

1 MUSIC ENTERTAINMENT TASK FORCE MEETING

2

3 September 29, 2010

4 10:00

5 Record of proceedings had in the meeting
6 of the above-entitled cause, taken before Susie
7 Shanahan, a Certified Shorthand Reporter and
8 Notary Public, in and for the County of Cook and
9 State of Illinois, at 9511 West Harrison Street, Des
10 Plaines, Illinois, on September 29, 2010, at 10:00
11 o'clock a.m.

12 PANEL MEMBERS:
 DAN McMULLIN
13 ALEC MESSINA
 WILLIAM BARNES

14 BOARD MEMBERS:
15 DAN REARDON
 MARK GREGA
16 BRIAN PANTHER
 KENT KAY

17 ALSO PRESENT:
18 MAUREEN CUNNINGHAM
 SHELLY KREVITT
19 A. JOHN STRINGER
 TAYLOR E. MUZZY

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1 MR. MITCHELL: Did everyone get a chance
2 to look at the meetings, the minutes to the
3 meeting? Any questions?

4 MR. GREGA: I'm going to move the minutes
5 as amended.

6 MR. MITCHELL: Second?

7 MR. REARDON: Second.

8 MR. MITCHELL: Mark. We'll vote. Anyone
9 object? Those in favor of the minutes?

10 {All say aye.}

11 MR. MITCHELL: Anyone opposed?

12 Okay. New business. A is
13 explanation of Pyrotechnic Insurance Coverage.
14 He's not here yet, correct?

15 MR. REARDON: No.

16 MR. MITCHELL: He's on his way. B who
17 provides technic service for the music industry.
18 I think he would fit into that category?

19 MR. REARDON: Yes.

20 MR. MITCHELL: Dan, who is he?

21 MR. REARDON: This is Ron Walker with Ron
22 Walker, NEK FX {sic} out of Montana.

23 MR. McMULLIN: We'll give you the floor.

24 MR. REARDON: I think for the most part,

1 I'm still looking at -- obviously the last meeting
2 we never got to discuss anything. So I guess
3 probably the best place to start is where you left
4 off last week which is where we were ready to
5 start.

6 MR. McMULLIN: All right.

7 MR. REARDON: The first thing that I see
8 on here is what we'll be talking about the most.
9 This committee is here to make recommendations
10 solely to who can provide pyrotechnic display in
11 parks and services in the music and pyrotechnic
12 industry in the state of Illinois. I think that's
13 what we need to talk about. Certainly, I can
14 start. You guys can start.

15 MR. McMULLIN: Go ahead.

16 MR. REARDON: Looking at the rules that
17 we have, looking at what it takes in order to
18 become a licensed person in the state of Illinois,
19 the licensing procedure is fair. It's easy, it's
20 obtainable. There's certainly not any
21 restrictions that would place into, like some
22 states require other operators to sign off, which
23 obviously is going to cause some sort of a
24 conflict of interest for an operator who is going

1 to sign off on a particular job when we designed
2 these rules and put them through before. We
3 looked at it with the public's best interest in
4 mind as well as in our industry looking at this so
5 that other states would be able to look at
6 Illinois and say that this is a state that you can
7 obtain a license, there's a procedure, anyone can
8 get it as long as they have ten shows, two as an
9 operator, take a test that they pass at 80 percent
10 and they work for a company that has insurance
11 which is the distributors. So I guess the main
12 thing that I have here is who else would be
13 providing pyrotechnic displays and pyrotechnic
14 services or than companies who are registered and
15 licensed in in the state of Illinois.

16 MR. PANTHER: Yes. That's kind of my
17 question as well. When the legislator created
18 this task force, I'm trying to get a better idea,
19 what were they asking us to look at? Are there
20 other outside parties that have expressed an
21 interest to the State Fire Marshall's office to
22 provide these type of services? If so, who are
23 they? What are they? If so, I agree with Mark, I
24 think the program that is in place now is

1 functional and it definitely serves a very valid
2 betting process. It establishes qualified and who
3 has an appropriate level of coverage to provide
4 the types of services that are called for and
5 specified in the regulations.

6 I guess I'm looking for some input
7 from the State Fire Marshall's office who else was
8 expressed an interest in providing these services?

9 MR. McMULLIN: Maureen.

10 MR. MITCHELL: Has anyone expressed any
11 interest to you as to who -- in answer to his
12 question, have you been approached from anyone
13 else?

14 MR. McMULLIN: Yes, I have, the stage
15 hand union.

16 MR. PANTHER: Okay. Specifically?

17 MR. McMULLIN: Want to know why they
18 cannot mount pyrotechnic devices or a product on
19 devices, why they can't assist.

20 MR. PANTHER: Well, they would be able to
21 assist if they were working as an employee of the
22 pyrotechnic distributor.

23 MR. McMULLIN: And that's what I told
24 them.

1 MS. CUNNINGHAM: Or production company.

2 MR. McMULLIN: Or production company.

3 MR. KAY: What about registered
4 assistants?

5 MR. McMULLIN: Registered assistant has
6 to go back to the company that's providing the
7 services.

8 MR. KAY: I understand.

9 MR. McMULLIN: I'm a registered
10 assistant. I have to be tied into Bryan's
11 company, Hi-Tech FX.

12 MR. PANTHER: Or any other company that
13 has a distributor's license.

14 MR. McMULLIN: Right. You have to be --
15 because that's the type of control so we know who
16 is aware. If you want our website, there's a
17 whole list of who is associated with what company.
18 There are people that are multiple companies that
19 are assistants with.

