

## Re-organizing the unorganized dept.

Plano, UNT, 1099's and the DCPA

By Ray Hair

With a new agreement successfully ratified covering the musicians of the East Texas Symphony, Local 72-147 has now turned its attention toward re-organizing the Plano Symphony Orchestra, an organization that refused to bargain in good faith during the 1999/2000 season when it demanded that the Union agree to substandard conditions as a precursor to concluding any agreement.

Because of that employer's small budget size at the time, Local 72-147 was unable to seek relief through the National Labor Relations Board as a remedy for PSO's unfair labor practices. To invoke federal protection, an orchestra's annual budget size must exceed \$1 million, a mark now exceeded by the PSO.

In the eight-year interval where PSO has operated union-free, interesting changes have occurred, and certain interests have benefited from those changes.

PSO's annual budget grew from about \$500,000 during the 1999/2000 season to more than \$1.1 million by 2006, a whopping 110% increase. Program service revenue (ticket sales, fee engagements, etc.) rose by the same percentage, from \$225,000 annually to \$480,000, with remaining income realized through gifts and grants.

Not surprisingly, the salary of PSO Executive Director Alice Hobbs rose during that same period from a flat \$40,000 per year, to more than \$85,000, including pension contributions and expense account – an increase in compensation that parallels the company's budget growth, according to public access documents. Conductor Hector Guzman also fared very well, pulling down more than \$65,000 in 2006 for conducting little more than a handful of concerts.

But how did PSO musicians vie economically compared to management, during those same seasons without union representation? Not nearly so well.

Minimum section pay went from \$72 in 99/00 to \$94 in 05/06 – an increase of only 30%. Today, if PSO musicians had been treated as well as PSO's management treated themselves during the same period, the minimum service rate would be \$140 – or *more*.

After the contractual estrangement in 2000, a number of regular PSO musicians left the orchestra, seeking better pay and negotiated benefits in other union workplaces rather than hazard the inferior pay, indignity and insecurity that would follow without union representation.

As an alternative to our highly unionized pool of string players, who prefer union work, the PSO entered into arrangements with the University of North Texas and with Southern Methodist University to use foreign student musicians, provided by the string studios of the respective schools.

The foreign students see themselves not as professional musicians earning a living, but as college students “getting a diploma”. As a result they are far less likely to complain about working conditions, harder for the union to organize and thus serve to insulate management from the union. To ensure an uninterrupted, interchangeable supply of such students, school music faculty members were recruited to key positions in the orchestra.

To justify the continued use of 1099's at a time when the budget was doubling, to bank more of its revenue and avoid having to deal with withholding employee income tax or paying matching federal social security and medicare taxes, PSO went to extraordinary lengths to shield itself from union organizing by attempting to shift its payroll tax burden to the backs of its musicians (see related story on page \_\_\_\_).

In an unusual form of intimidation, PSO required each musician to sign agreements declaring themselves as self-employed independent contractors as a condition of employment. Known in some states as a *contract of adhesion* and considered unlawful because it is made under the duress of losing the job if not accepted, the PSO agreement trolls new depths of depravity with the phrase, “The Musician agrees that he/she shall not represent himself/herself to the public as an employee...”

But some Local 72-147 members remained with PSO after the Y2K exodus. Some hoped that the dust would settle and the PSO would come to its senses, make peace with the union, and join the growing community of professional orchestras.

A few other union members, sensing a double-breasted opportunity for personal gain, committed to help conductor Hector Guzman and manager Alice Hobbs maintain their profitable, comfortable union-free workplace, while scrambling to fill every vacant union job in existence in the DFW area. Those members' aim, it seems is to help Alice and Hector stay non-union, get rewarded with the pick of all of Hector's other non-union gigs in Irving and San Angelo, while enjoying the benefits of union gigs, too.

Those PSO musicians should pray that Guzman's other orchestra conducting jobs down in Mexico will not require him to give up his non-union Texas circuit, as was recently rumored.

Will these same musicians look to sell us out at the DCPA in the fall of 2009? Not if we're organized. There's another good reason to address the PSO question.

The past eight years of unilateral control have enriched the PSO, Alice Hobbs and Hector Guzman, to the detriment of most of the orchestra, but to the imagined benefit of a few musicians. With a budget now of more than \$1.1 million, its time for the PSO to join the community of professional orchestras. Otherwise, the costs of PSO's anti-unionism will become more and more expensive.