

Welcome to new members

Since the last newsletter we have the following members to welcome:

FULL MEMBERS

AUSTRIA

Maloberti Music Management Austria

Aussichtsweg 24
A-9241 Wernberg
www.Maloberti.at
Tel: +43 0425 230 130
Fax: +43 0425 230 131
Artists, Orchestras, Music Management, Events, PR.

Künstler- und Kulturmanagement Ute Rost e.U.

In der Hohenburg 2
8565 St. Johann ob Hohenburg
www.kkmanagement.at
Tel: +43 0314 320 665
Fax: +43 0314 320 466
Artist management and representation for conductors, soloists and chamber groups within the field of classical music, in Europe with main focus on Austria and Germany.

AUSTRALIA

Australian Brandenburg Orchestra

GPO Box 4416
Sydney
NSW 2001
www.brandenburg.com.au
Tel: +61 2 9363 2899
Concert performances, recording and broadcasts of baroque and other early music repertoire on period instruments.

AFFILIATE MEMBERS

ESTONIA

Pille Lill Music Trust

Rävala pst 16
10143 Tallinn
www.plmf.ee
Tel: +37 0256 48 42 44
PLMF supports the development of talented professional musicians by organising master classes, opportunities to perform and by introducing them internationally.

FINLAND

Pro Arts

Bulevardi 30 B 6
FI-00120 Helsinki
www.proarts.fi
Tel: +358 040 505 1025
We are a non-profit organization promoting Finnish classical music worldwide. Our mission is to support cultural export of selected musicians as well as to develop cooperation and exchange with our global partners. We have organized a concert in Weill Recital Hall, New York for a pianist. We have done marketing for a Duo, organ and harp in Germany. We have a contract for a Duo, piano and cello for the Shanghai Expo. We have promoted a chamber opera production in Spain for a Finnish composer.

UNITED KINGDOM

Academy of Ancient Music

32 Newnham Road
CB3 9EY
Cambridge
www.aam.co.uk
Tel: +44 01223 301509
Fax: +44 01223 323202

Air Partner

Platinum House
Gatwick Road
West Sussex
RH10 9RP
Crawley
www.airpartner.com
Tel: +44 01293 8448 12
Fax: +44 01293 8448 59
Air Partner are providers of air transport solutions for passengers and freight with both charter aircraft and schedule services.

ISRAEL

Sarah Meltzer Artists Promoter

1777 Shimoni st.
69026 Tel Aviv
Israel
www.sarahmeltzer.com
Tel: +9 07252 3682 226
Promoting quality musicians worldwide.

THE NETHERLANDS

Mary Kaptein Artist Management

Adriaen van Ostadestraat 47
3314 HA Dordrecht
www.marykaptein.com
Tel: +31 078 635 0087
Fax: +31 078 614 6847
International Artist's Management

SWEDEN

Eliassonartists Stockholm

Skeppargatan 86
S-11459 Stockholm
Sweden
www.eliassonartists.com
Tel: +46 08 667 2403
Since 2008 we have established ourselves as one of the leading artist agencies in Scandinavia.

UNITED KINGDOM

Edition Peters Artist Management

2-6 Baches Street
London
N1 6DN
www.editionpeters.com/epam
Tel: +44 20 7553 4032
Artist Agency

Pippa Patterson

31 Cromwell Avenue
Highgate
London
N6 5HN
www.sacconi.com
Tel: +44 07915 091 494

Worldwide Artists Ltd.

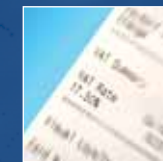
35 Durand Gardens
SW9 OPS
London
www.worldwideartists.com
Tel: +44 07743 576 552
Concerto performance with orchestras including Hallé, BBC Symphony, RPO, Detmolder Kammerorchester, OCNE. Recitals at festivals such as Guildford International, Vinfestspill i Bergstaden, Norway.

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WINTER 2011 | ISSUE NUMBER 33



IAMA newsletter



21st IAMA International Conference

Emerging Stronger: Inspiring artistic leadership in a changing world 14-16 April 2011



"Artistic leadership is at the heart of everything we do and informs how music organisations define themselves. In a world that was already changing at a rapid pace, the current financial challenges have added a further critical dimension to the question: who are we and what are we here for? At the

21st IAMA International Conference, at the beautiful new arts and media complex of Kings Place in London, we examine, through the eyes of major industry figures, how that artistic imperative can be preserved, renewed and developed.

Please join us for what we anticipate will be a conference that is in itself inspiring, creative and motivating and where a passion for music can help surmount all obstacles."

Stephen Lumsden
Conference Chair

Stephen Lumsden (Intermusica) chairs the 21st IAMA International Conference which returns to London. Presented at the remarkable Kings Place situated near the terminus of the Eurostar and Kings Cross/St Pancras station, London's newest concert venue offers the public a varied music programme. It receives no public money instead relying on conferences, such as the IAMA conference, to generate funds which go towards a trust fund that sustains the artistic programme.

The two resident orchestras, the Orchestra of the Age of Enlightenment and the London Sinfonietta, offer a contrasting artistic programme throughout the year and we are fortunate that a short showcase of these remarkable ensembles will be featured on Friday, 15 April after lunch. The closing dinner at the conference will be at Altitude 360 which offers a unique dining experience with unrivalled views of London.

Governance

There was no election in 2010 with all board members opting to serve a full term.

Three co-options were confirmed as:

Alan Coates, Harrison Parrott;

Günther Obwexer, Aliopera

Toshio Yoshizumi, Japan Association of Classical Music Presenters;

The representatives of the board for 2011 are:

John Willan, Chairman
Hazard Chase Ltd

Aino Turtiainen-Visala,
Deputy Chairman,
Fazer Artists' Management.