20 MR. REARDON: This task force, I suppose,
21 was created because there was -- I guess Maureen,
22 you'll be able to explain it in more detail, but
23 there were changes that were being proposed to the
24 rules as well as to the licensing act and the task

1 force was created out of, I guess, the fact there
2 was no agreements or approval of those changes.
3 So the production company add-on that was amended
4 to this so that someone who works for a movie who
5 doesn't have insurance the way the rules are setup
6 as a distributor in the movie industry, they
7 provide insurance for their special effects
8 company as well as for the cameras and the actors
9 and the stunt people and everything else. So when
10 the state and all of us distributors got together,
11 you're aware of out, you and I have had
12 conversations, that it is was production
13 companies, movies, it seems logical that some one
14 like a John Lund couldn't work because he didn't
15 have insurance. But through a movie who for that
16 small period of time that it's filming, does
17 insure him so that he could work. We made those
18 changes and then that was put into effect. This
19 tasks forc came out of that.

20 And I guess we're all sitting here
21 wondering why we're here at the same time since, I
22 wanted to speak up first because, I mean, we have
23 a system that's in place for the last five years
24 that's worked. We have, you know, 42, I think,

1 registered pyro op -- approximately op people.
2 There's 26 or 28 flame operators. If someone
3 wants a license, they can certainly can have
4 verifiable work experience, they do test work for
5 someone, they can get insurance. I hold licenses
6 in Ohio, Texas, North Carolina. North Carolina
7 just actually adopted almost verbatim Illinois
8 law. We created something from the beginning.
9 I'm proud of what we did here. It was fair. We
10 certainly, looking at states like New York,
11 California, they're incredibly difficult, almost
12 prohibited to have someone get a license. We
13 created something here that isn't as wishy washy
14 as some states are, call a friend and get a
15 license, but also not as stringent where you
16 cannot obtain a license. I Think what we created
17 is good. I don't know why we're here, but at the
18 same time, this task force is specifically, if you
19 look at the wording, it is specifically about the
20 music entertainment industry in the state of
21 Illinois. So what we are talking about is
22 concerts is what I gather. Does someone else have
23 an opinion?

24 MR. McMULLIN: Yes, just concerts,

1 entertainment.

2 MR. REARDON: If we're talking about
3 music entertainment, there's obviously a Pandora's
4 box when we start talking about people other than
5 pyro, people with licenses wanting to provide
6 pyrotechnic displays and pyrotechnic services. So
7 I guess, what does that mean, because the system
8 is in place and it works, so I guess I don't
9 understand.

10 MR. PANTHER: And I would concur with
11 that. I think that the system that's in place in
12 the state of of Illinois does work well. I think
13 what my perception of this is, there's a great
14 deal of confusion regarding union labor being able
15 to provide these types of services and being a
16 union vendor and a union cardholder, it's nice to
17 be able to understand a little bit better what's
18 going on. I've had a lot of conversations with
19 Local 2 specifically regarding these types of
20 issues and I think when the whole program was put
21 into place, there was a lot of questions and a lot
22 of misunderstanding about what really the
23 regulations entailed. I mean, everything up until
24 the time when this act was put into place, it was

1 pretty much anybody who had any type of experience
2 or notion thereof could go out, get their Illinois
3 Department Natural Resources card and hang up
4 their shingle as a pyrotechnic operator.

5 I agree that there definitely needs
6 to be a process involved, a process for vending
7 individuals who are performing these type of
8 services. My company has been working very
9 diligently with management over at Local 2 to help
10 them understand the process that's in place. And
11 especially at any time you're dealing with a large
12 group of people, there's always confusion when it
13 comes to understanding the -- quite frankly, very
14 difficult environment that is the pyrotechnics
15 industry. With all the different regulations and
16 the different agencies involved, it is very
17 difficult to understand the entire scope of what
18 needs to be done to be sure these types of
19 products and services are used appropriately and I
20 think we've been working very diligently towards
21 that end. And we have a system in place with the
22 folks at Local 2 now with one of my operators,
23 Kent who happens to be here, and we have several
24 Local 2 members who are working at the systems at

1 our company, who are doing shows not only in
2 Chicago, but outside of Chicago but working
3 towards becoming pyrotechnic operators. But I
4 would agree that there definitely should be
5 following everything that is laid out for us under
6 the Pyrotechnic Distributor and Operator Act. If
7 there's some confusion there, I definitely have
8 been willing and made myself available to help our
9 members understand what is required.

10 I've also expressed my concern to
11 the hall that if there are individuals stage hands
12 who get called for a labor call and while they're
13 on that labor call they are asked or being
14 directed by their stewards to perform these types
15 of services, I have on numerous occasions informed
16 them that you can't just do that. If you choose
17 to do that, you're putting yourself at tremendous
18 liability, because you have no coverage, you have
19 no liability coverage, and if you're going to
20 choose to do that and function in that role, then
21 you need to allow yourself with one of the
22 pyrotechnic distributors who is licensed to
23 provide those services and work through the
24 process like everyone else did in order to become

1 that.

2 I at least think, you might be able
3 to speak more to this too, Kent, that the process
4 is moving along, and I think there is some better
5 understanding with individuals at the hall about
6 that. So if that was the source of confusion that
7 led to this, I can kind of understand why some
8 people might misunderstand just anybody can come
9 in and do that.

10 MR. McMULLIN: All these rules and laws
11 are put in for one reason, safety. Our main
12 concern is the safety of the public and these
13 vendors.

