

The President's Message

NLRB decision brings fairness and democracy to PSO

The National Labor Relations Board decision regarding the Plano Symphony Orchestra is a milestone not only for Local 72-147, but also for professional musicians everywhere.

The NLRB ruling effectively puts to rest the notion that musicians in smaller regional orchestras in Texas and across the United States are independent contractors who, like household maids, are prevented under US labor law from requiring their true employers to deal with their Union.

If classified as independent contractors, professional musicians are impeded from seeking remedy under the National Labor Relations Act against orchestra managers and conductors who engage in unfair labor practices.

Those crafty, self-serving little clauses in PSO personal service contracts that orchestra musicians are forced to sign *as a condition of their employment* designating them as independent contractors are now invalid and unenforceable.

Orchestra managers and conductors who want musicians to agree to work as independent contractors do so in order to relieve themselves of any form of employer responsibility, to undercut any attempt by the musicians to collectively bargain, and to leave professional musicians, who bring such joy into the world, with little recourse in the event of a dispute.

Once the independent contractor designation is obtained, those same managers and conductors, who are experts at lining their own pockets at player expense, invariably go on to exercise strict employer control over the musicians.

For the folks who run the Plano Symphony, and particularly for manager Alice Hobbs and conductor Hector Guzman – whose goal, some believe, is a feudal system devoid of dignity for professional musicians – the NLRB decision that PSO musicians are no longer independent contractors, but employees, was probably viewed as a stake right through the heart.

You can bet that when Alice and Hector caught wind of that adverse NLRB ruling and realized that musicians would be free to choose the Union to represent them and that a federal court would enforce that right, they went looking for the cyanide pills.

Despite PSO's retention of an expensive, notorious Union-busting law firm and its enlistment of a few orchestra insiders to help them crush the orchestra's bid for self-determination, Local 72-147 uncovered compelling evidence during the NLRB hearing that supported the Regional Director's findings.

For example, we had known for years that PSO's reliance upon foreign students from UNT and SMU was a wedge management used to divide the orchestra and keep it unorganized, but we were not aware of the unfair economic advantages PSO was obtaining from some foreign students until the NLRB hearings took place.

We were shocked when Michael Clarke, executive director of the International Studies Center at SMU testified that *sometimes the foreign students are paid*, and ***sometimes they are not***. Why?

Since students receive course credit for orchestra services and since, by law, foreign students can only work when classes are in session, Clarke testified under oath that it is against SMU policy for foreign students to be compensated for playing when no class is being held, like the PSO Christmas concert, performed when SMU is on semester break.

There in the courtroom, as Clarke was testifying, I picked up PSO's Christmas 2007 concert program that we would later introduce as evidence in the proceedings. It appeared to me that most of the listed first violin section was comprised of foreign students. Were there SMU foreign students on that gig that weren't paid? From the PSO payroll evidence we subpoenaed, it certainly appeared so.

Discovery of the students' legal restrictions and work policy violations helped to explain the complaints received from our members that student musicians were not held to the same strict attendance policy that PSO imposed upon other musicians.

From PSO's reactionary, anti-union propaganda, now posted online for all to see, it is obvious that Hobbs and Guzman are afraid that a legitimate, constructive Local 72-147 collective bargaining agreement would correct many of the inequities which now exist and which give them complete control over the services of professional musicians as if they were slaves, such as the promotion of institutional favoritism, unfair and unevenly enforced work rules, neglect and abuse by the conductor, and for a few, the performance of services without pay.

The NLRB hearing process helped us to understand how PSO was able to amass \$1 million in cash and grow their budget from \$500,000 to \$1.5 million annually in eight years, enabling manager Alice Hobbs to haul off more than \$100,000 per year in salary, benefits and expenses while some musicians earn little or nothing for their services.

A pool of 110 PSO musicians can now choose to bargain collectively and work under a fair, enforceable agreement that will provide meaningful player input, professional respect, dignity and above all, democracy in the workplace.

We anticipate a down and dirty campaign from Hobbs and Guzman, designed to scare the orchestra into voting against their own economic interests and to protect the PSO from the Union.

Fortunately, it will be a campaign that every member of this great Union can be involved in. Please visit www.musiciansdfw.org and click the *PSO Campaign* button. Read the NLRB's decision. See Alice Hobbs' letters pleading with the players to sell out their Union.

I don't blame her. Alice Hobbs and Hector Guzman know that better wages, better conditions, benefits and the fairness and democracy that a Union contract will bring to the PSO workplace are too close for comfort.