

18th Annual Conference

Alcazar Hotel – Cleveland Heights, Ohio

Wednesday, August 8th, 2001

Introduction of Officers

Ann Drinan, President
Marc Facci, Vice President
Betsy Start, Secretary
Dennis Danders, Treasurer

Tom Fetherston, Editor, *The Leading Tone*
Danna Sundet, MAL
Ken Yoshida, MAL
Michele Walker Fine, MAL

Roll Call

Full Members

Akron Symphony
Arizona Opera Orchestra
Atlanta Ballet Orchestra
Austin Symphony Orchestra
Boulder Philharmonic
California Symphony Orchestra
Canton Symphony
Charleston Symphony Orchestra
Chattanooga Symphony and Opera Orchestra
Cleveland Opera Orchestra
Colorado Springs Symphony Orchestra
Dallas Opera Orchestra
Dayton Philharmonic
Delaware Symphony Orchestra
El Paso Symphony
Elgin Symphony Orchestra
Erie Philharmonic
Fort Wayne Philharmonic
Fresno Philharmonic
Grand Rapids Symphony
Harrisburg Symphony Orchestra
Hartford Symphony Orchestra
Hollywood Bowl Orchestra
Huntsville Symphony Orchestra
Kalamazoo Symphony Orchestra
Knoxville Symphony Orchestra
Long Beach Symphony Orchestra
Long Island Philharmonic
Los Angeles Chamber Orchestra
Los Angeles Opera Orchestra
Memphis Symphony Orchestra
Michigan Opera Theatre Orchestra

Mississippi Symphony Orchestra
Monterey Symphony
New Haven Symphony Orchestra
New Mexico Symphony Orchestra
Northeastern Pennsylvania Philharmonic
Omaha Symphony Orchestra
Pacific Symphony
Pittsburgh Opera and Ballet Orchestras
Portland Opera Orchestra
Rhode Island Philharmonic
Richmond Symphony
San Jose Symphony Orchestra
Santa Rosa Symphony
Savannah Symphony Orchestra
Shreveport Symphony Orchestra
Spokane Symphony Orchestra
Toledo Symphony
Tulsa Philharmonic
West Virginia Symphony
Wichita Symphony Orchestra

Associate Members

Flint Symphony Orchestra
Green Bay Symphony Orchestra
Hudson Valley Philharmonic
Lehigh Valley Chamber Orchestra
Milwaukee Ballet Orchestra
Richardson Symphony orchestra

New Orchestra Joining, not in attendance:
Santa Barbara
Guest Orchestra:
Las Vegas Philharmonic

Guests

AFM Officers:

Tom Lee, President, AFM
Florence Nelson, Secretary-Treasurer, AFM
Hal Espinosa, AFM IEB, President, Local 47
Mark Jones, AFM IEB, President, Local 92
Donald Santa-Emma, President, Local 4

David Schubach, Vice President, Local 47
David Lennon, Asst Dir., Concert Dept., Local 802
Tammy Kirk, Secretary, Local 94
Candy Lammers, Secretary/Treasurer, Local 400
Linda Madsen, Secretary, Local 24

AFM Staff:

Deborah Newmark, Director, Symphonic Media
Janice Galassi, Dir., Symph. Organizing and Education
Michael Manley, Contract Administrator

Nathan Kahn, SSD Negotiator
Chris Durham, SSD Negotiator

ICSOM Representative: Marsha Schweitzer

OCSM Representative: Elaine Thompson

Orchestra Guests:

Martha Hancock, Akron Symphony
Ann Gilbert, Akron Symphony
Diana Gayer, Akron Symphony

Maura Pelinsky, Erie Philharmonic
Chris Martin, Grand Rapids Symphony

Welcoming Remarks:

Ann Drinan, President, ROPA
Danna Sundet, Conference Coordinator
Don Santa-Emma, President, Local 4
Leonard DiCosimo, Secretary, Local 4

David Bamberger, Executive Director, Cleveland Opera

Gave the background of the Cleveland Opera, from idea to success. Financial crises come and go: he gave strategies for outreach using comps and reduced tickets for friends and family, lobbying government organizations, thanking corporate donors (as a member of the community), and joining organizations like Ohio Citizens for the Arts.