14 MS. CUNNINGHAM: And the operators. We
15 want to make sure the operators and registered
16 assistants are covered by the Workers Compensation
17 hall and by the liability coverage that the
18 pyrotechnic distributor or production company has
19 in place.

20 MR. PANTHER: And I know, I understand
21 that there was a lot of initial confusion at the
22 front end of this when everybody was starting to
23 do these types of things, we still had union
24 members who were getting calls to -- labor calls

1 for shows at various arenas around town and they
2 were being placed with the pyro crew for a show.
3 If they were working with my company, obviously we
4 had all of them as employees, and assistants,
5 registered assistants.

6 But I know on a number of occasions,
7 there were folks who got labor calls from the hall
8 who worked on shows that maybe you were providing
9 services on or that a touring company was
10 providing services on and they were directed by
11 their union steward to say, Hey, you report to
12 this guy, do whatever he asks to you do. These
13 guys are wanting you to -- your assistance with
14 this. And on a number of occasions I got reports
15 back from some of my employees who were not
16 functioning that day as an employee of my company
17 saying, Well, I was asked to do this and they had
18 me doing these types of things. And I had to
19 remind them, That's fine knows and I know you're
20 experienced by that and in some cases even
21 licensed and registered to do that as an
22 assistant, but in the role that you were
23 functioning that day, you did not have that type
24 of coverage because you were working for me, but

1 we were not working on that project. I think we
2 sent that message very strongly to our members,
3 say, Hey, if you're not working there in the role
4 as prescribed in the regulation, you're doing so
5 at your own peril. And I think that that's a
6 little bit has a concern I as a company owner had
7 too. If somebody is is being asked to do
8 something to assist your company or to assist
9 another company that's on the road, it's extremely
10 unreasonable and unfair to ask that individual to
11 do that because they're simply following the
12 directions of their labor steward and they're
13 being told do this job. There are statutory
14 ramifications for functioning in that role, not
15 only in the state of Illinois, but at the federal
16 level.

17 MS. CUNNINGHAM: Well, I think the
18 question then becomes, what are they being asked
19 to do. If they're being asked to perform services
20 as a stage hand would normally perform, then all
21 of those implications don't come into play. In
22 other words, if they're being used to rig the
23 lighting or build the stage or something that
24 that's not specific to pyrotechnic handling,

1 pyrotechnic, right, then it you doesn't come into
2 effect, you're absolutely right. If they're being
3 asked to do something other than that, then for
4 their protection as well, they should be making
5 sure that the company that's asking them to
6 perform those services is number one, willing to
7 make them a registered assistant so that they can
8 get credit for the work that they're performing;
9 and two, to make sure that they're providing
10 insurance coverage for that individual in case, if
11 something goes wrong and that person should be
12 injured, that there are levels of insurance
13 protection for them.

14 Now, for a union stage hand, I'm
15 assuming -- I could be wrong on this point. I'm
16 assuming a union stage hand would have some sort
17 of health coverage provided through their union,
18 but they should also be protected by the insurance
19 coverage of the production company or the
20 pyrotechnic distributing company that would be
21 asking them to perform services as a pyrotechnic
22 assistant, or as a licensed pyrotechnic operator,
23 depending on what they're being asked to do. So
24 it's a question of making sure that, as you say,

1 the union members know to make sure they have
2 their protection in place for themselves.

3 The company, if they're asking to do
4 something they're not willing to provide an
5 insurance coverage on, that should raise a big
6 flag for the production company. Yes I'm not
7 willing to, you know, cover them, then you
8 shouldn't be asking them to perform that service.
9 If you're not willing to cover them, you know, it
10 should raise a flag there.

11 MR. PANTHER: And that's the thing that I
12 want to be absolutely certain that our members
13 understood, and I know that it's happened on a
14 number of different occasions and I explained that
15 to them, hey, you have to be absolutely certain
16 that you are covered to do these things. Now,
17 some of these operators don't understand that, or
18 some of these folks are willing to work as
19 assistants. Like I said, they're doing their job
20 as being directed by their union steward.

21 Kent, you could probably speak to
22 this. You have experienced this a lot you more
23 than anyone in this room.

24 MR. KAY: Yes. I have first-hand

1 experience. I have wired, rigged, put in place,
2 not fired product without being signed up as an
3 assistant. I have witnessed union labor in the 17
4 show run wire and fire pyrotechnic products
5 without being registered as an assistant. Now,
6 the pernicious side result of all this is that
7 historically, this has gone on on many occasions
8 and the stage hands that have performed these
9 services, as you point out, Maureen, they get no
10 post display report credit. Therefore,
11 functionally, they're not only taking the
12 liability exposure on the set, but they get no
13 credit for their work for their own license. And
14 that is a systemic problem that I assume we're
15 correcting from this date forth. I inquired in
16 one of my experiences on the AHJ, where's the post
17 display report? I've been doing it all day.
18 Hundreds of pieces. Hundreds and hundreds of
19 pieces. And well, gee whiz, you're not on the
20 permit, you're not on the insurance, and you're
21 not registered as an assistant. Now, I already
22 have a license. I stopped the practice
23 immediately. Which means I haven't done a day of
24 pyrotechnic work in the City of Chicago since.

1 This was a year ago. I would like this to get
2 straightened out.

3 So perhaps there's some either
4 registering as an assistant with vendors other
5 than high tech or what. I don't know what the
6 solution is, but historically, it's been
7 happening. And I agree with you, the liability
8 exposure is unacceptable. And again, how do we
9 get a license when the union laborers performing
10 the pyrotechnic function under the direction of a
11 licensed operator gaining experience and getting
12 no credit towards the license? That means union
13 labor is effectively frozen out of the licensing
14 process.