Christian May,
Honorary Treasurer, Melos Konzerte

David Sigall, Honorary Life Member,
Ingpen & Williams Ltd

Libby Abrahams, IMG Artists

Alan Coates, Harrison Parrott Ltd

Monica Felkel,
Young Concert Artists Inc.

Burkhard Glashoff,
Konzertdirektion Schmid

Veronique Jourdain,
Veronique Jourdain Artist Management

Catherine Le Bris, CLB Management

Günther Obwexer, Aliopera

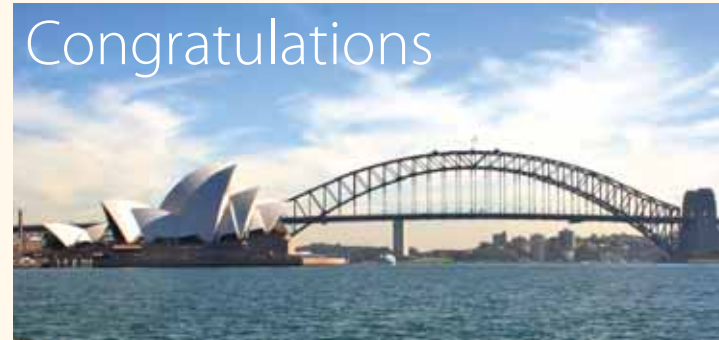
Jacob Soelberg,
Copenhagen Artists

Helen Sykes,
Helen Sykes Artist Management

Toshio Yoshizumi,
Japan Assoc. of Classical Music Presenters

BREAKING NEWS...

Congratulations



IAMA would like to congratulate Virginia Braden who received the Medal of the Order of Australia on Australia Day in January 2011.

It was given in recognition for her services to Arts Administration. Virginia was Chairman of IAMA from 2000-2003 and is an Honorary Life Member of the association.



The IAMA Newsletter is the journal of the International Artist Managers' Association

23 Garrick Street, London, WC2E 9BN, United Kingdom. Tel: (44) 20 7379 7336 Fax: (44) 20 7379 7338 Email: info@IAMAworld.com Web: www.IAMAworld.com
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Kings Place, London

Registration:

Given the economic situation, registration costs are frozen at 2010 levels and the day rate will be almost halved for IAMA members. Furthermore, changes to EU law on the application of VAT means that companies registered within the European Union with a valid VAT number will be able to use the reverse charge procedure and companies outside the EU will be treated as outside the scope of UK VAT. A combination of the fact that most companies did not re-claim VAT on conference fees in the past, together with the drop in value of the pound, will make this conference one of the most affordable.

Hotel and booking information is available on the IAMA website www.IAMAworld.com/conference

New feature in 2011!

IAMA Media+: Artists and media in a changing landscape. 13 April 2011



Confused as to where media is heading? What does tomorrow's media mean for an artist's career? This day-long event before the 21st IAMA International Conference takes place at Kings Place and aims to bring together the classical record industry, new media leaders and artist managers to demystify what many regard as one of the most important partnerships with the artist.

- Taking stock of the classical recording industry- is the traditional value chain still relevant?
- The new "record labels": Opera houses, symphony orchestras, internet entrepreneurs
- "Superman": Tomorrow's Artist Manager

whole range of media companies now operating around the globe. IAMA's membership includes virtually every significant artist manager from all over the world so this is an excellent opportunity for media executives to meet and rub shoulders with the people who manage the artists with whom we all work.

One of our aims is to establish a forum where key decision-makers from both groups can meet, discuss, debate, make deals and, above all, develop a better understanding of each others' goals, priorities and modus operandi.

We very much hope that you will join us for this pioneering event and we look forward to seeing you there."

"It is the first time that the artist managers host a meeting bringing them together with the movers and shakers from the recording, audio-visual, radio, new media and other electronic media industries. The day will feature 3 panels of experts discussing and debating many aspects of the rapidly developing media landscape with a focus on the relationship between artist managers and their clients, the artists, with the



Costa Pilavachi,
Senior Vice President
A&R, Classics,
Universal Music
Group International



Janis Susskind,
Publishing Director,
Boosey & Hawkes

Full details of the schedule, speakers and booking is available on-line at www.IAMAworld.com/conference

VAT rules in the European Union

Two VAT seminars were held in the last 12 months with many members expressing confusion about the application of VAT on fees and commission.



Not even state tax departments were prepared to offer detailed advice. The arrival of 2011 however, brought in a new set of rules and it is now much clearer where responsibility lies. Whether fees or commission, the system is designed to bring greater efficiency into the application of VAT.

The golden question is: what country does the artist/ artistic ensemble deem themselves to be in resident for business purposes? This proof may be in the form of a VAT number which is an indication but what if no such number is given because the threshold for VAT registration has not been reached? The answer is that the onus lies with the contracted party to prove their business status in their respective country of residence for business purposes.

