

April 2008 FMSMF Newsletter

State of the Secondary Markets Fund

By Dennis Dreith – Fund Administrator

Now that we have closed out the 2007-08 fiscal year (the Fund operates on a year that runs from April 1 through March 31) and are busy preparing for the annual distribution on July 1, this seems an appropriate time to report on the Fund's activities throughout the past year, take a look at the health of the Fund, as well as to look to where we are headed.

This past year has certainly been interesting, and not one for the faint of heart. The U.S. economy has continued its slump with the U.S. dollar declining to unprecedented lows in comparison to the Canadian dollar and to our international trading partners. Wall Street has been a veritable roller coaster ride featuring mostly "heart in your mouth" plunges.

The entertainment industry endured a protracted and costly strike by the Writers Guild that resulted in a ground-breaking settlement that will most likely have far-reaching implications for a multitude of entertainment industry workers. DVD sales continued their decline, sending ripples of uncertainty throughout the industry's collective executive suite. Some new companies have come, others have folded. Mergers and acquisitions abound amid concerns about the impact of globalization and hopes that new technologies will provide long-term salvation.

In the midst of all this, and despite yet another year of significant declines for the motion picture studios in the home video market (mostly DVD sales), **the Fund ended its fiscal year with a record high of more than \$82 million in contributions.**

You are no doubt asking "How is this possible?" The answer is very simple: the number of pictures scored under the AFM motion picture agreement is steadily increasing. While we have seen a gradual decline in television employment, both in terms of the number of musicians

employed and the number of AFM covered programs, employment under the motion picture agreement has been steadily on the rise for the past three years, especially for low-budget and independent films. The increases to the Fund we are experiencing are due in large measure to the success in capturing these areas of production since the last round of bargaining between the AFM and the AMPTP (Alliance of Motion Picture and Television Producers). In fact, even though the film industry has been releasing fewer films overall annually during the last few years, the number of films scored under the AFM has increased: the number of new films from which first-time payments are coming into the Fund is at an all-time high.

The increase in the pictures scored under the motion picture agreement is also driven by the current weakness of the U.S. dollar. When considering the cost savings of the various low-budget agreements and the exchange rate, many Producers have concluded that the savings realized by scoring here in the U.S. under the AFM agreement offsets a substantial portion (and in some cases, 100%) of the entire payment obligation to the FMSMF.

In short, the Fund's increase in revenues is being driven by a robust mix of low budget and independent films, big studio "tent-pole" projects, and dozens of foreign films that are actually "running away" from Europe and Australia to record here in the U.S. This trend first became evident over the last two years, although its full effects are only now apparent. As I reported in August 2007, the large number of significant box office hits as well as the aforementioned independent and foreign films scored this year by AFM members led me to optimistic projections regarding next year's distribution. In retrospect, this cautious observation was, happily, quite an understatement!

Who Benefits?

Last year, the Fund made payments to about 18,000 individuals, including scoring musicians, music prep personnel, sideline musicians, phono new-use musicians, and beneficiaries. Of these individuals, more than 2,000 received in excess of \$2,500 (the amount mandated by the last AFM Convention as the threshold upon which to pay work dues on the distributions from the Fund). Many of these musicians have been retired for many years, demonstrating the long-term economic value of the Fund to its participants.

New Technology/Where Do We Go From Here?

I have received numerous calls, both leading up to and following the Writers Guild and Directors Guild negotiations, asking if internet use of filmed product is covered by the current motion picture agreement and how (or if) internet uses will be monitored and paid.

The answer depends on whether the product in question was produced under the motion picture agreement and is now being made available for streaming or downloading, or was made initially for the internet. The Fund's position is that any internet use of product produced under the motion picture agreement is a supplemental market use, and the supplemental market provisions in the motion picture agreement apply to any identifiable "Producer's gross" from that internet use. (Of course, even the amount to be included in Producer's gross is subject to interpretation and negotiation.) Product made originally for the internet will undoubtedly be the subject of bargaining between the AFM and AMPTP over the successor to current motion picture agreement, which expires early next year, (and will most likely be dealt with by the AFM on a case-by-case basis until that time).

In any event, there should be no doubt that these new and/or discrete supplemental markets will change the way we acquire and view content.



New Beneficiary Policies/New Forms

By John Felikian

In an ongoing effort to better serve our musicians and their beneficiaries, the Film Musicians Secondary Markets Fund has made some much needed changes to its beneficiary designation policy.

When Dennis Dreith took over as Fund Administrator some nine years ago, one of his primary tasks was to correct what he viewed as an injustice to musicians and their beneficiaries. Under the old beneficiary policy, beneficiaries were prevented from designating their own beneficiaries. In essence, once a beneficiary of a deceased participating musician died, distribution of his/her funds ceased -- in effect, closing the account. Dennis never believed this policy to be fair and decided to make some changes. So, within the first 24 months of his administration, he devised a solution: give beneficiaries the option of designating their own beneficiaries - a beneficiary of beneficiary designation, or BOB, if you will.

