

Community

Cabrillo Music Festival Draws Fire From Union

*Complaints fly both ways in dispute
over representation of musicians*

AFIGHT over who has the right to represent Cabrillo Music Festival orchestra musicians is brewing between the Festival board and Local 346 of the American Federation of Musicians.

Red Malone, the local's secretary-treasurer, has requested that the Federation place the Festival on the national unfair employers list, claiming that the Festival board refuses to engage in good faith negotiations, pays musicians too little and has failed to pay required fees to musicians for radio broadcasts.

Dennis Duffy, an attorney who volunteers his services to the Festival board, said he'd be happy to negotiate with the union, if there was some indication that the musicians wanted representation from Local 346.

"What Mr. Duffy's mistake is, his number one mistake is, he's considering it like it were a non-union shop and we're in organizing," responded Malone. "We're not in organizing. These are already union members. He thinks they have to elect to be part of the union. He is wrong. They are already part of the union."

The Festival orchestra is composed of musicians from around the nation, said Festival president Mary Kay Hubbard. "They come to play different kinds of music, to have an easy time," she said.

James Shallenberger, a principal violinist with the orchestra and orchestral manager, said the musicians voted unanimously last year to reject Local 346 as their representative.

Malone spoke at the meeting, and no one spoke against him, said Shallenberger. "I took the vote and the vote was 59 to nothing," he said. Six



Festival tradition: Scene from past year.

members of the orchestra were absent.

For Malone, the issue is a matter of jurisdiction. "These are the kind of people (like Shallenberger, who plays with the San Francisco Symphony, Opera and Ballet), that as soon as something goes a little bit wrong in their area, they're the first ones in that union hall pounding the table, but they feel they can go in to other areas and do whatever they want," he said. "That is not true. They can not do whatever they want in there, because it's in violation (of the national by-laws)."

Shallenberger described Malone's efforts as a grab for power. "I think (Malone) is very frustrated by the fact that this is happening in his jurisdiction and he's not getting to play. It makes him feel very ineffectual. It's going on very nicely and has been going on for 27 years very nicely

without the union being involved," he said.

Were the Festival on the Federation's unfair employers list, member musicians who played in it could be fined from \$10 to \$10,000, and/or be barred from the union, effectively prohibiting their employment with any professional orchestra, said Malone.

The musicians, who are all members of other locals within the Federation, must accept representation by Local 346 while they work in Santa Cruz, according to Federation by-laws, Malone said.

A meeting between Malone and Duffy was held on Feb. 24. Malone believed it was to be the start of a collective bargaining process, and was surprised by the Festival board's actions. "We went to the table in good faith, and they didn't," he said. "The meeting lasted 20 minutes and Duffy

said ... (quoting from a transcript) 'he could not recommend that his client recognize the local as the representative of the A.F. of M. musicians for collective bargaining purposes.'"

Duffy recalls the meeting differently. "I guess they were under the assumption that we were going to be negotiating a collective bargaining agreement for these employees, and I advised them, I sure would like to do it, sure would like to advise my client that they can bargain with you, if there was some legal basis to do so, namely an election or a majority showing, and they were not too pleased by that," he said.

Henry White, administrative assistant to the president of the American Federation of Musicians in New York, said Malone's request had been received, but no action has been taken. An investigation must be conducted, including interviews with orchestra members, before the Federation could change the status of the Festival, he said. Until that investigation was complete, White said he could make no official statements on the matter.

However, Malone said "they were put on that list last week. It'll come out in the national paper plus a few other papers that go to all the musicians, especially the symphony musicians."

Malone also claims the Festival makes below-scale payments to musicians, which could jeopardize its standing with the National Endowment for the Arts. The Festival received \$14,500 from the endowment last year, and part of the endowment's regulations require that

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artists working for a grant recipient be paid at rates comparable to rates paid similar artists in the geographic area, said Malone.

It would take more than a union blackballing to prevent the Festival from receiving a grant from the National Endowment, said endowment deputy chief counsel Arthur Warren.

According to the federal legislation which created the National Endowment, organizations receiving endowment grants must pay professional performers and support personnel "at the prevailing minimum compensation for those persons," unless they

obtain a variance, said Warren. This is ordinarily established through a review of collective bargaining agreements.

However, the endowment does not enforce this regulation; the secretary of labor does.

Placement on the Federation's unfair employers list does not automatically disqualify an organization from consideration for Endowment grants. However, "the basis for blacklisting by the musicians' union could also form the basis for a determination by the secretary of labor that the organization was not in compliance with the prevailing minimum compensation requirement and would therefore become ineligible to receive

our funds," said Warren.

Cabrillo Festival musicians receive a straight fee of \$46 each day they're at the Festival, rather than a wage or what the Federation terms a "service" fee, said Kenneth Harrison, Festival concertmaster and personnel manager. They also receive free lodging in the homes of Festival board members and supporters, plus breakfast.

Malone wants to change the nature of payment to a daily fee of \$20, plus a \$20 service fee with a minimum of two services per day, which would bring the cash total to \$60 each day. He also wants to continue the free lodging and breakfasts. This would bring the Festival payment closer in

line with payments made by the Santa Cruz County Symphony, he said.

Four non-commercial radio stations, including KPFA in Berkeley, expressed interest in broadcasting recordings of last year's Festival concerts. Malone said the Federation must collect payment for all "out-of-area" broadcasts, and set the fee for the four stations at \$3,600. Only KPFA paid the fee, which he said sat in the Festival coffers until he demanded it be returned to the station, as it never did broadcast the concerts.

Hubbard said the Festival delayed returning the \$1,200 to KPFA because they were hopeful the four-

station deal might still come through. She added that the Federation's fee was too much for the cash-starved radio stations. "The musicians all said they wanted no compensation for KPFA, they were quite willing to give the tapes away, but the union was not willing to do that," she said.

It's not a matter of fair payment, said Shallenberger. "We all play in professional union situations all year long, where we fight like dogs and cats to get a fair scale, and we go out on strike and do all those things like that," he said. "For those two weeks (during the Festival), we don't want to deal with that issue. We're not trying to get a scale, we want to have a festival." •

—Rick Hildreth