15 A VOICE: Can I ask for some
16 clarification? I hear a lot about union labor and
17 truly respect your organization, but it's not
18 about union labor, it's about an individual or
19 group of individuals that are licensed that want
20 to -- that for licensed with skills to do this
21 type of work, yet they're not associated with the
22 distributor. Okay. I just want to make sure I
23 understand that correctly.

24 As an authority having jurisdiction

1 at the local level, I've been pleased with what
2 word of licensing and the process has gone and
3 what's been instituted and has worked out in our
4 favor, it's streamlined a process that from my
5 perspective in Tinley Park we did a good job.
6 It's just how it understands and reinforced the
7 things that we need. I like the fact that we
8 ironed out, if I had a distributor from outside
9 the state come in and with a local distributor can
10 do their work, made our job significantly easier.

11 The confusion that I've had and
12 experience that I need clarification on and hope to
13 work out, is whether its stage hands or someone
14 else, you just can't come in with your license and
15 say, I can do this. Respect the skill and respect
16 your license, but the permit process has to be
17 followed out. So if, for instance, Kent is going
18 to be a local license and if he should be on my
19 permit and he also should be associated with a
20 distributor, so 30 days in advance, I will know
21 who to expect to be at the show so that I know how
22 they're going to, who they are, what they're going
23 to do and how our rules work. I can't have that
24 the day of. I can't have that assignment the day

1 of. And the only thing from what I see, they have
2 to be associated with a distributor.

3 At these shows, whether you're a
4 stage hand or a distributor, for lack of a better
5 term, there can only be one master and that's the
6 person that you're going to be your pyro, and you
7 can't answer to someone else. That's where I'm
8 seeing some concerns from my perspective because
9 there can be two things, two tasks that someone
10 could be asked to do and I don't know that that
11 necessarily can happen. So I got to get that
12 clarified, and if you're a distributor, you're
13 distributor. If you're a stage hand, you're a
14 stage hand.

15 MR. McMULLIN: Do you think we have to --
16 the union steward, do we have to educate them on
17 what can be done and what can't be done?

18 MR. PANTHER: I think that's an
19 incredibly important part of the whole equation
20 and I've been working very hard to educate the
21 business agent and the folks at the union hall as
22 to the statutory and the insurance ramifications
23 of providing referral labor for these types of
24 situations. Now, I completely agree with you too.

1 Everything has to do with the upstream permit
2 approval process and you can't wait until the last
3 day to know who is going to be assigned to that.
4 That's one of the points I've been trying to make
5 to the union hall if you want to have skilled and
6 licensed operators that can provide these types of
7 services, I think that's great. And if you want
8 to do that, we have expressed that interest in
9 helping them provide those services to theater and
10 to music events. But, again, it all comes to
11 starting at the permit approval process. Days out
12 or 15 days out or whatever the case may be.

13 One of my biggest concerns that I've
14 been expressing to the hall, however, is that on a
15 number of occasions, people who we have
16 recommending stirred as assistants very called me
17 up and said, Hey, I was on this show and they put
18 me with the pyro crew and they had me doing this.
19 And I said, Well, you need to understand yet,
20 again, that you cannot function in that role on
21 that day. You're registered has an assistant with
22 us. If you're being directed to do that, it's
23 outside of the scope of your function with our
24 company. And it concerns me and I've expressed

1 this concern numerous times that it is happening,
2 that people are being directed to do these types
3 of things when they don't have the types of
4 coverage that they need.

5 Now, I don't think so that anybody
6 is doing it maliciously with an attempt to get
7 anyone in trouble, but I'm just saying, there
8 appears to be a significant education gap in the
9 hierarchy that's providing labor to make sure that
10 the folks who are being asked to do these types of
11 services are, in fact, covered when they do those
12 types of services because if something happens on
13 either one of our shows and we have somebody who
14 is assigned to us to do something and something,
15 God forbid, goes wrong, the insurance companies
16 and the attorneys are going to start pointing
17 fingers and it's going to end up being the guy out
18 there trying to do his job and didn't understand.
19 He's going to be the fall guy of the whole thing.
20 I don't want to see that happen to anybody.

21 Everybody needs to be fully educated
22 and covered in order to do this. We all as
23 distributors have a vested interest in doing this
24 and the industry remain safe, and I just want do

1 make sure that the practices that are happening in
2 the state are fair, and I believe that they are.
3 I think that the system that's in place works.
4 But I want to make sure that the education has
5 gotten out there to all of the HJs, the building
6 managers and the organized labor to understand
7 where all of this fits into the equation. So --

8 MS. CUNNINGHAM: I guess that's a
9 question that I have, Brian with what's not clear
10 to me and I would expect that everyone here who is
11 actually involved in the profession could speak to
12 it. But who is directing them to perform the
13 work? Is it the HJ? Is it the building owner?
14 Is it the touring company? You know, I understand
15 you have specific things in mind, but I think that
16 both Brian, Mark and Dan could speak to what their
17 experience what typically happens, because maybe
18 it would be helpful to have a better understanding
19 of what typically happens in -- we're focusing on
20 the music industry's use of pyrotechnics in indoor
21 venues primarily, but the also for outdoor.

22 MR. MITCHELL: Just to add that quickly.
23 I think you raised, obviously, one important
24 component of a couple we talked about this

1 morning, that being the education process and
2 what's needed there and I think what, maybe to put
3 a -- well, to add on, it would be helpful to the
4 State Fire Marshall's office if we knew where or
5 how to target. I mean, you raised a couple of
6 different entities or groups or individuals that
7 if you personally have begun process of educating,
8 we probably need to do that too, but to kind of add
9 to Maureen's point, having those types of examples
10 will help us, where we can either come up short or
11 we target those areas so that we can minimize that
12 happening in the future.