Florence Nelson, AFM Secretary/Treasurer

Gave an overview of SSD activities in the past year: Atlanta ballet back to work, Richmond buy-out was like a funeral. Stressed solidarity. Spoke about contact with FIM, their possible attendance at Unity II, Wellness Study fliers and orchestra participation, sexual harassment information, her election and other progress of the AFM, progress of ROPA, CD-rom of Wage Charts and other handouts. Her goals: recruit more people to be involved in orchestra committees and ROPA, get elected to office, stay in touch with MALs and SSD, guard your CBA, communicate with orchestra musicians, look for ways to open communication with management and board.

Ann Drinan, ROPA President

Thanked the new Executive Board for their hard work, delivered regards and best wishes from Secretary Emerita Laura Ross, mentioned President Emeritus Andy Brandt's report on AFM Convention scheduled for Friday. Gave details available so far regarding Unity 2 Conference scheduled August 14th-18th of 2002 in Ottawa, Canada, and including ICSOM, ROPA, OCSM, and members of FIM (Florence Nelson is AFM liaison to FIM). Gave an overview of ASOL conference, where she participated in a meeting with ICSOM musicians and ASOL staff in discussion of greater musician involvement in orchestra governance. This group (Ann Drinan, Florence Nelson, Robert Levine, Fred Zenone, Bob Wagner and Hampton Mallory) will keep in touch with regular conference calls. She also mentioned ASOL's initiatives in educating managers, and the fact that musicians can attend the ASOL conference free of charge (next year's conference is in Philadelphia in the 3rd week of June). She mentioned ROPA representation at the AFM convention by herself, Betsy Start, and Andy Brandt, and drew attention to the recent Senza Sordino articles about the convention. The ROPA Executive Board appointed Ann as the ROPA representative to attend the meetings of the national Electronic Media Forum.

Beginning of Delegate one-minute introductory remarks**Ron Bauers, CPA**

Explained Financial Statements, types of funds (unrestricted, temporarily restricted, permanently restricted). Handout provided. Ron also spoke about non-accountable vs. accountable expense reimbursement and its impact on a musician's tax return.

Cleveland Opera/Ohio Chamber Orchestra report, Delegate Leslie Braidech:

Leslie gave an overview of the past year's events, including good news for the Cleveland Opera, but also the dissolution of the Ballet orchestra and the Ohio Chamber Orchestra. Presently there is a move afoot to create a new Chamber Orchestra, but this doesn't keep faith with all the OCO players.

Conclusion of Delegate one-minute introductory remarks

Thursday, August 9th, 2001

Hartford Symphony Governance Panel:

Dwight Johnson and Thom Wildman, non-musician Board members, Pat Daly and Candy Lammers, former and current Orchestra Committee Chairs and Board members, moderated by Ann Drinan.

A history of Hartford's past problems and reorganization with musicians actively involved in governance. Involvement of Paul Bouliant in developing understanding and communication between musicians, management, and Board. Discussed the procedures used by the Music Director Search committee to reach consensus. The underlying message is more communication and active roles for musicians, though the Hartford model is perhaps too extreme for many cases.

Richmond Symphony Report, Delegate Molly Ruse: Report on buyout: background, the impact on the musicians who opted for the buyout and on those few remaining, the lack of information on the part of the Board, and the lack of turnout for recent auditions.

John Ryan, Cleveland AFL-CIO: Cleveland is a strong Labor town. His suggestions to further Labor's interests: Political work around issues rather than candidates, outreach to the community, organizing with recruitment and websites, connecting with other Unions (they have a Cultural Arts Committee to improve the quality of life for workers).

