted” Radio City and, to add insult to injury, it featured a photo of a single musician sitting alone in the empty theatre.

Member Complaints

In September, the *Legally Blonde* orchestra sent a letter to Broadway musicians decrying the imposition of an Industrial Promotional Agreement on the orchestra by the 802 Recording Department. President Landolfi focused her response to the complaints on her view that the letter might be a violation of 802 bylaws.

This obsession with the authorship of letters and petitions, rather than the substance of musicians’ complaints, has characterized Landolfi’s “response” more than once. After sending their letter, several *Legally Blonde* musicians received calls and e-mails from Union officers, musicians claiming to “represent” the Union and employer representatives, all questioning the wisdom of the letter.

The Babich Case

On September 25, the Executive Board voted against filing an unfair labor practices charge with the National Labor Relations Board (NLRB) against Radio City Music Hall in connection with the dismissal of John Babich. Babich then filed his own NLRB charge against Radio City, and another against 802 for failure of the duty of fair representation. Shortly thereafter, charges were filed against Babich by Concerned Musicians member Walter Usiatynski. (See: *Babich Acquitted* on page 4.)

Stagehand Strike

We were pleased that the administration urged solidarity with the stagehands after the strike began on Saturday, November 10. However, their response seemed to indicate a lack of planning. There was no official word from 802 for the first month or so of the build up to the strike and the first 802 update came two weeks after Equity posted its bulletins. On that first critical weekend, the Union was closed and musicians were unable to call in for information or instructions.

On the first day of the strike, President Landolfi came to at least one picket site and told musicians that they “should show up this weekend and then we’ll see what happens.” This also seemed to indicate no clear plan and, unfortunately, it was overheard by a few stagehands who were incensed that 802’s support might be short-lived. The musicians present assured the stagehands that they would continue to show up. When there was no word from 802 for two days, the MEMBERS Party sent an e-mail urging musicians to attend the picketing for “as long as this strike continues!” Within a few hours, *802 Notes* issued a similar message.

The lack of official word from Local 802 forced members to rely upon communications from Equity, Local One and the news media for critical information and created confusion and uncertainty about the situation. Questions were also raised about the administration’s strike benefits plan which called for regular musicians to receive 8 benefit payments if they showed up 3 times in a week, but a reduced amount if they sent subs to picket. This discouraged the sending of subs to picket.

Some of the issues we have raised here may just reflect a differing Union philosophy. Still, we hope that the new administration will be more supportive of musicians and their committees during its next two years in office. **MN**

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THE RESURGENCE OF RMA/NY

IN 1969, after years of growing alienation from Local 802 and the AFM, New York recording musicians created an organization to advance their interests. It was called the Recording Musicians' Association (RMA) and its members included the busiest and most respected studio musicians in NYC.

Unlike "the Guild," created a decade earlier, the RMA was not intended to supplant the Union, but rather, working within it, to convey musicians' concerns and prod the Union to live up to its responsibility to represent musicians in the electronic media fields.

Additional Chapters Formed

By 1983, the need for a federation-wide organization was clear and, aided by the New York RMA, chapters were formed in Los Angeles, Chicago, Nashville and Toronto, thus creating an international RMA. Later, chapters were formed in Miami and San Francisco. From then on, the RMA's role in AFM contract policies grew and at the 1984 AFM film negotiations in LA, Local 802 was represented for the first time by rank-and-file musicians from the RMA/NY.

In 1985, the RMA of the U.S. and Canada was designated a player conference of the AFM and, as such, became an official participant in federation affairs. Its input into jingle, phonograph, television and motion picture negotiations brought many contractual improvements.

Reduced Employment

Recording work has diminished significantly for session musicians over the past 20 years, due to globalization, changing public tastes and a growing emphasis on synthesizers and self-contained groups in pop music. There are no longer 200 musicians in New York who

do nothing but studio work and, aside from late-night TV show bands, few musicians can now make a living exclusively behind a microphone. Much jingle, recording and movie work that does take place in the city is now done by musicians who work primarily on Broadway or at Lincoln Center. As this work declined, RMA membership rolls also dropped and, by 1990, the Chicago and Toronto chapters had dissolved.

In contrast, a thriving motion picture industry in Los Angeles has continued to provide full-time employment for hundreds of Local 47 musicians, and a significant portion of the income for hundreds of others. RMA/LA has more than 600 members.

Strengthening the Chapter

By 2006, the RMA/NY's membership rolls had fallen to about 35 and its Board numbered four members: Roger Blanc, Abba Bogin, Juliet Haffner and Lanny Paykin. Even with too few members for elections or meeting quorums, the Board members remained a presence at AFM contract negotiations. The majority of the Board believed in the viability of the organization and made a new effort to bring in members, hold an election and strengthen RMA/NY.

Elections for a full nine-member board were needed to maintain the association viability and its role in the international body. By late 2007, membership had surpassed 50 members, an election was held (on December 10) and a full new board was elected. (See: "A Difficult Transition" on page 4.)

A Valuable Step

The RMA/NY's election was a valuable step in its resurgence. Its historic role as a

rank-and-file committee is as important today as in the heyday of the recording business. Its goals include creating a dialog among those who do recording work and promoting outreach to bring recording projects to NYC.