13 MR. KAY: Now, functionally, the way that
14 it happens on the set, I arrive for a labor call.
15 I don't know what I'm doing. I arrive at the
16 arena and the client is doing such a big pyro
17 installation. They can't do it with just their
18 roadies. They say, Do you have experienced
19 pyrotechnic operators?

20 Well, in fact, we do. I'm assigned
21 to the roadie who sends me into a room with boxes
22 of 1.4G products stacked to the ceiling and we
23 begin, as I know how to do with some of my
24 colleagues, pulling them out of boxes and putting

1 them in racks. Now --

2 MS. CUNNINGHAM: So it's the production
3 company or the touring company that's asking for
4 that?

5 MR. KAY: Sure. Many Of the shows, they
6 don't even have to get the pyros out of the truck.
7 They rig it right in the truck with their roadies
8 and they carry the flats out to the stage; place
9 them, wire them, fire them. What I'm speaking to
10 are the really big shows where -- and this has
11 happened this summer as well, where they have so
12 much stuff that the roadies can't possibly handle
13 it as a reality. They need labor support.

14 Now, obviously, we have skills.
15 What we don't have is the registration as
16 pyrotechnic assistants for the permit holder. And
17 Dan and I have gone around on this. We just had
18 an air show where I couldn't name the assistants
19 until I visually saw the DNR card. They were
20 using det cord, jet fuel and dynamite. Nobody
21 without a DNR card was touching anything.

22 So I get on te set, I check their
23 credentials and I fill out assistant papers.
24 That's a fact. A lot of this business things

1 change at the last minute. The circus, for
2 example, is notorious. The guy they send you in
3 the production package is not on tour anymore. So
4 I'm in a position as the licensee in this case. I
5 say, okay, I'm registering you as an assistant and
6 post facto obviously before we touch product, I'm
7 registering and dating and forwarding this
8 material to the OFSF.

9 MS. CUNNINGHAM: So I understand, you
10 would do that. So if you were the lead
11 pyrotechnic operator and the company you're
12 working for holds the permit, if you need
13 additional labor, you have the assistant
14 registration form there, you fill it out. You
15 would show that to the AHJ. If the AHJ had a
16 question, to let them know, that yes, in fact I am
17 an acting person, we are going to register them
18 has an assistant with company for this particular
19 event?

20 MR. KAY: Yes.

21 MS. CUNNINGHAM: That I understand. On
22 the flip side of that, have you had a touring
23 company or company refuse to fill out that
24 paperwork on your behalf to register you as an

1 assistant?

2 MR. KAY: It's very simple for me in
3 terms of enforcement. If they're not going to
4 fill out the paperwork, their people certainly
5 aren't handling any product on my show. And if
6 they're going to be hard nosed about it, I'll
7 leave the building and take the permits with me.

8 MS. CUNNINGHAM: No. My question is as a
9 stage hand -- so you're not there as the lead
10 pyrotechnic operator.

11 MR. KAY: I'm just called in as a
12 laborer.

13 MS. CUNNINGHAM: You're called as a
14 laborer and you're being asked to assist in the
15 example that you gave. Have you asked them to
16 fill out the paperwork to register you has an
17 assistant and have either the local company or the
18 touring company refuse to register you?

19 MR. KAY: No. In my case, I wasn't
20 familiar with the structure to ask the right
21 question.

22 MS. CUNNINGHAM: Okay.

23 MR. KAY: I asked the question expo facto.
24 So I have had the exposure all day long two days

1 straight unacceptable to me. Now, I have had
2 other instances in the Broadway setting where a
3 union laborer is wiring and firing without being
4 registered previously as pyrotechnic assistant.
5 That has not happened to me personally, but like
6 Brian, I have been articulating to Local 2 that
7 these are extremely serious matters and we must
8 orient ourselves to the existing system. Now, I
9 see no reason, for example, that a stage hand
10 could be registered as an assistant with Hi Tech,
11 with strictly FX, with other companies. We're not
12 limiting assistants to one single vendor. It
13 could be the permit of -- it should be the permit
14 of record.

15 MS. CUNNINGHAM: Correct.

16 MR. McMULLIN: I think the insurance
17 problem comes in. Who is Kent covered by? What
18 insurance is he covered by?

19 MR. PANTHER: And that's where my big --

20 MR. McMULLIN: Are these companies going
21 to take THAT risk on somebody they don't know?
22 The insurance companies aren't going to cover
23 somebody they don't know.

24 MR. BARNES: And 20 minutes before the

1 show. 20 minutes before the setup starts.

2 MR. McMULLIN: Once the insurance guys, I
3 imagine will want a little more information on
4 that.

5 MR. KAY: Yes. But if you look at the
6 dynamics of the license holder to assistant, it is
7 purely under the supervision of the licensed
8 operator. So, there are many functions that are
9 simple enough that one can offer training on the
10 spot to say do this, supervise them. Obviously,
11 I'm not walking off the set and leaving assistants
12 to do their merry best.

13 MR. McMULLIN: But the insurance still
14 comes into play. If that goes dose something
15 wrong, how is he covered?

16 MR. KAY: Yes. But if he's got 30 years
17 experience or 30 hours experience and something
18 goes wrong, the repercussions are the same, he is
19 an assistant under my supervision.