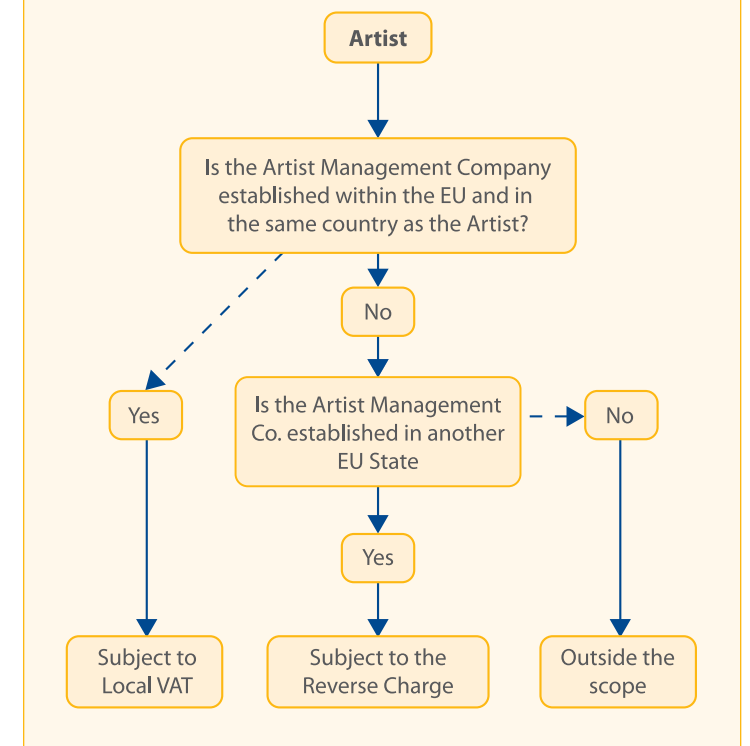
Right is a simple flow chart supplied by Cashback for a tele-conference held on 2 December 2010. Note that the treatment of VAT on artist fees will also follow the same flow lines.

Non-EU countries (outside the scope of VAT requirements in the EU) include:

Switzerland, Norway, Lichtenstein, Isle of Man, Channel Islands but Monaco is not included.

**Further questions?
Please contact ash@IAMAworld.com**

Commission on Artists Fees - from 2011





L-R: Viriginio Fedeli, Angelo Foletto, Fortunato Ortombina and Stefano Mazzonis

Milan Seminar

On 5th November 2010, IAMA organised a seminar in Milan about the current situation of opera houses and classical music in Italy. Around 30 delegates attended a meeting set in the Verdi room of the Grand Hotel et de Milan, the hotel in which Verdi worked and died. We asked Günther Obwexer and Christian May to compile the following report:

When I prepared this seminar together with Günther Obwexer, our idea was to analyse the crisis of music institutions in Italy, which face the danger of being financially starved to death, and discuss possible solutions for the future.

For some years now we have been warned that the decline of the musical culture in Italy is having a disastrous effect, some being: most young people do not know what opera means, public subsidies have been cut to an extent where there is no future and this in a country which was for centuries one of the leaders in musical life.

Most opera houses, orchestras and even concert series did however at least survive even though they had to face extreme financial problems and did not know what the next season might bring. In recent months, however, the situation has become more critical to the point that it appears to be a turning point for classical music in Italy.

Severe cuts in public subsidies are, in most countries, already a reality for cultural institutions. What is happening in Italy at the

moment is, however, far beyond that. For example: well known opera houses declaring bankruptcy, orchestras and festivals discontinuing their programming and dismissing their staff, museums remaining closed because, apart from the staff, not even the electricity can be paid. All that under a Minister of Culture who declares that *"crisis is always good, since it leads inevitably to transformation"*. Whilst most music managers in Italy agree that change is necessary, it remains to be seen what can be achieved if an opera house loses 70% of its subsidy!

Historically, it can be said that the situation in Italy has always been special, however, one might also take the view that Italy is on the forefront of a political direction which will soon be followed by other countries as well. From this point of view, we also thought the present situation might serve as an example and how the classical music business might react.

In the end, what stood out from the discussions, and what I really admired, was the way all participants stood together in their resolve to

overcome the crisis – artist managements (nearly all the important agencies in Italy took part) and opera house directors. There was a common feeling among all participants that the seriousness of this situation called for collective action, and a continuation of the discussion long after the official end of the seminar.

IAMA was praised from all sides for arranging the meeting at a crossroads in Italian arts. For the appropriate location Günther was congratulated; it was most fitting and inspiring.

For me as moderator, it was a great pleasure seeing all my dear Italian friends and colleagues acting as a community, standing together and trying to find possible ways for the future. I think all participants appreciated that IAMA arranged this seminar and as far as I understand from Günther and Atholl, there are already demands from participants in Italy and abroad, as to when IAMA will continue with future seminars of this kind.

Christian May
Melos Konzerte Wien

The guest speakers of the seminar were chosen in order to represent (as well as possible) the different aspects of the Italian classical music world. We had Francesco Micheli, investment banker and founder of MITO-Settembre Musica (the biggest classical music festival in Italy), La Scala board member and former president of the conservatory G. Verdi, Milan; Angelo Foletto, music critic of "La Repubblica", the most read Italian newspaper; Virginio Fedeli, one of the most prominent Italian artist managers; Stefano Mazzonis di Pralafra, director of Opera de Wallonie Liège and former director of the Teatro Comunale in Bologna, the only Italian who runs a non Italian opera house; Fortunato Ortombina, artistic director of La Fenice, former artistic advisor of La Scala and Teatro San Carlo, Naples.

Francesco Micheli opened the seminar saying that Italy needs a "new deal" like Roosevelt proposed after the crisis in 1929. Italian opera houses seem still to be run as they were in 19th century when they had to represent the grandeur of the King and State and when audiences were composed of aristocrats and members of the upper class. Even today, introducing new management models appears to be impossible especially with the added complication of the myopic Trade Unions. What the establishment urgently needs is a new mentality towards adopting new management models like private companies have had to do. The directors must be able to: instill a new spirit in their employees, pay more attention to the needs of their audience and listen to what the younger generation need, for instance, the effective use of new technologies. Of course, State support will always be necessary but public money will go further in delivering value for money. Co-productions and international alliances should be more exploited too.

