

New democracy battles in Musicians Union

by Robert Levine

The most transformative event in the history of the American Federation of Musicians was a revolt in the 1950s by musicians who worked in recording studios and Hollywood sound stages against an autocratic AFM administration. The conflict, which included de-certification of the AFM in favor of a union started by recording musicians, ended with an eventual reconciliation with the AFM upon promises by the new administration to redress the musicians' grievances.

It is ironic, then, that the achievements of that rank-and-file revolt are at risk because of a conflict between a new generation of recording musicians and what they believe to be another autocratic AFM administration. Doubly ironic is the fact that the current dispute is about the same issues at stake 60 years ago: payments to musicians when recordings are re-used and the union's unwillingness to involve the rank-and-file in the negotiation, ratification and administration of their agreements.

A guarantee of rank-and-file involvement for recording musicians was especially important, as their most important agreements were not negotiated by their locals, but by national officers with little expertise about the industry and who were not elected by the rank-and-file. So the system of "player conferences" developed - internal union caucuses for symphonic, recording, and theater musicians that transcended local boundaries and provided rank-and-file input on issues of concern to those musicians. It was a system that worked as long as national officers were willing to accept such input. It began to break down with the election of a new AFM president, Tom Lee, in 2001.

Lee, a long-time IEB member and local officer from Washington DC, won a very close race against the incumbent. It soon became clear that he viewed the role of the player conferences far more narrowly than had his immediate predecessors. Conventions followed his lead by voting new work dues on symphonic and recording musicians without their consent or input, and with no obligation for the administration to provide better services to AFM members working under CBAs.

At the same time, the AFM was paying less and less attention to the Recording Musicians Association (RMA), the recording musicians' player conference, about negotiations and contract administration, culminating in a series of deals done by the AFM over the vociferous objections of the RMA. A particular sore point for the RMA was that AFM-promulgated videogame agreements gave employers complete freedom to re-use material recorded for videogames in other media with no additional payment to the musicians, which the RMA feared could lead to collapse of the whole re-use payment system. And the money at stake is significant. In 2008, the Film Musicians Secondary Market Fund (FMSMF) alone distributed a total of over \$72 million to more than 17,000 AFM members, 2,078 receiving over \$2,500 each.

Four events kicked the conflict into overdrive: the formation of the Professional Musicians Guild (PMG) in 2006, the re-election of Tom Lee at the 2007 Convention, along with the defeat or retirement of all of those on the IEB who opposed his handling of the conflict, new dues on payments from supplemental market funds to recording musicians (in addition to the dues already charged on the original recording sessions), and a lawsuit against

the AFM over dues.

The PMG was, in the words of *Variety* magazine, formed "by L.A. players who have been frustrated by what they see as a series of failures on the part of the national leadership of the AFM [including] 'sweetheart deals' and 'secret backroom deals' -- to use two phrases from the PMG's membership pitch -- that, if true, are in violation of existing AFM contracts." Needless to say, even the hint of a repeat of the 1958 de-certification by recording musicians threw the AFM into a frenzy.

The lawsuit, which was filed in November 2007 by several recording musicians, alleges that the AFM's work dues on promulgated agreements violate its own bylaws. The court has ordered that those work dues be escrowed until the trial later this year.

These events, coupled with the lack of any effective opposition to Lee on the IEB, have caused the AFM to act with a new recklessness. The AFM has threatened two recording musicians (one an officer of the RMA) with expulsion for being "active organizers, supporters and officers of the PMG," even though none of those things is a chargeable offense under AFM bylaws. The AFM filed a lawsuit against an anonymous blogger for a satirical posting on a blog called "The AFM in Trouble," alleging defamation and trademark infringement for use of a graphic based on the AFM seal. The AFM then got court orders against Google, Comcast, and Yahoo in order to unmask the identity of the blogger. The blog subsequently vanished without explanation in May 2008.

The AFM subpoenaed RMA President Phil Ayling in connection with the lawsuit, even though neither Ayling nor the RMA are parties to the suit. The subpoena casts a very wide net over communications between Ayling, the RMA, and pretty much anyone they might have talked to about the issues between the RMA and the AFM. What relevance those communications might have to the lawsuit has yet to be explained by the AFM.

Lastly, the IEB has proposed removing the RMA as an AFM player conference - another first in AFM history. News of a resolution to consider such action began leaking immediately after it was adopted by the IEB in June 2008. RMA members in Nashville were furious that their Local's president and secretary-treasurer, both members of the IEB, had supported de-conferencing the RMA. In December 2008, both were defeated in their bids for local re-election; the first time in AFM history that a local officer has been thrown out for actions taken as a member of the IEB. The new president, an active recording musician, is president of the RMA chapter in Nashville and an RMA board member.

Meanwhile, the dues passed by the 2007 Convention on payments from supplemental market funds remain largely uncollected, due to the AFM's inability to get the necessary payroll information from the FMSMF. The fact that recording musicians don't want to pay even more dues to a union they believe is working against their interests is an additional complication.

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