Meaney Center Report: Barbara Zmich, Candy Lammers, and Tammy Kirk spoke about the sessions and their benefits. Michael Manley requested that those interested in attending contact him. The *Union Steward Update* publication will be purchased by AFM for distribution to ROPA Delegates (thank you, Florence Nelson!).

Las Vegas Philharmonic report: Andre Long spoke of their plight, his education and sense of support here at the conference, and their prospects for joining ROPA.

Severance Hall Tour: hosted by Gary Hansen, Cleveland Orchestra Assistant Executive Director.

Deborah Newmark, AFM SSD: Overview of Audio-Visual agreement, and preview of EMF negotiations regarding self-produced product. Handout provided.

Trish Polach, ROPA Counsel: History and present state of Sound Recording and Internet Audio legislation, copyright-related issues involving the Digital Performance Right in Sound Recording Act and the Digital Millennium Copyright Act. Handout provided.

Nominations: a list was created for the open positions of Vice President (Mark Facci, Phil Luna), Secretary (Betsy Start, Paul Castillo), and two MALs (Danna Sundet, Barbara Zmich, Jennifer Munday).

Optional session: Orchestrate Your Health, by Dr. Michael Ewald—Physical and nutritional suggestions for better health.

Friday, August 10th, 2001

Committee Administration: Lennie Leibowitz, ICSOM Counsel, and Rich Weiner, Cleveland Orchestra Negotiating Committee Chairman. Discussions of communication with orchestra members—surveys, blank surveys, one-on-one meetings, informal discussions. Preparation for negotiations: get financial information (990s), actuarial valuation of health and pension plans, actuarial assumptions, research artistic and job security issues. Research other CBAs. Try to determine if musicians are prepared for a fight in the event they have to: strike fund readiness, additional "war chest" which co-mingles funds (this involves education of musicians for mutual help to be able to sustain strike), musicians' Credit Union. FMCS copy of notice to management of wish to negotiate. Because the Employer can hire replacement workers if you strike, but must pay you if they lock you out and the form has not been sent, you should decide whether to send the form each time. Involve other musicians to form Strike Committees (Media, Bulletin, Picketing, Education (contact music schools), Political, Audience Association, Benefit Concert, Central Labor Council). Determine number and frequency of Orchestra meetings. Lennie and Rich encouraged the use of the grievance procedure—this provides avenues for discussion.

Donald Rosenberg, Music Critic, *Cleveland Plain Dealer*

Author of a new book on the history of the Cleveland Orchestra. His motivation and interest stemmed from why such a distinctive ensemble emerged in Cleveland, and why it has had such problems and controversies. Gave overview of CO history, from guest orchestra appearances in late 1800s that created an appreciation of fine orchestral music, WWI dynamics that made touring orchestras less available, further education programs funded by Severance, first concert of Cleveland's Orchestra in 1918. Success based on the Board's good decisions in picking fine artistic leaders and listening to them. Despite hard times, the Board has not cancelled seasons or downsized because the community required it (educational background and continued dedication). Leslie Braidech brought up the point that community and press support that could have helped Ohio Chamber Orchestra is at odds with the rosy picture of community support for the Cleveland Orchestra. He expressed willingness to cover any real news occurrences. Brian McCreath raised questions on future of lower-flight orchestras—his response was that they are critically important to their communities, and education and outreach is imperative for them.

Tom Lee, AFM President

Gave his background as a military musician who had to convince the AFM to allow him to join. His goal of expansion of AFM over status quo and activism will continue. Credits Nathan Kahn for his role in planting the seeds of ROPA, which has expanded from 13 to soon over 60 member orchestras. Thanked Florence Nelson for her work in SSD, congratulated her on her election as first woman national officer, assured Delegates assembled that they will work well together. Thanked other SSD staff: Nathan Kahn, Chris Durham, Debbie Newmark, Janice Galassi for all their work. Acknowledged Michael Manley for his past work in SSD and new position as Tom's assistant. Expressed need to get more involved in TEMPO and political activism. Immediate future plans: to develop a national health plan for musicians, create short-term contracts for free-lancers including pension, expand outreach and communication with non-members, strengthen Union through communication within.

