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Letter, 1955 May 4, from Stanley Adams to Members

Stanley Adams

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AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS
575 MADISON AVENUE
NEW YORK 22, N. Y.



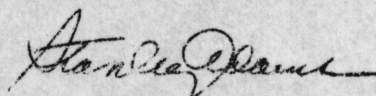
#6654
May 4th, 1955

TO ALL MEMBERS

At the last General Membership meeting, the membership was advised of the regulations concerning licenses issued to users by members of the Society, and the treatment of works written in collaboration with non-members who have granted their performing rights to the other licensing organizations.

There is enclosed a copy of the regulations, which I believe you will find self-explanatory.

Sincerely yours,



Stanley Adams,
President.

Enc.
A:fj

Dear Fellow Member:

In my last speech at the General Meeting of ASCAP, I promised to send you a copy of that speech. After that meeting I was called to conferences at ASCAP to discuss rectification of the inequities which I had pointed out. These meetings produced nothing. Our system of distribution and election is as unfair and undemocratic as ever. As I predicted years ago performance royalties are becoming the major income of writers and publishers. We can no longer permit a small group to be in control of our income and our rights to vote. Our very livelihood is at stake. Therefore I feel it my duty to give you this shortened report.

Twice ASCAP had to sign a Consent Judgment when our government took action to eliminate unfair practices of ASCAP's administration. To water down the demands of the US Government for objectivity, attorneys were hired and paid hundreds of thousands of dollars out of our income. After the last DECREE, a new distribution system had to be installed. The voting system was left the same with the explanation that the members of the board came from different income groups.

Most members in the middle and lower classes lost all or a large part of their income. The board blamed this disaster on the Justice Department and caused us to write letters of complaint. I can now state, that the unfair features of our system were installed by our board. Our Government was and is concerned with the basic democratic principles of a fair and objective method of distribution and election. Our letters were misdirected.

Now I am convinced that the Redd Evans group by going to Washington, performed a service for every ASCAP writer and publisher (except a small group.) They neglected only to see to it that certain safeguards were put into the Consent Decree, to prevent twisting of its basic principles.

A few years back, hundreds of you urged me to lead the fight against prevailing inequities. You may recall the circular I mailed, the special General Meeting that the Board had to call because I had enough of your signatures, and that at this meeting a Lengsfelder Committee was appointed to sit with the Classification Committee. While some of the members whom I nominated are unselfish workers, I admit the error of choosing some that were not equipped to handle this responsibility-laden job. My other mistake was in not including some publishers. (These errors will be corrected: I am already in contact with publishers who feel that their existence is just as much threatened as the writer's.)

I was given access to some files. I found inequities beyond my imagination. When I came up with an analysis I was quickly barred from the books.

There is supposed to be a 95% machine-worked system. I found that the machines were started on figures by which a small minority would benefit, that some members received an average of 2 cents per performance, while others received \$ 2.73. (Details and names are in my possession.)

I maintain that ASCAP's systems are biased, undemocratic, inequitable and violate the Consent Decree as well as the copyright law.

SENIORITY (Accumulated Earnings) Aids mostly old members but only in the top classes. With more AA quarters added every 3 months to the income of these members you can figure out when practically all of this money will pass into the hands of a small group.

AVERAGES controlling most of your income: The sins of the old classification system were incorporated into these figures to help certain members. While everybody had to compete with high performance members, the top group protected themselves by putting members with very high performance figures in separate classes. Thus assuring themselves small or no decreases.

Every year the Classification Committee meets to adjust these cockeyed figures. In September 1954 we had natural averages that looked like this:

Members in Class 25 had to make 1184 performances to stay in this class, members in Class 40 up nearly double, had to make only 1.090 performances to stay. Members in Class 60, had to make 3.066 while up nearly double in Class 110 they needed only 2.629 performances. In Class 155 members needed 8221 performances in Class 200 however they needed 4975. In Class 295 they needed 15674 performances compared to 8680 in Class 300 and 9758 in Class 425. In Class 550 you need 15637 performances (less than in Class 295!!!) but in Class 565 you needed 38.495 performances. Class 640 took 43.671 performances, compared to 30.240 in Class 650 and 23.152 in Class 675.

I could shock you with more, but I will simplify it by saying that one member needed about 22 performances to make one point, another needed 127 to make that same one point!!!

PERFORMANCES (affecting writers as well as publishers) About a year ago (it hasn't much changed since) ASCAP was logging network performances 100%. Networks provided only about 20% of our income. There are about 3.000 radio

stations that had contracts with us. About 39 on a per program basis. We were told that 100 blanket license stations are being surveyed. After I complained to our Board I was informed that the number would be raised to 140. I found this to be a very misleading statement. We are actually surveying only ten stations or at present 14 at a time and only 2 1/2 hours a day... This actually means only about one station 24 hours a day, ONE station out of 3000... A 100% logging for 20% of our income and less than 5% logging for 70% of our income. No logging of local TV stations at all. I went out on my own and tallied bigger stations in each of the 48 states. I found about 3000 performances in one case. ASCAP logged one... So don't let them tell you that you just haven't any performances. I am convinced that most of you had performances. Millions have again gone to the wrong people.

Today the music business runs on records. But ASCAP, to the advantage of a few big publishers on our Board, neglects to tally the thousands of stations on which our active writer's and publisher's works are being performed every day.

You can understand now, why you hear the oldest songs of our boardmembers on Network shows (which nets the publishers an added seniority and availability income of 45%.)

While BMI gives its publishers subsidies for activities, we penalize our small, middle class, and new publishers. I might even say, every publisher who is not on the Board, ASCAP denies them their hard-earned performance money.

