

I am dismayed by these legal actions directed at the American Guild of Organists. In the first place, the idea that, given the extraordinary ethical morass we see in Washington these days, the FTC (supported by MY tax dollars) wishes to go after an organization supporting church musicians boggles the mind. Yet in reading through the “Analysis to Aid Public Comment *In the matter of the American Guild of Organists File No. 151-0159*,” it seems clear that the FTC does not understand the nature of the work that church musicians do, the challenges they face, and their relationship with the public and with the churches that employ them.

The complaint document states that:

The AGO's members provide services as organists and choral directors for a fee.

This is misleading. Most church organists and choral directors are employed by a church, and are paid a salary on which they pay the taxes that one would pay on any sort of salaried employment. Usually, in their work providing music for worship services, unless they are serving in some substitute capacity, they are not independent contractors.

Members shall obtain the approval of the incumbent musician before accepting an engagement for a wedding, funeral, or other service requested by a third party...

Often, weddings, funerals, etc. will take place in the church which employs an organist. Normally, the organist of that church would have the “right of first refusal” to serve as organist for this event. There are several reasons for this. 1. The organ loft is the organist's workspace, granted by the employing church. Normally, the organist is the one to grant permission to anyone who wishes to use the organ. Organs are complex and often very expensive instruments; it is rare that a church will permit anyone who wanders into the building access to the instrument. Is a church truly legally required to give permission to an outside musician to use its organ? Would this not be like some lawyer standing outside of a law firm, accosting clients and offering to do their legal work for half the price one of that firm's attorneys would charge, and then demanding to use that firm's office and its facilities as a work space? 2. Many churches employ organists but are not able to offer generous salaries. They will “sweeten the pot” by offering the organist “right of first refusal” to play for all weddings, funerals, and other such services at the church. Usually, an organist will negotiate a fee directly with the third party to keep the process simple. Is the problem that this is illegal? If so, is the solution to have the money filtered through a church bank account? There seems to be no advantage to this; it would merely create red tape and extra work for the church. Normally, if a wedding couple, for example, wishes to bring their own organist, they *request* permission, they do not *demand* it. I cannot see how they have a legal right to demand access to the organ for an outside musician.

The AGO adopted standardized documents relating to compensation, including fee schedules...

These documents are NOT INTENDED to discourage competition, they are intended as helpful information for all parties! A salary guide, for instance, is intended to help a church figure out what it is ethical to pay a musician and to help the musician know what he/she could ask for. There was NEVER any intent that if a church could not afford to offer a salary suggested by a salary guide that there would be any action against that church EVEN CONSIDERED by the AGO. The Guild is not a union and has no intention of acting as one. But it IS (and should be) interested in the best interests of its members.

First, it appears that the FTC does not take into consideration that most *church organists* are employed

by *churches*. Working for a church is a unique type of employment – very different from working for a business, corporation, or any sort of “for – profit” enterprise. Churches are non – profit, tax exempt entities. Churches typically have many members who, motivated by a desire to serve their congregation and serve God, are willing to work for their church without thought of financial compensation,. Because organists often work in an environment where many donate their work and services gratis, it is necessary to help the public understand that “church musician” is a *profession* that requires fair compensation.

Church organists are often highly skilled, highly trained musicians. A quick perusal of the church jobs listed on the AGO website reveals that the majority require a minimum of a Bachelor's degree in music, and many require a Masters and more. Yet that same perusal reveals that the salaries that are offered are very modest; most less than \$20,000 per year. The very highest salaries offered by the most affluent churches are usually less than what would be a starting salary in business. Now I seriously doubt that anyone ever thought to become a church organist believing it would be a good way to get rich. In fact, I'm sure that most organists are primarily motivated by a desire to serve. Yet it is simply true that the level of skill and education that are desired by many congregations does not match the salary offered. Why is this?

There are several reasons. First, many churches simply have modest financial resources and are only able to offer modest salaries. This is, of course, understood; no one expects or wishes a church to offer a musician a salary that it cannot afford to pay.

Second, there is a unique aspect of working for a Christian church that is determined by Christian teachings about wealth. Jesus teaches that “ye cannot serve God and mammon.” “Lay not up for yourselves treasures upon the earth... but lay up for yourselves treasures in heaven.” There can be a sense that if a church musician is negotiating for a better salary, he/she is engaged in behavior that is not Christian in spirit. Still, church musicians have families, dependents, and expenses like anyone else; it should not be assumed that, in this day and age, a church musician wishes to live a life of deprivation.

Third, and perhaps most relevant, low salaries are sometimes the result of a lack of understanding about what a church musician does. Many times over the years I have heard people comment that being a church musician seems like a great job because one would only need to work on Sunday mornings (and presumably would have the rest of the week free). People often don't understand that many hours of practice, preparation, rehearsal, research, administrative duties, etc. are necessary to be an effective church musician. This is why salary scales, sample contracts, and worksheets for calculating work to be performed are of value. Churches are often run by volunteers who do not understand what the profession of church musician typically entails. These AGO documents are intended to offer clarity, not in any way to hurt or take advantage of anyone, and certainly not to create any sense of competition.

In conclusion, I hope that the FTC can consider these points:

1. Church musicians, as a rule, earn very modest incomes. (I imagine the FTC has access to average salaries for church musicians). The idea that Guild members are engaged in some sort of competition or price fixing is absurd. It is clear that the FTC is viewing this profession through an inappropriate lens – a lens clearly intended for “for – profit” businesses.
2. In the past, the Guild has offered suggestions regarding appropriate compensation as HELPFUL INFORMATION for employers and those seeking to be employed in a unique and often

misunderstood profession. *The goal is fairness all around.* It is impossible for me to see how this “consent agreement” benefits anyone. Perhaps, for arcane legal reasons, the AGO documents need to be reworded or reworked, but it benefits no-one to force the Guild to be mute on matters relating to compensation.