Angelo Foletto was grateful for being invited as critics were not normally part of such discussions. He maintained that the understanding of what a music critic is today has changed significantly because new productions are very few. The printed media keep cutting space for culture because the editors are convinced that culture does not appeal which in turn does not attract advertising.

Virginio Fedeli strongly criticized the way the theatre directors in Italy tried to solve their budget problems. Instead of lowering their fixed costs (representing 90% of the total budget) most of them cut the soloists' fees, or engaged cheaper, younger singers from their own opera studios. As a consequence, artists had to be exchanged at the last minute because they were not suitable for their roles. The resultant lower artistic level in turn left the audience unsatisfied. Closing a contract for an artist in the past took a manager an average of three

months. This had lengthened to eight months. In conclusion, he felt that the solution for Italian artist managers and artists was to live abroad and possibly explore new emerging markets, for example, China.

Stefano Mazzonis di Pralafra pointed out important differences between Italy and other EU countries. Theatre directors in Italy were appointed once the mandate of the former director had already expired, while abroad some were appointed at least three years in advance. Complicating the management structure is the fact that there are different layers of management such as a sovrintendente and artistic director. Funding is based on short term planning and opera houses have too many permanent employees. The chorus of Bologna for instance has 70 members, Florence 90, La Scala 100. Most other European opera houses have a maximum of 40 chorus members and a maximum of 70 orchestra members. Then there are the Trade Unions of which four to five can be involved at any one time. As director of Bologna, he spent 2.5 hours negotiating with the Unions every day. In Liège it took three hours a week. Artistically, he thought Italian theatre directors were not known abroad because they tended to stay at home. The same was applicable to artists. An aging audience is another worrying factor. At La Scala, the average age of the audience was 60

and yet there were no initiatives in place to attract a new generation.

For Fortunato Ortombina the uncertainty of finance made it very difficult to programme a season. As a consequence, fewer productions were presented and fewer audience numbers – a shame considering that the more there was on offer, the more the demand for tickets increased. Italy is already spending much less on culture than other countries. Germany has about 80 opera houses and spent 10 times what Italy spent. He felt theatres needed to produce more especially considering they have the same number of employees they did in the past. La Fenice is trying to increase its number of performances in 2011 to 96 (La Scala has 100) but sometimes the Unions made it so difficult, there was not enough will power to see it through.

The seminar finished with a very nice buffet in the lobby of the Grand Hotel et de Milan and I would like to thank all those who attended and for the speakers who gave up their time to attend. This sort of initiative is something I would like to see continued and expanded in the IAMA diary for the future.

Günther Obwexer,
Aliopera



Christian May and Günther Obwexer



Guidelines for Handing Over Artists

2010 saw many relationships tested both in terms of defining representation and the handing over of artists to new managements. John Willan, Chairman of IAMA made the point in the summer newsletter that competition for business should not mean bad business practice.

The Board of Directors considered the state of the profession at the September 2010 meeting and thought it would be helpful to draw members' attention to a document released in 2006. Some artist management companies do not think a contract is necessary and artists sometimes feel intimidated by something formal or too lengthy. A simple letter of agreement can often be enough but it is always recommended that the artist gets the terms of engagement independently checked by their own legal advisor. Whether you decide on a contract or letter of agreement, make sure it covers your situation adequately and consider the points that follow:

Contract Guidelines

As issued by the International Artist Managers' Association (IAMA) in collaboration with Taylor Wessing International.

Foreword

These guidelines have been approved by the IAMA Board of Directors for use by the member Artist Management Company (AMC) in drawing up a written agreement or, by another definition, a contract. It represents general professional practice in the artist management sector and does not make specific reference to any country's contract law. It is recommended, therefore, that all agreements drawn up by members are checked by a lawyer in accordance with the law applicable to the country concerned. Should further legal advice be required, IAMA's legal helpline through Taylor Wessing might be of service.



"Being competitive is... a healthy pursuit which drives innovation, good practice, sustainable businesses strengthening the sector and, in turn, providing value and growth. What is distracting... is to understand competition as necessitating a hostile stance towards our competitors, playing everything close to the chest and... resorting to methods which are... on the boundary of what we as an association define as good practice"
24.4.2010

John Willan
Chairman of IAMA

Recommendations to the Artist Management Company (AMC)

1. Key considerations

- IAMA **strongly** recommends that all agreements are put in writing and any subsequent amendments that follow should also be put in writing and signed by both parties
- An agreement should be written in clear, simple terms and easily understood by both parties
- All agreements should be discussed with the Artist concerned and time allowed for the Artist to consult his/her own legal opinion
- All agreement documents pertaining to the artist, other than financial, should be kept for as long as is practicable or in accordance with the law of the country. These should be in an easily retrievable format.

2. Key agreement terms to include:

- **2.1.** Legal parties, period of engagement and statement of intent:
 - **2.1.1.** Establish the legal parties for the purposes of the agreement. E.g. an individual(s)/company or partnership. Names and addresses should be included
 - **2.1.2.** There should also be a clear statement of intent by the AMC setting out the goals of artist representation and stating clearly that ALL inquiries/engagements/royalties etc fall within the bounds of the contract. If, for any reason, the Artist believes that some engagement(s) should not be covered under the terms of the contract, it should be settled with the AMC before the terms of the agreement are signed
 - **2.1.3.** It is recommended that any statement of intent should include wording to the effect that the AMC and Artist have a co-responsibility in developing a career strategy and artistic development and that the AMC shall use its best endeavours to procure engagements and offer appropriate, professional career advice
 - **2.1.4.** The date on which the agreement commences must be stated as well as the termination notice term by either party (AMC/Artist). IAMA recommends that this notice period be between three (3) to six (6) months. Notice must be given in writing by the terminating party
 - **2.1.5.** In the event of termination, the agreement should clarify the procedure for dealing with commission on future engagements and how to deal with those engagements that are not yet contracted
- **2.2.** Territories and Management relationships:
 - **2.2.1.** The agreement should state the territory(ies) or country(ies) for which it is valid and if the AMC representing the Artist is doing so as a General or Local manager.