Many musicians have the benefit of workplace committees, independent of the Union, but, which work within it, in addressing their principal musical employment. The Theatre Committee and individual orchestra committees provide a representative voice in the contracts under which their members work.

Musicians need a similar voice in agreements which cover their work in the recording fields. The RMA has been that voice for nearly 40 years and, with the support of New York musicians, it can continue to do so.

Theatrical Recording Concerns

Over the past few years, many issues involving Broadway and off-Broadway cast recordings and industrial promotional agreements have been addressed only by the Union's administration or by committees appointed by the president. The structural independence of an entity, such as the RMA, offers democratic committee representation for musicians in the studio work they do.

An Effective Voice

We urge musicians working in all fields, particularly those working on Broadway and at Lincoln Center, and who do, or have done, even occasional recording work, to join the RMA, and help sustain an effective voice for themselves and all New York musicians in this field. International RMA President Phil Ayling also stands ready to assist in the strengthening of the New York chapter—which is where it all started, after all. **MN**

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A Difficult Transition

THE RMA/NY's transition to a new Board has been a difficult one. By late 2007, its Board members, Roger Blanc, Abba Bogin, Juliet Haffner and Lanny Paykin, saw that membership was dangerously low and, although Bogin favored dissolving the chapter, the others wanted to reach out to NY musicians to rejuvenate the organization. (See: "The Resurgence of RMA/NY" on page 3.)

Election Held

After much planning, RMA/NY held an election meeting on December 10 at which a new nine-member Board was elected.

At their first meeting, the new Board—Blanc, Bogin, Haffner and Paykin, plus Tino Gagliardi, Scott Healy, Gail Kruvand, Andy Schwartz and Masako Yanagita—elected a president, vice president, secretary and treasurer.

Financial Records Withheld

The transition was disrupted when former Treasurer Bogin refused to turn the financial records over to newly-elected Treasurer Kruvand. Bogin informed Kruvand that, to protect himself from any potential liability, he had taken the records to his personal accountant for an audit before handing them over.

Criticized for acting without consulting the Board, Bogin acknowledged that he might have acted hastily but still refused to produce the books. When a motion was made to direct Bogin to return the books and to require that any accounting costs incurred so far be born by him, he said that he would not comply.

To avoid a procedural breakdown, the motion was withdrawn and the Board agreed

to leave the books with the accountant, provided that he confer with Kruvand, that he be told that the RMA is his client and that he be asked to do a review rather than an audit.

Further Revelations

Bogin also revealed that he had met with AFM President Tom Lee and had discussed the possibility of Lee's de-authorizing the RMA/NY. He also said that the 802 Board

intended to rescind RMA/NY's status as representative of NY recording musicians and confer that status on the 802 Recording Musicians Committee, a group appointed by the 802 Recording Supervisor Jay Schaffner. Bogin didn't say how he might know what the 802 Board intended to do.

On an upbeat note, we have recently learned that Tom Lee held a very cordial meeting with the RMA/NY Board on February 13. **MN**

Babich Acquitted

IN the first 802 Trial Board case in more than four years, former MEMBERS Party Executive Board member, John Babich, was acquitted of all charges filed against him by Concerned Musician, Local 802 percussionist and IATSE Local 1 sound man, Walter Usiatynski.

In 2007, Babich was fired from his job as bassist in the Radio City Orchestra in what many Radio City musicians saw as management retaliation for his union activity during the 2005 strike/lockout at the Music Hall. In October, he played an audition at Radio City in hopes of regaining part of his lost employment in the annual *Christmas Spectacular*.

Dissatisfied with the audition process, Babich sent a critical report to the 802 Board and the Radio City committee expressing concern that the "blind" aspect of the auditions had been compromised, given the fact that Usiatynski, who works the RCMH sound board, had been present at the auditions and was moving between both sides of the audition screen.

All but one of the 17 Board and Committee members to whom the report was addressed respected the confidentiality of the e-mail, but Executive Board member Jay Schaffner gave a copy to Usiatynski who then filed charges

against Babich, claiming that Babich had accused him of "fixing" the auditions, thereby injuring his reputation as a musician.

This happened shortly after Babich had filed NLRB charges against Local 802 for failure of the duty of fair representation in declining to grieve his dismissal.

Before the trial, 802 Counsel Harvey Mars came to the Trial Board with 802 bylaw copies and informed them that the Executive Board had asked him to be present to make sure that "everything was handled properly." Trial Board members explained that the presence of 802 counsel at a Trial Board hearing was unprecedented and unnecessary and asked him to leave.

In his summation, Babich registered a formal complaint that 3 witnesses which he had requested be subpoenaed by Vice President Dennison had not appeared and that Dennison had not notified him that they would not be present.

Newsletter editor, Jack Gale, who attended the proceedings on Babich's behalf, has commented that the Board members conducted themselves in an exemplary manner throughout. Although Trial Board members would not discuss the Board's actual deliberations, several of them have said that they were conducted intelligently and without political bias.

The MEMBERS Party commends the new Trial Board for its dedication and integrity. **MN**

MEMBERS

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SYMPHONIC NOTES

- The New York Philharmonic broadcast from Pyongyang, N. Korea on 2/26.
- The Minnesota Orchestra's contract covers 5 years; Detroit Symphony's contract covers 3 years, correcting the *Newsletter's* previous report.

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