Mark Jones, President Local 92, AFM IEB

Underscored importance of political involvement. Hold voter registration drive in orchestra or Local, play for lobbying events. Lobby not only nationally but on state and local level (example: success of Upstate NY ICSOM orchestras lobbying in Albany).

Hal Espinosa, President, Local 47, AFM IEB

Gave his musical background (classical and jazz, recording, shows). Stressed importance of knowing your own worth, getting involved in Local governance.

Steve Cagan, Jobs With Justice

Spoke about the plight of Tejano Musicians. Also, no matter how low the pay workers are receiving, they are very sensitive to bad working conditions. Local issues, including Case Western Reserve University workers. April 4th, Dr. Martin Luther King's assassination day, is a day reserved for student actions (King was assassinated in a Labor action). Jobs With Justice is involved with coalitions for a living wage, and

protecting small health care clinics. He previewed two street actions: for cafeteria workers at CWRU and Ann Taylor clothing workers. Janice Galassi spoke of the positive effects of activism. Steve stated that most people are making less in salary in real dollars now than they would have made for the same work in 1970.

Tammy Kirk, Secretary, Local 94

Spoke about Oklahoma's struggle for a living wage and right-to-work legislation, which has national ramifications, as other states watch the situation. Urged Locals to get involved with local AFL-CIO in cooperation to work for working people's interests.

Michael Manley, AFM SSD

Wage Charts: he underscored their importance for reference in negotiations. Both paper and e-options are available this year.

Media Committee Discussion

Jennifer Munday and Phil Luna spoke regarding the need to be aware of media language and existing agreements. General mood seemed to be against agreements that don't pay money up front.

El Paso report, Delegate Sylvia White

Negotiations began by helping their conductor negotiate an extension to his contract. This orchestra had a 6 year contract, services were cut, so they make less now. In negotiations, they were only offered a \$1.50 raise. Their tours (to Europe and Turkey) have been basically unpaid, except for some expenses. Yet, there was a unanimous vote to strike. The strike lasted about 1 month. They got their 8 pair concerts back, and other things they had lost, not much of a raise, but they saw what solidarity did for them.

SSD: Janice Galassi, Chris Durham, Nathan Kahn

Janice: steps for organizing—handout provided. Nathan and Chris stressed musician-Local communication and getting involved.

Elections

Saturday, August 11th, 2001

Election Results

Mark Facci was re-elected as Vice President, Betsy Start was re-elected as Secretary, Danna Sundet was re-elected and Barbara Zmich elected as MALs.

Arbitration with Peggy and Lennie Leibowitz

Introduced by Florence Nelson: Peggy works sometimes as an arbitrator and shared how arbitrators view things—this can help you prepare to educate your arbitrator. Lennie provided anecdotal information. Peggy explained two basic categories of grievances that go to arbitration: dismissal and discipline (just cause, which was covered in 2000), and disagreement in contract interpretation. A Contract Interpretation Theory and Practice article was the basis of this presentation.

Review of Just Cause material from last conference

- Employer has burden of proof—must go first at arbitration
- Two part theory of Just Cause: prove misconduct, appropriateness of the penalty
- Just Cause Arbitration is straight-forward, unless there is a credibility problem

Contract interpretation grievances and arbitration are tougher.

- Burden of proof is on the Union—it is charging the Employer with violation, so Union must present evidence first at Arbitration
- This is difficult for arbitrator, as the intent of the parties in creating the contract language is not always clear.
- Intent is: Meeting of the minds at the time they agreed to the language that is now in dispute

Three part theory of contract interpretation:

1. Joint exhibit #1 is the CBA: this is “Best evidence” of intent. Arbitrator must determine if the language is clear or ambiguous—there is no standard for this. If the language is clear, this clear meaning is applied to the evidence and theory stops
2. If the language is ambiguous, go to bargaining history: this is where notes from the sessions come in, testimony of negotiators, grievance history, previous contracts, arbitration history. (Sideline: a laundry list of proposals to clean up language can come back to bite you in arbitration)
3. Past Practice: Course of conduct that’s clear, consistent, customary, continuous, long-standing, accepted. Proven past practice becomes as important as written word.