20 MR. PANTHER: I understand where Dan is
21 coming from too. If you're taking that labor call
22 in a union labor situation, the employer of record
23 is the venue which has called you. So if you're
24 working at the Allstate Arena and they are the one

1 that's placing the labor call to the hall, the
2 Allstate Arena is the employer of record for the
3 purpose of Workers Compensation. For a
4 pyrotechnic situation -- and I would venture to
5 guess, that if you were to check with the Allstate
6 Arena's insurance policy, that their Workers
7 Compensation policy specifically excludes
8 pyrotechnics and explosive exposure, which is why
9 it's critical that assistants, operators or
10 anybody who is going to be handling that product
11 is registered as an assistant, not only as an
12 assistant, but technically -- and correct me if
13 I'm wrong, there's enough attorneys in the room to
14 verify this, that the employee -- or the Work Comp
15 relationship comes from the employee with status.
16 And if you're not actually an employee of the
17 company that you're being registered as an
18 assistant with, then you don't statutorily have
19 Workers Comp coverage for that opportunity. Which
20 is exactly why we have made that effort in
21 establishing a pool of people who we are betting
22 and training and working through the union hall
23 through the journeyman and apprentice training
24 program to establish a training program.

1 MR. REARDON: And to insure them?

2 MR. PANTHER: For the people who are --
3 the way that question approached this just so you
4 understand this, is that we recognize that there's
5 a need. We recognize that there's a desire by
6 certain members to learn this craft. We also
7 recognize that this is not a craft that you learn
8 overnight. It takes years of Experience to become
9 a competent operator. So our approach to the
10 union was to do the following, and that was to
11 say, let's work with the journeyman apprentice
12 training program to put out there an initial
13 course, an introduction to pyrotechnics. And in
14 that course we talk about the regulatory
15 implications, the safety implications, and a
16 number of different basic introductions to
17 pyrotechnics. If at that point in time that
18 member decides they are still interested in it,
19 then we would look at whether or not that
20 individual -- whether we felt that individual was
21 capable of going on and continuing in the training
22 program. We would make a judgement call based on
23 their skill level and their interest to determine,
24 is this person really serious about this. And

1 those individuals we did feel that was the case,
2 we take them into into the training program and
3 start offering them more official training, an
4 opportunity them to come out on shows with
5 licensed operators and gain experience.

6 It's never been my intention to
7 basically put out a permit mill, for the lack of a
8 better word, to be able to get people trained as
9 operators or gain a minimum number of shows. I
10 mean, the Illinois system seems very fair and
11 balanced, that you need ten shows, two as an
12 assistant, I think that that level of experience
13 is really too low. I really think that you're
14 going to need two years of experience before I'm
15 going to turn you loose if you're going to be
16 working for me. I mean, we all work very hard to
17 develop our reputation and to be safe companies
18 and it only takes one idiot to screw it all up and
19 create an incident.

20 And I ultimately want to be sure,
21 and that's the thing I like about the way the
22 Illinois system is structured, even as individuals
23 are gaining experience in apprenticing through the
24 program, it ultimately comes down to me, the owner

1 or the person that's signing that form on the
2 license application that says yes, I endorse this
3 individual. And I like having the ability to veto
4 those individuals who we don't feel are competent
5 operators. I don't want just anybody out there
6 working under my insurance policy.

7 I'll be the first person to admit
8 that. Are there skilled folks that are
9 well-intentioned and definitely are more than
10 capable of working in this environment?
11 Absolutely. Are there folks that we don't
12 necessarily feel comfortable working with? You
13 better believe there are, but I want to be sure
14 that if ultimately we have members that are
15 working through that track trying to do that, I
16 want to be certain that they're not being placed
17 in harms way because they get the perception of,
18 or somebody else gets the perception of, Well this
19 individual has experience in pyrotechnics, let's
20 assign them to the pyro crew, and they're asked to
21 do this, which most of the time the guys are going
22 to say, I can do this, I'm registered to do this.
23 At the time they're not thinking about the legal
24 ramifications of it. I just want to be certain

1 that if we do very skilled, trained persons, that
2 they're appropriately covered, and that they are
3 appropriately managed to make sure everything is
4 done correctly.

5 MR. REARDON: But if we remove the access
6 to product, we're certainly not limiting their
7 ability to work. It would simply remove that one
8 item which is obviously the biggest problem with
9 Workman's Comp or insurance or liability. If
10 someone isn't loading, wiring the product as
11 merely moving cases, as it comes out of the truck.
12 There's certainly not a limitation to their
13 ability to work. If you remove that aspect or
14 that request, I think that now we're back to the
15 employees of the company that people who are
16 trained, who are covered by that company's
17 insurance are actually handling the product and
18 they are exposed to a potential risk, but at the
19 same time they're also protected. Right now, if
20 we put people into a place where they have been
21 assigned, certainly not in an active, responsible
22 role, but they've been assigned by a work force
23 that we have absolutely no control over. We're
24 assigned to whoever he is. Luck of the draw. So

1 when someone is assigned, that might be a duty
2 that is certainly restricted.

3 MR. PANTHER: And I think it should be.
4 It's unfortunate, but that's the logistic
5 environment that we live in today. But, I really
6 strongly feel that the common practice that that
7 seems to have occurred out there of just lumping
8 somebody in and being directed to do these things.
9 It has to stop.

