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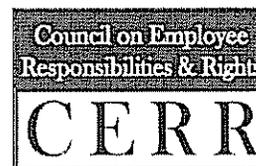
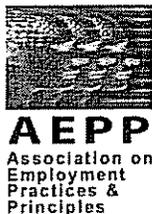
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EMPLOYEES IN PERFORMING NONPROFITS: WORKERS ADRIFT IN THE EPHEMERAL ARTS

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ABSTRACT

In this discussion, we will briefly look at the history of performing artists and at the divergence of performing art forms that could be engaged in “for-profit” from those for whom profit was left behind. From this context we will examine the 21st century components of the nonprofit performing arts workforce (performers, designers, directors, technical staff, front of the house personnel and management) to delineate the elements and conditions they share with the broader workforce and those which are unique to their chosen careers which include the elements that impinge on their role as fully franchised members of the labor force.

SETTING THE FRAME

Performing arts are a significant component of not only the workforce but also the preservation of our cultural heritage. In particular, those who work for not-for-profit organizations such as Ballet companies, Operas or Symphonies are charged with keeping the classical arts alive and actively in our present. These organizations do not make a profit and have to work very hard to break even. These activities are also labor intensive and the people working in the organizations must bear the brunt of any short fall in the box office (which is never sufficient to meet the payroll) and the solicited contributions.

The confluence of the emotion of “culture,” the needs of labor and hardscrabble sources of funding have created some very unique issues for those who seek a living in an industry that may trade on their passion for the art form. The conditions of the employment arrangements are, by and large, more akin to those of the 18th century than those of the 21st. Faine [1] noted, from his long experience, that:

in all probability future collective bargaining in the arts will not be between management on one side and the union on the other, but more likely be between management and union on one side confronting the source of funding on the other. [1, p73]

Live entertainment is expensive and risky. The event, in the finest sense of ephemeral, only exists at a moment in time. When that moment has past, the event is gone leaving only the memories, perhaps recorded, and the revenue contributed by the audience that shared that moment. The cost of presenting an event can be astronomical. For example, as noted in the *Sidney Morning Herald* 3 Dec 2004. “ to stage an average full-scale, Australia-wide tour by an A-list international artist now costs between \$6 million and \$10 million, depending on the act.”[2]

The components of the performing arts with which we are concerned include performers but, because they are perhaps more affected by the labor practices in these arts, we will most especially want to look at those who support the performing artist:

1. Designers: Costume, Sets, Props
2. Technical staff : Stage Managers, Stage hands and Technicians
3. Front of the House personnel: House Management, Box office, Ushers, etc.
4. Directors: Artistic Directors, Stage Directors
5. Management: Producers, Boards

In addition to this list, the American Guild of Musical Artists adds a useful Schedule "C" to its contracts that define performing roles from Leading and Featured soloist to "Mute Bit" roles of supernumeraries. Supplementing this schedule is a lengthy list of Operas and the cast requirements; for example, Bizet's Opera *Carmen* requires 14 named roles and a minimum of 36 in the Chorus. Mozart's Opera *Così Fan Tutti* requires six lead singers and a chorus of 12.[3]

SOME HISTORY

Performers have been around for a very long time, and not uniformly treated with respect or even tolerance. A widely acknowledged first reference to public performing is found in the Twelve Tables of Roman Law:

Table VII, LAW VIII.

When anyone publicly abuses another in a loud voice, or writes a poem for the purpose of insulting him, or rendering him infamous, he shall be beaten with a rod until he dies. [4]

Other laws and regulations throughout history constrained and restricted the performing artist severely. A gradual movement from the 18th century toward allowing more freedom of expression for the individual also provided performing artists with a less restrictive environment in which to display their creativity.

MODERN SCENE

One of the most significant developments of the last 100 years, of course, has been the union movement that codified guilds and other workers organizations under the protection of the law.