Break-Out Sessions: Media, Per-service orchestras, SSD, Librarians, Pit orchestras, others

2001 AFM Convention Report: Andy Brandt, ROPA President Emeritus

Andy referenced the written report he provided, acknowledged election results, explained the difference between resolutions (from members) and recommendations (from IEB), and the processes that the legislation goes through.

Break-Out Sessions reports: (These minutes were prepared from audio tapes, so many Delegates are not identified, since they did not identify themselves before speaking. Also, much was said away from a microphone and was inaudible)

Librarians: Marc Facci reported, speaking to the importance of including the librarian as part of the collective bargaining unit

Pit Orchestras: 9 orchestras participated. Spoke about safety issues, conditions of space and temperature. They established an e-list for pit orchestras. Also suggested that break-out sessions happen earlier in the conference, in order to make acquaintances sooner.

SSD session: Ole Latham reported on various issues: Toledo management promotes musicians as a community resource. Richmond buyout, Savannah, and Akron problems were cited in contrast. They came up with: organize, communicate and educate, try to stay united.

Media: Before the report from the break-out session was presented by Media Chair Jennifer Munday, there was a digression into a lengthy discussion and clarification of ROPA By-Laws regarding the formation of committees. The media break-out session produced a list of people who were interested in serving on a media committee. The list included: Florence Titmus, Paul Castillo, Anthony Taylor, Connie Trach, Phil Luna, Barbara Zmich, Betsy Start.

There followed another lengthy discussion regarding committee make-up. It then evolved into a meeting discussing and presenting resolutions. Many motions were made and withdrawn, amended, substituted, substitutions amended, a great deal of discussion of substance and process accompanied this, finally resulting in the attached Resolution, which was passed. Jennifer continued her report, stating that the break-out session had developed a resolution concerning upfront payments for recordings that would be presented to the Delegates later that afternoon.

Treasurer’s Report: Dennis Danders

He explained his cash accounting report which all Delegates received a copy of.

Resolutions:

On behalf of the Executive Board of ROPA, President Ann Drinan presented the following resolution before the Delegates:

Whereas, the first Unity Conference held in Las Vegas in 1998 was a milestone in solidarity for the Players’ Conferences; and

Whereas, plans for Unity 2 to be held in Ottawa, Canada from August 14 to August 18, 2002 are well under way; and

Whereas, musicians from FIM, representing European orchestras, and musicians from other orchestras around the world will be invited to attend this Unity Conference, along with ROPA, OCSM, and ICSOM Delegates; and

Whereas, ROPA sees this as an opportunity for further communication and cooperation among the symphonic players' conferences to further address the needs of performing symphonic musicians, therefore, be it

Resolved, That the Delegates of the Regional Orchestra Players' Association convene in August 2002 at the Unity 2 Conference to both hold the ROPA Conference and participate in the Unity 2 Conference.

Resolution Passed

On behalf of the Executive Board of ROPA, President Ann Drinan presented the following resolution before the Delegates:

Whereas, Florence Nelson has served as Director of the American Federation of Musicians Symphonic Services Division since 1994; and

Whereas, Florence has provided immeasurable help and counsel to ROPA orchestras during this time; and

Whereas, Florence has intervened in countless critical ROPA orchestra situations and has helped bring about the best possible resolutions to these crises; and

Whereas, in the future, no scab musician would likely dare cross any ROPA orchestra picket line, because they know from past experience the grave danger they would face when encountering Florence on said picket line; and

Whereas, Florence, with her humor, wisdom and determination, has been a dear friend and strong advocate of all ROPA orchestras and their musicians whenever and wherever possible, therefore, be it

Resolved, That the membership of the Regional Orchestra Players' Association offer Florence Nelson their eternal gratitude and wish her success as she continues to help working musicians in her new role as Secretary-Treasurer of the American federation of Musicians; and be it further

Resolved, That the Regional Orchestra Players' Association confer upon Florence Nelson the title of Honorary ROPA Delegate for Life, in thanks for her tireless work on behalf of orchestral musicians.