No writer and no publisher can score a hit with every song. They must have a chance to recover part or all their investment if they are able to promote enough performances. It is not up to our Board to decide which performance should get paid for and which not.

Upon request of some Board members I have submitted some sound ideas for unbiased logging without increasing costs. (Copy enclosed.) This I did on May 7, 1954. To date there has been no action.

VOTING SYSTEM Publishers have one vote for each \$ 500.- received, writers for each \$ 20.- The bulk of publisher's royalties goes to the members of our Board. Some receive in excess of 1 Million Dollars a year. This group outvotes all other publishers combined. While our writer's income is not that high, the basic situation remains the same. This self-perpetuating board controls many rules, which determine the income and with the income they control the votes. Any matter you would wish the members to vote on, can be blocked by our board.

Here too I was asked to submit my ideas. (See enclosure.) Today I feel that these suggestions were too much of a compromise. Every other society like ours gives one vote to a publisher and one to a writer. They run successfully and efficiently. ASCAP is a collecting agency and not a commercial corporation and we are not shareholders.

THEME SONGS I had occasion to experience the objectivity of our classification committee. All the rulings are made in the interests of a small group. Many members have agreed with me in challenging the right of our board to distinguish between a new song and an old song. If theme songs hurt our logging system then let us give a fraction of a point as credit for it. No matter how small, AS LONG AS IT IS THE SAME FOR EVERYONE.... No committee should have the right to decide which song should get full credit. I can prove how prejudiced such decisions can be.

UNSPECIFIED EXPENSES I became very interested when I heard about a \$ 25,000 grant to the widow of a board member. This was a fine gesture--- but how about the other widows in ASCAP??? There were other large expenses which I wanted to know more about. It is my belief that any member is entitled to examine the expenses, since they are deducted from every member's income. I was shocked to learn that such knowledge was denied me.

In the past we were able to obtain minor concessions from our Board, in no proportion to the efforts, aggravations and time spent by some of our Committee members. This, after substantial amounts of royalties were lost by the majority of the membership. I advocate that we introduce a different way of thinking: Members who have lost royalties through systems arbitrarily imposed on us by the Board, should be reimbursed retroactively. Writers become important as a window decor when ASCAP gets involved with our Government. Even the pitiful income of the rank and file writers and publishers is emphasized. It is high time that somebody explained to Washington why the income of most members is so small while a handful of publishers get yearly ASCAP royalties going into six and seven figures...

We all owe a sincere "Thank you" to the Honorable Philip J. Philbin, Congressman from Massachusetts who, when introducing a bill to place the jukeboxes under the Copyright Act, said: "I am very friendly disposed toward the great music industry. I am eager to see it prosper and grow in every legitimate way. But in view of many evidences of gross abuses, flagrant injustices, ruthless methods and monopolistic patterns, I am again urging its leadership to clean house and banish these unjust practices of its own motion before the Congress is constrained to apply drastic remedies that may occasion more or less rigid control of activities that are violative of good conscience and equity, and contrary to public interest."

I agree: Let us try to clean house...

I propose that all writers and publishers who intend to make a livelihood out of music join me to protect our rights in ASCAP.

Enclosed is a card-questionnaire. Please mail it back to me. Since some of my addresses may be outdated, pass your copy on to any other writer, composer or publisher. Ask him to fill out a card and mail it to me. If you are a writer and publisher, please fill out separate cards for each group. Herman Finkelstein has sent us a circular "THESE THINGS ARE MINE".

So be it !!! For a better, stronger and a democratic ASCAP,

Cordially yours

H.J. Lengsfelder
H.J. Lengsfelder

Changes in Logging and Voting, submitted by H.J. Lengsfelder

5/7/1954

An effort should be made to obtain as many full-time log sheets as possible from local stations throughout the country. Since most of these stations submit programs to BMI free of charge, a small discount to them should enable ASCAP to receive copies.

These programs should be handled by a program committee to be formed. The programs should be separated according to states and then divided into three groups of stations according to fees paid to ASCAP. The program committee shall meet regularly and draw (if necessary blindfolded) at an open meeting, from each of the groups in each state a certain amount of programs.

The performances found on the drawn programs shall then be multiplied by the amount of stations in the respective group and state.

Network performances should be logged as now, but credited only with the pro-rata amounts as paid by the networks. (Today about 21%).

The results will be as fair as we possibly can come with any survey. Even if some program directors should try to send slanted performance figures it will be immaterial, because only fractions of programs will be chosen.

This system will practically eliminate "PAYOLA" since no member will know in advance which station or program will be chosen. Unlike in our present system by which royalties for certain network performances, known to some members, are kept unjustly high, bribes will become unprofitable.

The present system of wire recorded sampling is not fair and not practical.

1. These recordings are being made by employees of ASCAP or by firms of which our big publishers are subscribers.
2. Station and time has to be known in advance.
3. Many selections cannot be identified by our employees.
4. If conducted on the large basis that would be necessary to be fair, it would be too costly.

Suggested is a fairer voting system for publisher and writer members through which - in proportion - the interest of the higher income brackets will still be protected. For instance:

Publishers receiving yearly from \$	900.000 upwards elect	3 members
" " " " \$	500.000 to 900.000 "	3 members
" " " " \$	20.000 to 50.000 "	3 members
" " " " under	20.000 "	3 members

A similar breakdown - of course with different figures - to be used for writer members.

Each group should vote for its candidates by one vote to each member. Thus the old complaint will be eliminated, "that even lower income class members on the board are being sent there only by the many vote carrying members of the top classes, and that therefore these members are subject to pressure by these few constituents or colleagues on the board."