- **2.2.2.** The agreement should state if the Artist Manager is the sole and exclusive representative and can enter into agreements on behalf of the Artist. If the agreement is for General Management, the procedure for appointing Local Managers should be clearly understood and agreed to by both parties.
- **2.3.** Commission rates, tax and services:
 - **2.3.1.** The agreement should establish commission rates which need to be understood as being over and above any state taxes applied. (As a guideline, according to the IAMA 2009 survey results, the commission rate for most General Managements was 20% and Local Managements, 12-15%). Opera commission may vary but the average range was 10-15%.

- **2.3.2.** Establish a payment structure for commission and fees. E.g. how commission will be levied and when. This should be reflected in writing
- **2.3.3.** IAMA advises that fees payable to Artists should be paid directly to the artist's client account managed by the AMC and reflected as soon as practicable on the Artist's accounting statement
- **2.3.4.** The agreement should state that the AMC is not responsible for an Artist's tax affairs and should advise the Artist to appoint a competent Financial Advisor. (IAMA has a number of international member companies who specialise in this field)
- **2.3.5.** A strategy for dealing with expenses should be established before commencement of the agreement. It should be stated in writing what expenses should be regarded as extra and therefore settled by the Artist. Should the Artist agree to a certain expenditure limit without prior consultation, then this should be stated and when incurred, communicated to the Artist as soon as practicable
- **2.4.** Concluding terms:
 - **2.4.1.** The Artist is expected to consult regularly with the AMC and to keep the Artist Manager fully informed of his or her whereabouts
 - **2.4.2.** The applicable law of a country needs to be stated at the end of the contract should a dispute arise. In the event of such an occurrence, IAMA members have recourse to an independent, professional and International Mediation and Arbitration service.

3. Note on amendments and addenda:

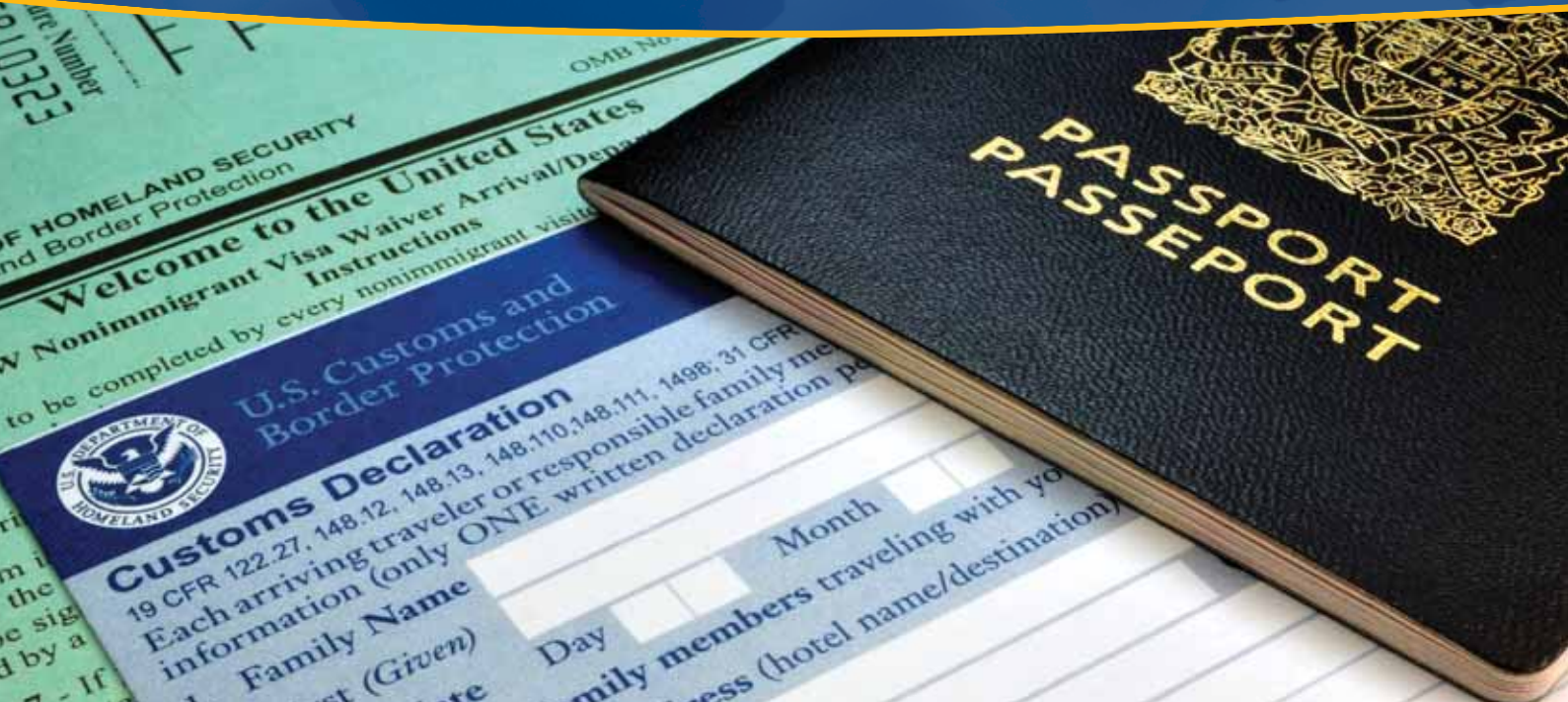
- **3.1.** Any alterations to the agreement must be made in writing and attached to the original agreement for ease of reference
- **3.2.** The Artist should be made aware that if any clause of the agreement is deemed invalid, this does not necessarily nullify the binding nature of the agreement