Resolution Passed

On behalf of the Executive Board of ROPA, President Ann Drinan presented the following resolution before the Delegates:

Whereas, the Musicians of the Las Vegas Philharmonic are engaged in a difficult struggle for basic rights; and

Whereas, the management of the Las Vegas Philharmonic is seeking to impose conditions on these Musicians that violate well-established standards for Musicians in professional orchestras, therefore, be it

Resolved, That the membership of the Regional Orchestra Players' Association extend its support and encouragement to the Musicians of the Las Vegas Philharmonic, and to the Orchestra Committee and Local, in their battle to maintain their fundamental dignity as professional symphonic musicians.

Resolution Passed

On behalf of the Executive Board of ROPA, President Ann Drinan presented the following resolution before the Delegates:

Whereas, Michelle Walker Fine has attended every ROPA Conference since 1996; and

Whereas, Michelle Walker Fine has committed countless hours dedicated to ROPA special committees; and

Whereas, Michelle Walker Fine has served the Regional Orchestra Players' Association as Member At Large since 1999; and

Whereas, Michelle has executed the duties of Member At Large with diligence, humor, and integrity, therefore, be it

Resolved, That the membership of the Regional Orchestra Players' Association thank Michelle Walker Fine for her hard work on behalf of orchestral musicians, and for her dedication to the organization, and offer her their best wished in her future endeavors.

Resolution Passed

On behalf of the Executive Board of ROPA, President Ann Drinan presented the following resolution before the Delegates:

Whereas, Danna Sundet gallantly stepped in and took over the ROPA Conference Coordinator duties in the fall of 2000, when the position was suddenly vacated; and

Whereas, Danna Sundet was faced with the incredibly difficult task of finding accommodations for the ROPA Conference in a city the size of Cleveland; and

Whereas, Danna Sundet pursued the goal of hosting a wonderfully successful ROPA conference with great energy, urgent determination, good cheer, and just plain stubbornness; and

Whereas, Danna Sundet has been incredibly successful in hosting a wonderfully successful ROPA conference in Cleveland, therefore be it

Resolved, That the membership of the Regional Orchestra Players' Association thank Danna Sundet for her hard work and sincere hospitality, for her careful attention to detail to ensure a smooth conference and the comfort of the Delegates, and for her warm fraternal welcome and friendship to all members, friends, and guests of ROPA.

Resolution Passed

Vice-President Marc Facci led submission of Resolutions from the floor. There was much discussion and amending, especially in media issues. Many ideas were presented quite cogently by usually unidentified Delegates and officers. A clear sense of the ROPA zeitgeist was communicated to all present, including AFM officers and SSD staff.

Whereas, Some parties have proposed that the AFM agree – possibly separately and apart from the Phonograph Record Labor Agreement – to allow a Symphonic Orchestra to self-produce Phonograph Recordings, including (and specifically) CDs, with no “up-front” payment to the musicians; and

Whereas, Such a payment is contrary to all established principles of AFM recording; and

Whereas, Regardless of any words to the contrary that such an agreement might contain, its concept would create a critically dangerous precedent for Symphonic Musicians and for all who record; and

Whereas, Adequate means to produce Symphonic Phonograph Recordings (e.g., Limited Pressing, Radio to Non-Commercial) at reasonable rates for a large spectrum of orchestras currently exist and enjoy successful use; be it

Resolved, that the 2001 ROPA Conference oppose any Agreement allowing the creation of Phonograph Recordings without appropriate payment for the initial recording; and be it further Resolved, That the 2001 Conference instruct any representative dealing with this issue to communicate its forceful opposition to such an Agreement and to oppose its adoption vigorously.

Resolution Passed.