

Some symphony orchestras hold periodic concerts for which musicians do not receive wage payments. Instead, the proceeds of these benefit concerts, also known as “donated concerts” or “pension concerts,” are used for various purposes set forth in the collective bargaining agreement, such as making a contribution to the American Federation of Musicians and Employers’ Pension Fund (AFM-EPF).

Proceeds Towards Existing Pension Obligation

If the collective bargaining agreement provides that donated concert proceeds contributed to the Fund will be credited towards the *existing pension obligation* set forth in the collective bargaining agreement, the Fund will accept the proceeds. (For example, the collective bargaining agreement requires contributions to be paid in the amount of 8% of scale wages, and the proceeds of a donated concert are contributed to the Fund to satisfy the 8% pension obligation.)

Contribution In Addition to Existing Pension Obligation

If the collective bargaining agreement provides that the donated concert proceeds contributed to the Fund will constitute a contribution *in addition to* the existing pension obligation set forth in the collective bargaining agreement, the Fund can accept the proceeds only if certain requirements are met. Under Section 1.10 of the governing plan document, “[c]ontributions shall be based only on scale wages earned by Participants.” The employer may not contribute the proceeds of a donated concert to the Fund with the directive that the contribution is to be divided equally among all musicians, because in this circumstance the contribution is not based on scale wages. Instead, the contribution must be allocated to musicians based on an identified amount of scale wages.

Side Letter

In order to allocate proceeds from donated concerts based on scale wages, the collective bargaining agreement or a side letter agreement must specify the wages on which pension is to be based, which may be wages from any past performances. Keep in mind that contributions are due to the Fund no later than the end of the month immediately following the calendar quarter in which the services occurred, so to avoid late fees the parties should limit the wages on which the additional pension will be based to wages for performances in the same calendar quarter as the one in which the donated concert occurred. An example of a side letter acceptable to the Fund is set at right.

ated Concerts”

Fund Welcomes New Trustee

Agreement

The _____ (the “Employer”) and the Local ____, AFM (the “Union”) hereby agree as follows:

In addition to the contributions set forth in Section ____ of the collective bargaining agreement between the Employer and the Union, the Employer shall make a pension contribution to the American Federation of Musicians and Employers’ Pension Fund (the “Fund”) in the amount of **(insert amount)** with respect to wages earned for the performances on **(dates of performances)** (“Performances”). The contribution will be paid to the Fund no later than the end of the month immediately following the calendar quarter in which the Performances occurred, and will be allocated among all musicians who earned wages for the Performances in the same proportion that each musician’s wages for the Performances bears to the total wages earned by all musicians for the Performances. A list showing each such musician, and the wages earned for the Performances, is attached hereto.

Unless a contribution for a donated concert is accompanied by a side letter in this form, the contribution may be returned to the employer because it is not made based on scale wages.

The newest addition to the Fund’s Board of Trustees is AFM Local 47 President Hal Espinosa, who replaced outgoing Trustee Bill Peterson in April, 1999.

Before becoming President of Local 47, Hal served as the Local’s Vice-President for two and a half years, and was a member of the Local’s Executive Board for three and a half years before that.

Hal has worked as a freelance musician in Los Angeles in all venues of the music business — from the “pit” orchestra (Broadway shows) to movies, television, jingles and recordings. Earlier, he worked as a musician in Las Vegas for many years and traveled with a number of bands including those of Woody Herman, Tommy Dorsey, Buddy Morrow and Maynard Ferguson. He also served in the U.S. Army for two years. While working with Les Brown and his Band of Renown, he traveled with Bob Hope to military bases all over the world for four years entertaining the troops.

Hal graduated from Arizona State University with a bachelor’s degree in Education. He is married and has two adult daughters.

“In the short year that Hal has been a Trustee, he has proven to be a valuable asset to the Board, and the Fund is fortunate to have the insight that his experience as a professional musician provides,” says Fund Executive Director Maureen Kilkelly.