- **3.3.** It is useful to establish a list of duties that will not fall to the AMC such as dealing with fan mail correspondence, creation and maintenance of a personal website, insurance, private travel, public relations etc.
- **3.4.** A separate document should be drawn up as an addendum containing relevant personal details, passport details and credit card for handling payments
- **3.5.** Many European countries now request official clearances if an Artist works with vulnerable people e.g. children. It may be required of AMC to obtain clearance documentation from the Artist

First released : April 2006

Further recommendations: Following the September 2010 meeting, the Board thought to highlight a few points that members need to bear in mind in handing over artists:

1. Although the legal definition of exclusivity may vary in different countries, it is recognised by the sector that representing the artists' interests effectively is best served by relationships that are clear - who represents whom either as general and/or local management and that this relationship should be defined in writing
2. During the termination period, the outgoing manager must continue to act in the best interests of the artist
3. In the event of a new manager taking over an artist, all relevant contract details should be passed on to the new manager
4. When a new management takes over an artist from another management company, the interests of the artist must be considered above all and that career continuity be respected
5. All confirmed, contracted engagements have first commission claim by the outgoing management
6. All unconfirmed engagements are subject to negotiation between the outgoing and incoming managements
7. At the point of termination, the managements should make every effort to reflect correct representation both on their respective management websites and the Classical Music Artists website as soon as possible
8. In taking over artists, professional etiquette must be observed and libellous terms of reference towards the artist and parties involved must be avoided
9. Company websites should not present artists that are not contractually represented by the member company.



An Inconvenient Truth

By Brian Taylor Goldstein

A French string quartet with a U.S. tour scheduled later in the season, shows up at the U.S. consulate in Paris to apply for visas. One minuscule problem: the birthdates on their visa petitions (MMDDYY) don't match the birthdates on their passports (DDMMYY). The result? The U.S. denied their visas, and the group was forced to cancel its American engagements.

This is not an isolated incident. There's the German cellist, prevented from playing with an American group because years before, living in the U.S. on a student visa, he had given a considerable number of professional performances. Or the group that applied for the wrong type of visas and found out too late to make its U.S. performances. None of this is surprising: the whole procedure for obtaining visas for foreign artists and ensembles is

legendarily a quagmire of unclear requirements, labyrinthine procedures and unpredictable outcomes.

But while the process can be daunting, it is not insurmountable. For every artist who is denied a visa and for every engagement that is cancelled, thousands of artist visas get issued. In most cases, nobody has to hire an attorney or pay outrageous fees. The visa requirement shouldn't keep foreign artists from performing in America, or American presenters from booking overseas ensembles.

When is an artist required to have a work visa as opposed to entering the U.S. as a visitor? Almost always. One pervasive myth is that a work visa is not necessary unless an artist is being paid. In fact, U.S. law defines "work" as any performance

regardless of whether an artist receives payment. Even artists who perform gratis, or receive payment outside of the U.S., must get work visas.



The Basics

Work visas for musicians fall into two broad categories: "O" visas for individual artists and "P" visas for groups. The process for obtaining these visas involves three steps:

1. A U.S.-based petitioner — for instance, a presenter seeking to engage a foreign group — must file a petition for visa approval on behalf of the artist with United States Citizenship and Immigration Services (USCIS). The filing fee is (as of November 23, 2010) \$325.

2. Once this petition is approved, the artist or group must appear personally at a U.S. consulate and apply for the visa itself. Another filing fee is charged.

3. Upon entering the U.S., the artists will need to present their visas to a Customs and Border Patrol (CBP) officer.

All In The Timing

Be sure to leave enough time for the process. The USCIS usually takes 30–45 days to review a visa

petition; if you want a guaranteed review of 15 days or less, you will need to pay a premium processing fee of \$1,225 (as of November 23), in addition to the basic filing fee. If all goes well, you'll get an Approval Notice, but the USCIS may deliver a Request for Evidence, asking for more materials to justify your petition. This will add upwards of a month to the process. After the re-review, USCIS will either approve or deny the petition. Denials can, and do happen. In that event, your best option is to file a new petition and try again.

Allow plenty of extra time for Step Two: the

artists' applications to the U.S. consulate. Depending on the consulate, a visa appointment may be available in as little as three days; it can also take up to three months. (Approximate wait times for appointments at every consulate can be found on the State Department's website at www.travel.state.gov.) If all goes well, a visa may be issued the next day or in a few days. Like everything else, however, processing times vary greatly from consulate to consulate. Any element that arouses the consular officer's suspicion — past arrests, visits to any country deemed a terrorist threat — can delay the process, usually by 30 days or more.

In short, the more time you can allow, the more time you will have to deal with delays, mistakes, and unexpected complications. Visa petitions can be submitted to USCIS up to a year before the first engagement date. Waiting until a few weeks before an engagement to submit the petition to USCIS or assuming that a consulate will be able to schedule appointments when convenient for the artist will only lead to disappointment.

