



Music Publishers' Association of the United States

Minutes of the Officers & Board of Directors Meeting
October 28, 2004 at Harry Fox Agency

Fred Anton, 1st Vice-President	Absent
Jennifer Bilfield	Present
Beebe Bourne, President	Present
Arnold Broido	Absent
Tom Broido, 2nd Vice-President	Absent
Gene Caprioglio	Present
Susan Feder	Present
Louis Fifer	Absent
Aida Gurwicz	Present
Margaret Heskin	Absent
Brian Hill	Absent
Christopher Johnson	Absent
Lauren Keiser	Absent
James Kendrick Esq., Counsel	Absent
Kathleen Marsh	Present
AB (Administrator)	Absent
Larry Morton	Absent
David Murray	Present
Marc Ostrow	Present
Lee Paynter	Absent
Lynn Sengstack	Present
John Shorney	Present
Charles Slater, Treasurer	Absent
Robert Thompson, Secretary	Present

Call to Order: The meeting was called to order at 10:07am.

Approval of Minutes: The minutes of the September 9, 2004 Meeting were approved as circulated.

Treasurer's Report: The treasurer's Report was approved as circulated.

Approval for the operating budget for the 2004/05 fiscal year ending May 31, 2005 was tabled until certain items were clarified. President Bourne will distribute to all Board members the revised budget prior to the next Board meeting.

Old Business

Archives/Sibley Music Library: The Agreement between the MPA and Sibley Music Library was approved, subject to Jim Kendrick's final approval.

Paul Revere Travel Exhibit: The traveling exhibit for the Paul Revere Awards is underway. A complete schedule is posted on the MPA website www.mpa.org.

Oral Histories: Discussion ensued regarding the MPA's oral history project. A report from Mary Davidson was distributed to the Board. Some

of the tapes have not been located. Jenny Bilfield suggested referring to previous minutes to try and locate them.

R&D Survey: Larry Morton's report was read by President Bourne. The R&D Survey received five (5) responses, and Larry will distribute the results in a memorandum on or about November 8.

New Business

Membership Renewal: President Bourne reported that in her discussions with Charles Slater, membership renewal dues are on track.

Acceptances of Resignations: The resignations of First Vice-President Fred Anton and Second Vice-President Tom Broido were accepted. Fred will however remain on the Board.

Confirmation of Lauren Keiser's appointment as First Vice-President: The vote by Board members via email to appoint Lauren Keiser as First Vice-President was ratified.

Annual Meeting (June 3, 2005): For the morning session, the panel discussion will focus on the International Situation in music publishing. Arnold Broido will ask Jenny Vacher of the ICMP to take part in this panel. Other panelists will be invited.

For the luncheon speaker, Jenny Bilfield will develop a list. Jenny mentioned Dana Gioia of the NEA as a potential speaker who could speak on broader cultural issues affecting our industry.

For the afternoon session, there are several topics for consideration, including the future of music technology and music wellness. Kathleen Marsh suggested Gerd Leonard, a digital music industry executive in Switzerland. Todd Machover at MIT, Charles Cronin at Columbia Law School and music wellness expert Dr. Karl Bruhn. There was also the suggestion that Sibelius, Finale and Score be invited to discuss notational issues.

ASCAP AD: President Bourne will ask ASCAP for the computer files and art work for the ASCAP Ads to be sent to Lynn Sengstack. The MPA's identity in the ads needs to be prominent. A motion to use the ASCAP Ads in the MPA's press and publicity ad campaign was approved. A second motion to approve a budget of \$25,000 for the MPA Ad Campaign was also approved.

Discussed evolved regarding the MPA's development of a DVD or multi-media presentation that focuses on copyright. The focus of the project would center on copyright issues via a video-taped question and answer session with Dave Olsen. Bob Thompson raised the concept of a multi-media flash presentation, incorporating video, audio, graphics and an interactive interface, which could then be distributed via a DVD or through the MPA website. Lynn Sengstack and Bob Thompson will seek proposals from media companies to submit at the next board meeting.

Janna Mattson - New MPA Administrator: Janna Mattson is leaving the MPA to pursue full-time employment. A job announcement was placed through the MLA and Artswire. Candidates will be interviewed shortly.