As you can imagine, a change of this magnitude has had seismic repercussions. Hundreds (maybe even thousands) of closed musician accounts will need to be reopened. Over the past several months, the Fund has been hard at work reopening accounts that were closed for years due to this limiting policy. Although an epic task, we have every confidence that the Fund will be able to locate the rightful beneficiaries for these closed accounts.

In addition to bringing about a fair and equitable beneficiary policy, the Fund has given a much needed facelift to both its musician and beneficiary designation cards. These updated cards will be considerably easier to follow and understand.

- If you would like to update your musician beneficiary designation card, please visit the musician resources section on our website at www.fmsmf.org. This section will provide you with information on how to obtain a new musician beneficiary designation card.

- If you are a beneficiary, and you would like to update your beneficiary of beneficiary card (BOB), please contact me at the number listed below. All requests, for new musician beneficiary designation cards or beneficiary of beneficiary designation cards (BOB), must be made in writing.
- If you do not have internet access, please contact me, John Felikian, Beneficiary Claims Specialist, at (818)755-7777 ext. 833, for alternate instructions.

On a final note, changing the old beneficiary policy does more than just extend the life of a musician's residuals - *it extends the life of a musician's musical legacy!*

Are You Up To Date?

If you have had a change of address, marital status, beneficiary designation, withholding information or would like to start or terminate direct deposit status, you need to inform the Fund soon. **The deadline for direct deposit enrollment as well as all address/ tax/beneficiary/BOB updates is June 1st, 2008.** If you are registered for online access, many of these changes can be made directly in the Private Area Members Section, at www.fmsmf.org

Some changes require **back-up documentation and/or signatures** and therefore may be made only by snail-mail, fax, or in person. Please check the website for all available information. Please contact the Participant Services Hotline at (818) 623-4300, or at its new toll free number: (888) 443-6763, if you need additional assistance.

Please keep in mind that the Fund does not pass this personal information along to any other entity. As a result, to ensure that your most up-to-date information is on file with any AFM local union of which you are a member, the AFM-EP Fund (800) 833-8065, the Sound Recording Special Payments Fund (212) 310-9400, or any other organization you must contact those organizations directly.



Media-Related Events and the Hollywood Green Team

By Scott McKinlay

Spring is in the air and the Fund is in full swing on several new as well as on-going community-based projects. Our active involvement in the “*green cause*” that Hollywood seems to have embraced recently is evidenced by the enhanced profile of the **Hollywood Green Team** (www.HollywoodGreenTeam.org), an organization that was founded by Fund staff. Also, the Fund has recently launched our own aggressive internal “green-the-office” initiative, so, green is in the air around here. We are proud to be doing our share to minimize our carbon footprint. In addition, the Fund continues to encourage participants to go green with our on-going “Go Paperless” campaign. In addition, this past month, the Fund was an active participant at the Green Media Summit (www.greenmediasummit.com), a unique, invitation-only event that was attended by every film studio in Los Angeles and is also the first event of its kind anywhere in the country.

The Fund is also planning, once again, to help program the **Malibu Celebration of Film** (MCOF). Last year, the Fund sponsored a screening of the 1919 classic silent film *Heart O' the Hills*, starring Mary Pickford that featured the live performance of an original score composed by Maria Newman. Following the screening was a Q & A with the composer and musicians moderated by Fund Administrator Dennis Dreith. This event was held at the prestigious Smothers Theatre at Pepperdine University, where plans are already in place for bigger events for this September's MCOF.

This year, the Fund is also assisting the **Los Angeles United Film Festival** (www.launitedfest.com), as well as continuing our participation with the **Columbia University/ASCAP Film Scoring Project** and is again planning to participate at the **Tribeca Film Festival**.

There are several other exciting, high profile events in the works...the upcoming Toronto Film Festival and the American Film Market among them.

Participation at the highest levels at these events would normally be cost prohibitive. However, the Fund has been able to mitigate these costs by

employing innovative concepts such as sponsoring recycling programs as well as partnering with Fund related organizations to share the costs of sponsorships. As a result of creative networking and by offering information and leadership, most of these costs have been significantly reduced and in some circumstances virtually eliminated—a noteworthy accomplishment in a business era when money often is the single prerequisite for entrée into many of these events.

We remain fast-at-work keeping valuable scoring information available through our website (www.fmsmf.org) and will continue to assist film musicians and everyone in the entertainment community to make...*Great Film Scores...Great.*

Please contact Scott W. McKinlay, Director, Community Relations for more information on anything listed here or if we can assist you or your organization in any way...

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now playing

Film Musicians Secondary Markets Fund or **fmsmf.org**

**It beckoned from cyberspace!
It knew all about...**

...unclaimed checks!

...obligated titles!

...information for musicians and producers!

"Better than A Phone Call!" --Film Musicians Illustrated

HR HIGHLY RECOMMENDED
recommended for all internet users

HGT
HollywoodGreenTeam.org

Film Musicians
Secondary Markets Fund
www.fmsmf.org