The Visa Petition

Any U.S. citizen, organisation, or permanent resident (green card holder) can file a visa petition. A presenter or an agent/manager can serve as the petitioner; so can an American ensemble engaging a foreign artist. If an artist

will be performing a tour, then any one of the presenters on the tour can be the petitioner on behalf of itself and the others. Each of the tour presenters however, will have to submit a form authorizing the petitioner to act on their behalf.

The petition must demonstrate that an artist's skills (for "O" visas) or an ensemble's level of international recognition (for "P" visas) justify working in the U.S. These requirements demand a fair amount of supporting evidence: documentation that the artist or group has performed at prestigious venues, received significant awards, garnered critical acclaim, released successful recordings, or received the praise of experts. All of this will end up in front of the USCIS officers who review visa petitions. Never underestimate their ignorance of the music field! Most USCIS examiners are unfamiliar with the performing arts and do not listen to jazz or classical music. (Once, when the Metropolitan Opera applied on behalf of a singer, a USCIS officer famously argued that the petition didn't specify where the house was located or provide evidence that it was a distinguished venue.)

Far too many petitions are denied because the petitioner didn't submit enough material. The artist's biography and handful of newspaper articles printed from a website will not be enough. It is essential that a petition not merely list an artist's accomplishments, but explain — in excruciating detail — the significance of each. If

an artist has won an award, explain why the award is significant. If the group has performed at a prestigious festival or concert hall, explain that only distinguished artists perform there. If necessary, include letters from experts in the field supporting your arguments.

A prominent artist management company reacted in shock when one of its petitions was recently returned with a Request for Evidence. But a quick review of the petition revealed the problem: the company had provided the necessary forms, engagements dates, signed contracts, and even a lovely biography of the group, but only three newspaper reviews (in Dutch) and no other supporting evidence. The moral: you should provide as many programs, reviews, articles and CD booklets as you can. And everything must either be in English or accompanied by a translation. In short, imagine your petition will be reviewed by a 10-year-old who has been raised by wolves. If such a child wouldn't conclude that your artist is distinguished, don't assume that a USCIS examiner will, either.

Visa petitions are approved for specific lengths of time — called "classification periods" — during which the artist will be permitted to enter the U.S., perform, and then leave. The length of the classification period depends on the number of engagements and the type of visa. A petition can be submitted for a visa to cover a single engagement or a tour of multiple engagements — up to three years for an O visa and one year for a P visa. The petition must include an itinerary that lists and identifies each engagement, as well as a written confirmation of each engagement. While signed contracts are preferable, you can also use emails, letters of interest, holds, deal memos, and confirming memorandums.

If there are significant gaps between engagements (usually more than 60–90 days), the USCIS may not approve the full classification period requested. If the group has a series of engagements in September and no other dates until March, the approved classification period will probably cover only the September dates. A new and separate petition would then have to be submitted for the March dates, requiring another trip to the consulate for new visas. A group can, however, add or delete engagements throughout the classification period.

Applying At The Consulate

Once the petition is approved, the artists must schedule an appointment at a U.S. consulate. Each and every artist listed on the visa approval — whether it's the four members of a string quartet or 80 members of an orchestra — will need to go through this process: filling out an application form, making an appointment and

going to the consulate for an interview. The application form demands extensive, sometimes invasive personal information: parents' and siblings' names, professional affiliations, social clubs and groups, military services, criminal records, medical conditions, prior visits to the U.S. The artists will each also have to pay a visa application fee, typically \$100–\$200. Although every consulate has its own procedures and policies for making appointments, paying fees and submitting applications, it's generally done online through the consulate's website. (The State Department's website has the URLs for individual consuls.)

On the day of the appointment, each artist will be interviewed by a surly and brusque consular officer. Depending on the situation, the interview can last anywhere from a few seconds to several minutes, with the officer asking questions about the artist's background, professional experience, planned engagements, or any other information drawn from the application. While the USCIS examiner is charged with determining visa eligibility and classification periods, the consular officer is charged with determining whether an individual has filed a fraudulent petition or poses a security threat. This is where past indiscretions can jump up and bite. A background check on an Australian musician once revealed a past disorderly conduct arrest: when he was 18 he climbed a water tower and dropped his pants. It added a 60-day delay to the process.

After the interview, the artist will be sent away to await a determination. Regardless of whether or not USCIS has approved the visa petition, the consulate has broad and unfettered authority to deny a visa for any reason — or no reason — and while the artist can reapply, the decision and whims of the consulate are not appealable.

Getting In

Step Three — entry into the U.S. — presents another hurdle. Even after the consulate issues the visa, the decision whether to admit an artist into the U.S. is made at the discretion of the CBP officer at the point of entry. It is unusual for a CBP officer to refuse entry. But it can happen if an artist says something inconsistent with the visa category or classification period. For example, a member of a chamber ensemble was once denied entry when he told the CBP officer that, in addition to performing with his group, he had been engaged to perform as a soloist: solo performances are not allowed on a P visa.

Despite all of the challenges, far more succeed in obtaining visas than fail. The best way to

guarantee positive results is to take the time to understand the process. There are no shortcuts, no easy answers, and no simple tricks. In fact, the tiniest mistake — such as signing a form in black ink, as opposed to the required blue ink, or failing to disclose prior criminal records to the consulate — can lead to a rejected visa. But armed with information, patience, thoughtfulness, and discipline, artist visas can be relatively easily obtained—and the doors to international artistic collaboration can remain open.