Performing artists live to perform. But their talents, their skill and the beauty they create won't necessarily pay the rent, put food on the table or guarantee the necessities of life. Without forceful advocacy and defense of their rights, artists may be vulnerable to exploitation or illegal discrimination. They need protection. They can find it by joining AGMA, the American Guild of Musical Artists. [5]

Various organizations to protect the employment rights of those in the performing arts were established in the 20th century. For example:

International Alliance of Theatrical Stage Employees (IATSE) 1893. The IATSE serves wide variety of skilled individual who are part of the craft of the theater and work, specifically, in the

following areas: Animation / Computer Generated Imagery, Front of House, Laboratory, Make-up and Hair, Motion Picture and Television Production, Post Production, Projection and Audio-Visual Scenic Artists, Stagehands, Television Broadcast, Trade Show/Exhibition, Treasurers and Ticket Sellers, and Wardrobe. [6] These are members of the labor force the attending public seldom see or, as is the case with ticket sellers and other front of the house personnel are part of a general background to which attention is seldom paid. Thus, they were one of the first groups to organize to defend their working rights and improve their work conditions.

Other groups to organize to protect their constituent skills and craft groups include:

American Society of Composers, Authors and Publishers (ASCAP) 1914 [7]

Actors Equity Association 1913 [8]

Screen Actors Guild (SAG) 1933 [9]

American Guild of Musical Artists (AGMA) 1936 [5]

Even with this range of associations available to support and represent those working in the performing arts, the ultimate conflicts between wanting to ply one's trade – create an ephemeral experience for an audience - and need for compensation in order to continue to be able to do that leads to significant opportunities for the workers to be failed by the system.

NO CONCESSIONS FOR NONPROFITS

The various associations noted above are dedicated to protecting their workers. As noted in the statement from the AGMA, performing artists live to perform but they need to put food on the table and pay their rent just the same as those without their talent who are employed in the sectors of the economy that produce more tangible goods and services. These organizations recognize that nonprofit performing arts groups are not as capable of producing revenue as they are in producing opportunities for performers. In some cases accommodation can be made (e.g., guest artist agreement from the AGMA, see [5]). But in most cases there is no available accommodation for a nonprofit for, as one provider of weapons for the stage states, they are all nonprofit.

THE KNOCK-ON EFFECT

In 2005 the Washington ballet voted for the AGMA as their bargaining representative. There was an impasse with enough finger-pointing to populate a year's supply of a French glove maker. As a consequence of the "misunderstanding" the staging of Tchaikovsky's Nutcracker Ballet was cancelled for the season. This caused the whole organization to shut down and, as Nutcracker seasons usually contribute 50% of a ballet company's annual revenue (as well as a substantial amount of community support as the event is perennially popular with the young making them fans of the art form) the damage was extensive.

With a for-profit company the damage can be as large and the knock-on effect substantial (think only of strikes by flight attendants during the summer travel season). For a profit producing organization, the pain hits those for whom the profit is a reward. The solution is also with them.

With a nonprofit company, the solution is never easy to find, for more money cannot simply come from charging enough for the public performance to cover the costs. In a business where bringing the artistry to the public does focus on prices that are affordable, raising prices to cover the costs is never attractive. Often with nonprofit performing companies experience a short fall in revenue, it is the board who may have to make up that difference from their own resources or that of their friends. Thus the solution inflicts more pain than it relieves.

INTELLECTUAL PROPERTY

One of the ways to recover some income and gain productivity is to have some title to the created work – the song, the play, the ballet or opera might be performed by others with some tribute (symbolic but monetary is usually most appreciated). As a small additional wrinkle in this opportunity to make additional revenue from a performance, the origins of copyright law came from the desire of booksellers to preserve their monopoly on a certain work and not from the creator. Even now, ASCAP, which has some very good arrangements to make sure reproductions of a live performance that create revenue transfer some of that revenue to the creative artists – but they represent the creators (Composers, Authors, Publishers) and not performers. In fact their agreement on residuals with broadcasters sends nothing back to the performers.

EVOLVING APPROACHES

To allow those who wish to perform in the nonprofits sector to do so without exploitation, a process that can educate the public in the need to support these artists (for the general public is, after all, the beneficiary of the artist's performances and willingness to do so) as well as an effort to make sure that the trade organizations fully realize their obligation to facilitate these artists' professional desires.

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