10 MR. REARDON: It seems like a rigging
11 call. There's certainly rigging and you're
12 lifting huge amounts of weights over people's
13 heads. There's liability that's involved with
14 that. Certainly there are professionals, and then
15 there are laborers that help them. We are dealing
16 with that same problem with that exposure as well
17 when the person on the ground is tying off a rope
18 or attaching a span set to a motor, and he is at
19 the same time exposing himself to a higher
20 liability that that truss may fall and it was
21 because of his action at that moment that he set
22 the span setting correctly.

23 MR. PANTHER: The thing that I think in that
24 situation, though, that makes it a little bit

1 different is riggers traditionally are independent
2 contractors, and they are in the majority of
3 venues union card holders who come in and do the
4 rigging under the supervision of the show rigger
5 and they are all independently trained, many them
6 are even certified by third party organizations
7 now. Unfortunately, there are statutory nuances
8 involving pyrotechnics that make this a little bit
9 different than anything else that fits in the
10 traditionally union stage hand law. I mean, not
11 only the state regulations, but also federal
12 employment situations. When you've got an
13 individual who is being directed to mix binary and
14 load, they're now manufacturing explosives as
15 defined under to 25 CFR and there are federal
16 implications to performing that function without a
17 license. We're talking about felony implications.

18 MR. McMULLIN: That's why education to
19 the union has to be done immediately.

20 MR. PANTHER: And we've been working very
21 diligently.

22 MR. MUZZY: Are you opening this up for
23 public comment later?

24 MR. McMULLIN: Absolutely, if you want

1 to. Maureen obviously has jumped in already. So
2 please, Taylor between feel free.

3 MR. MUZZY: Okay. You know, I think the
4 current statutory scheme is kind of perpetuating
5 what you're talking about as a setup where
6 individuals who, you're saying, don't know what
7 they're doing are doing pyro because you're not
8 creating the opportunity for these people to be
9 able to get their credits, get the work, to come
10 and buy insurance. You keep focusing on the union
11 and the member of the problem not recognizing that
12 the licensed operators and the licensed
13 distributors are the ones who are in charge of
14 that process.

15 MR. McMULLIN: I thought the union
16 brought Brian in to train the union people.

17 MR. PANTHER: They approached me as a
18 vendor who has previous exposure with the union to
19 say, Hey, we have a need for this type of service.
20 We would like to build or offer this to our member
21 venues, for lack of a better term, that had
22 collective bargaining agreements with the locals.
23 I said, Sure we'd be interested in looking at
24 that. We have to start the process of educating

1 them, say, Hey, this is the way this works, and
2 you have to be tied to a specific distributor
3 company in order to perform these services, and we
4 entered into an agreement with them saying we are
5 more than happy to provide that service, and we
6 have begun the process of training individuals and
7 registering individuals who often happen to be
8 union labor, and we're more than happy to work
9 with local unions or any other union for that
10 matter that want to provide those types of
11 services. Now, it's a free country and anybody
12 can hire whoever they want to do to do services
13 and oftentimes it's relationships. Pyrotechnics
14 is a relationship business. And if you had
15 previous experience utilizing somebody's services
16 when you come into a local area, you tend to use
17 that person because you have a rapport with them.
18 I understand that.

19 MR. KAY: Let me point out, in my
20 experience there's a contract of individuals of
21 Local 2 who have been handling pyrotechnic
22 products for years and years and they're highly
23 experienced today. What are they missing? They
24 were never registered as assistants. They never

1 got any log credit to the casual passerby. They
2 look ignorant.

3 MS. CUNNINGHAM: But it seems to me that
4 there's not -- the problem is not a question of
5 the the statutory scheme, and the problems is not
6 in my opinion a question of just educating the
7 union. The problem also rests with making sure
8 that you're educating the building owners and the
9 industry because whereas in my five years of
10 working experience with both Brian Panther and
11 Mark Grega, they are highly professional
12 companies. You and I also know that there are
13 companies out there that are not as professional
14 and the two companies that you have. And perhaps
15 the AHJs would be the better people in the room to
16 address this issue, but those in faith may be the
17 types of companies that Mr. Kay as a professional
18 is encountering who are not willing to give him
19 credit for the work that he's doing. In which
20 case, you are experienced and professional enough
21 to say, unless you're going to register me as an
22 assistant, I'm not performing that work for you.
23 Whereas, another union member may be like, well,
24 you know, might not have known to say on the spot,

1 register me as your assistant, we can send this in
2 when the show is done. But as I said, maybe it's
3 a better question for the AHJs who deal with this
4 all the time, since you address all kinds of
5 companies both professional and not so
6 professional in this arena.

7 MR. KAY: Now, Let me just for a moment
8 take this out of the venue and make reference to
9 this air show just recently. There was a crew of
10 20 people. DNR called and said they handle, as I
11 said, det cord {sic}, jet fuel, dynamite, blasting
12 caps. Now, everybody with a DNR card in there,
13 there was five of them and myself. 5 out of 20
14 was allowed to handle the pyrotechnic products.
15 They were registered as assistants. Now, an
16 assistant is not the same as employee/possessor.
17 In other words, Workman's Comp, they have own
18 workman's Comp under their aviation insurance.
19 Dan's point was, I don't care if you have aviation
20 insurance, you have an audience and you have
21 pyrotechnic effects. This is a public display.

22 Now, is there an AHJ on an airfield?
23 Yes. He's called the commander of ground control.
24 All right. I was assigned to a colonel to

1 supervise my activities. So an assistant clearly
2 is not the same category as an employee/possessor
3 with workman's Comp and all the other bells and
4 whistles. Basically what I'm doing is I'm
5 providing a picture of their driver's license.
6 I'm evaluating them on credentials in hand and
7 personal interview on my part. Is this guy a
8 nephew of a blaster or is this a blaster? and the
9 five gentlemen that I worked with at the airfield
10 had ample experience, pictures of their work, et
11 cetera. I said, Okay, fellows, it's you and me.
12 Nobody else touches the product.