Don't Be Sneaky

Considering how complicated and frustrating the visa process may be, you might be tempted to try to get around it: advising artists to enter and perform as visitors. Two problems: it's illegal, and it doesn't necessarily work. Take the case of a Canadian jazz musician who never bothered to get a visa for his U.S. engagements. For years, he got away with it. But earlier this year, a CBP officer got suspicious when he noticed the musician traveling with his instrument. Before letting him through, the officer Googled him, found all of his upcoming U.S. gigs, and sent him back. In this case, the artist just lost out on his bookings. But others have been barred from the U.S. for three to five years.

Further Research

I could only offer a sketch of the visa process in this article. A thorough understanding of the subject requires research into its nuances and variances — how to obtain visas for technical and support crew, restrictions on travel for artists from certain countries, the applicability of U.S. taxes and other matters. Meanwhile, just when you think you've mastered the subject, USCIS and the consulates can peremptorily change rules and regulations.

Fortunately, the website Artists from Abroad (www.artistsfromabroad.org) offers a definitive navigational guide to the visa process. Maintained by the League of American Orchestras and Association of Performing Arts Presenters, and regularly updated by my law firm, FTM Arts Law (www.ftmartlaw-pc.com), it contains an exhaustive analysis of the entire process, including filing instructions, tips, strategies, FAQs, sample forms and petitions, timelines, fees, and links to consulates. You can also visit our blog, "Raising the Curtain", at www.ftmartlaw.blogspot.com, where you can find regular updates, commentary, news, ideas, discussions, issues, strategies, solutions, opinions, and legal developments on US visas and other legal issues which we feel are important to the arts and entertainment industry.

In memoriam:

William Goffe



It is with great regret that Ingpen & Williams announced the death of William Goffe on Sunday 17th October. William had been a director of Ingpen since 1976 and in his capacity as company accountant had devoted a large proportion of his

working life to the dedicated service of artists. He was described by the Ingpen directors and staff as "a huge personal loss to all of us within the company: William was very present in our lives and he set a standard of personal and professional integrity to which we could all aspire. We offer our heart-felt condolences to his wife Ruth, his son Rupert, his daughter Emma Rose and his grandchildren Ben Robin and Bluebell."

He was diagnosed with terminal cancer in the summer of 2009 and since taking early retirement at the beginning of September 2009 was able to lead a full and normal life until the last few weeks.

Byron Gustafson



Opus 3 Artists announced the death of Byron Gustafson who started his career in artist management with Lee Lamont (ICM) in 1978. In 1987 he became the first director of ICM Artists newly established touring division, a position he held for

the next twenty-two years. Under his direction, touring activities grew significantly to include some of the world's foremost symphony orchestras. As an artist manager, he also guided the careers of such distinguished artists and was respected greatly by all. In 2006 he played a crucial role in organizing the buy-out of ICM Artists from its parent company International Creative Management, which then became Opus 3 Artists LLC. He was Managing Partner of Opus 3 Artists and retired in November 2009 due to complications arising from Amyotrophic Lateral Sclerosis. As Managing Partner Emeritus, he continued to serve as a consultant to Opus 3 Artists. Byron Gustafson died on Monday, November 22, 2010 at his home in Manhattan.



A bit on the side...



Photo credit: Steve Sherman

We asked Rachel Bowron to give us an insight into managing artists... with a bit of tongue in cheek and a lot of sense. Her response was "you must be joking..." but she was persuaded — eventually. Who says we don't manage the managers, Mmm?

Anticipation or manipulation?

Not too long ago a performing arts institution in the States was battling an internal lawsuit. Several of my agency's clients had been engaged there and some, but not all, had been subpoenaed to provide testimony. One of the conductors I represented, one with a flourishing career, was on the deposition list.

Another conductor, who had done far more work with the institution, was not called upon. Perhaps you, like me, assumed the lack of complicity in a lawsuit as a good thing, but obviously this is not so with conductors. Not being called to give evidence clearly bothered this maestro. The imagined sleight was made clear, at some length. The individual believed there was a long and loyal relationship with the organisation, and agonised over why a conductor with less of a connection would be called to testify.

Now, part of one's job as an agent is to anticipate perceived conflicts and guide artists accordingly. To deflect these conflicts before they consume time and energy. Successful agents are schooled in the skills of avoidance, deflection and when in dire straits use tactics such as simply changing the conversation before

the hard questions can be asked! These skills come pre-installed (batteries included) for the very best. Even with these skills this injured party and his line of questioning really caught me by surprise and after a short 30 minute tirade my job description had been re-written. Along with increasingly prestigious conducting engagements I would supply the most prestigious lawsuits!

So how do agents anticipate?

We all possess the simple ability to put ourselves in our artists' shoes and to view life from their perspective (this is quite short and sweaty in some cases). You anticipate what they'll play, where they'll play it and with whom, whether they'll enjoy the collaboration and whether they'll want to return — you'll even anticipate the reason for return especially if it's only for a good fee or because the climate is good. The list goes on and you do it every day, presenting options and gently persuading this way or that. Some might call this manipulation, but I prefer anticipation. And we leave the impression that it is always the artists' choice.

One of my first clients had a limited palate and I could anticipate his order for post concert dinner — in fact I often ordered by phone *en route* to



sometimes what toppings he's anticipating.)

But perhaps we're a danger to ourselves if artists may unfairly expect us to anticipate everything. Like an ash cloud. Can agents really be blamed for not anticipating this? I'm sure some of you took the brunt of much frustration, at least initially. The crucial difference is that you had no control over the ash cloud, even if it could have been anticipated.

So perhaps we should stick to what we know and only focus on areas where we can actually make a difference to the outcome — I'll take music and ham with extra ham pizza and leave the lawsuits and volcanoes to somebody else.

Rachel Bowron, December 2010