Museum Tour: Charles Slater suggested the Schomburg Center for Research in Black Culture in Harlem as the location for the MPA's annual spring tour to a depository, to take place after the April 21st, 2005 Board

Meeting at BMI. The Board agreed and asked that Charles proceed with securing arrangements for this visit.

Legal Update: Marc Ostrow reported on current legislative issues.

Bridgeport Music Inc.; Westbound Records Inc. v. Dimension Films, Miramax Film Corp., 6th Circuit. The Sixth Circuit U.S. Court of Appeals concluded Sept. 7 that if the pirating of an entire sound recording is prohibited by copyright law, then the process of sampling anything less than the whole also must be prohibited.

MGM vs. Grokster, 9th Circuit. There is nothing new to report in the 9th Circuit MGM vs. Grokster matter, except that the Plaintiffs are seeking Supreme Court review.

Capitol Records v. Naxos, 2nd Circuit.

In a May decision, the US District Court for the Southern District of New York ruled in favor of Naxos of America, the US classical music recordings distributor, in the common law copyright infringement and unfair competition case Capitol Records v. Naxos. The suit arose from Naxos' distribution of restorations of recordings of historic performances of classical music by acclaimed artists Yehudi Menuhin, Pablo Casals and Edwin Fischer, recorded in the 1930s. On July 30, 2003, after receiving Capitol's further submission, Judge Sweet entered a subsequent opinion and order in the action, rejecting Capitol's additional submissions and granting, once again, summary judgment in Naxos' favor. Notably, among other reasons for its decisions, the Court found in the July 30 Opinion that Naxos lacked the "requisite bad faith" to support an unfair competition claim. The Court's rulings clarify the circumstances in which a plaintiff, typically the large record labels, can claim exclusive rights in sound recordings of public domain works fixed before February 15, 1972. The need for such clarity arises from the fact that the United States Copyright Act provides no protection for sound recordings fixed before February 15, 1972, but provides that State common law and statutes may apply to such recordings until February 15, 2067.

ASCAP and the Radio Music License Committee (RMLC). ASCAP and the RMLC representing most of the nearly 12,000 commercial radio stations in the U.S., announced an agreement on October 18th the largest single licensing deal in the history of American radio. The settlement, which was approved by the Federal District Court, provides stations with the right to perform ASCAP music over the air and also as part of a simultaneous stream of their over-the-air signals on their Internet web sites. It also provides fee certainty to both the radio industry and ASCAP's members. The agreement finalizes license fees for the period 2001-2003 and establishes new ASCAP licenses for the period 2004-2009.

Committee Reports

ACDA: President Bourne read a report from Christopher Johnson reporting that no progress had been made with respect to the ACDA Guidelines.

Annual Meeting-Local Arrangements: No Report

Annual Meeting Program: (See Above)

Archive: (See Above)

Copyright/Licensing: No Report

Educations Contacts & Trade Relations: No Report

Engraving: No Report

Finance/Audit: It was reported that Fred Anton will continue to Chair the Finance and Audit committee.

International Contacts: No Report

MLA/MOLA/MPA: Bob Thompson reported on a meeting held October 22nd at the NYPL. Patrick McGinn, President of MOLA, reported a noticeable increase in complaints from MOLA members dealing with rental libraries of music publishers. Poor and/or slow communication were cited as causes. He reported several instances where orchestral librarians, lacking a response for a fee quote or score, decided not to rent a work, resulting in a loss of income to the publisher. It was suggested that the MPA report to MOLA at the next joint meeting that the topic was raised at the MPA Board meeting, and distributed to its members via the MPA minutes.

Membership: (See above)

Paul Revere Awards: (see above)

Performance: Jenny Bilfield reported on a meeting held regarding the performing arts convention. Eight teams were formed to attach various service organizations. The committee asked whether the MPA could develop uniform materials that various committee members could display at their respective booths. The question was raised as to the value of having an MPA branded session at one of the conferences.

Press/Publicity/Public Relations: Report was distributed to Board

Research/Development/New Technology: (See Above)

The meeting was adjourned at 12:18pm. The next meeting will take place December 9, 2004, 10:00am - 12:30pm at BMI