13 Now, the 15 gentlemen that were not
14 registered as assistants, if the worst happened
15 and one of the bags of jet fuel sprayed five
16 members of the crew that were not registered
17 assistants, would they be covered by my
18 comprehensive liability insurance?

19 MR. PANTHER: By liability insurance, but
20 they would not necessarily be covered by a
21 Workman's Comp policy.

22 MR. KAY: I see.

23 MR. PANTHER: It would go back to
24 Workman's Comp.

1 MR. KAY: Okay.

2 MR. PANTHER: This is another thing -- and
3 I know you've experienced it and in the business
4 you probably have the same concerns. We
5 frequently get retained to cover a license for a
6 road show that comes in town. The main reason we
7 all do this is not purely for financial gain
8 because you and I both know that there's no money
9 in it. We do this as a courtesy to visiting
10 companies, because we expect the same courtesy
11 when we're traveling in their jurisdictions and we
12 need their help. So that's where that is coming
13 into play.

14 And I think there was a little bit
15 of a question or gray area of -- well, in the case
16 of Ozzie Osbourne touring through the City.
17 You've got a crew that's traveling with the show,
18 they got their lead pyrotechnic operator who may
19 be licensed in a dozen of other states but he
20 doesn't happen to be licensed in the state of
21 Illinois. So they retain the services of one of
22 our companies, we go in, provide that cover
23 license service and we register those folks as
24 assistants. And it has come to my attention, well,

1 are you employees of your company?

2 No, not in that situation.

3 Well, how are they covered by
4 Workman's Comp?

5 In those contractual situations,
6 we're providing a contracted service with the
7 touring company that's coming through and they're
8 retaining your service as a local license. Their
9 shooters, their technicians are employees,
10 employee/possessors of the display company that's
11 coming through and they're contracting for a
12 specific service. They have their Workman's
13 Compensation. We already as Illinois distributors
14 have been vetted as appropriate vendors in the
15 state of Illinois. It's strictly a business
16 contract between two licensed companies. One that
17 doesn't happen to be licensed in the state and one
18 that does, but there's still coverage there.

19 Where there's a gray area is when
20 you get the third party labor situation. The
21 Workman's Comp follows the employer who made the
22 call. So it creates a unique situation for
23 touring shows or for longer running theater shows
24 which would require them under the statutes to be

1 in compliance to retain the services of either
2 like mine or Mark's or any of the other members
3 that are grouped in the state. Again, I think
4 it's all about the education and the provision of
5 those services.

6 I know that -- I think I get had the
7 understanding from all the union folks that they
8 would like to be able to provide those types of
9 services for anybody, and it comes down to whether
10 or not the company owners feel comfortable
11 utilizing that person's services or not and
12 whether they want to accept them as an employee or
13 as an assistant on their productions.

14 MR. REARDON: In a contractual or
15 collective bargaining agreement, we really don't
16 have that option, and certainly when we create a
17 tour, there are, you know, months of
18 pre-production, there's a month or so of
19 production, there are rehearsals, there are, you
20 know, dress rehearsals where we actually go
21 through firing the products so that the
22 technicians are on this tour. Understand where
23 everything goes, you know, where it's supposed to
24 be, whether everyone is on the stage. When we

1 come into a building obviously, there's a
2 collective bargaining agreement. There is no
3 choice.

4 What we're kind of saying here, just
5 as Kent said, the air show, if someone doesn't
6 have DNR license, they can't touch the products.
7 If somebody doesn't have a DNR license, then he
8 should not be touching the product. And I think
9 we have eliminated the issue of liability as well
10 as the Workman's Comp, certainly, risk and
11 everyone is still working. That specific moment
12 in that day, that hour, two hours, certainly, at a
13 call, there's certain other aspects of it going
14 on. I mean, when we get assignment person,
15 they're with us for an hour, they go to lighting,
16 they go to sound, they go to coffee break, they
17 come back. There is no inability to work because
18 you wouldn't be able to handle product.

19 MR. KAY: Well, in my case, as a licensed
20 operator, I have run into the situation where even
21 with 30 years experience I was not allowed to
22 handle pyrotechnic products because I was not
23 named on the permit or as an assistant. And yet,
24 the road crew, who I happened to know very well,

1 was making assignments for me that I couldn't do.
2 So in my case as a licensed operator, and I know
3 this sounds upside down, what is the mechanism for
4 me to work with a Strictly production? How can
5 you utilize my services as a pyrotechnic operator?
6 I would be your assistant, would I not, Mark?

7 MR. REARDON: You could certainly be our
8 assistant without a doubt. But with the problems
9 of handling product, then we can't. I mean, you
10 just stated on this air show that out of the 15
11 people or the 20 people, 15 people were not
12 allowed to touch it.

13 MR. KAY: Yes.

14 MR. REARDON: So we're in the same
15 situation here. If there's a crew and this is one
16 aspect that you can't do that one task, certainly
17 the other tasks, running cables, running wires,
18 the functions that a normal stage hand does in the
19 course of a day, certainly is not prohibitive.

20 MR. MUZZY: Then it seems to me you've
21 got a pool of individuals, many of whom like Kent
22 are very qualified to do the work and you're
23 excluding them from doing that work and that is a
24 problem. That's a problem that should be fixed.

1 One, you set up a mechanism to be able to train
2 condition individuals, to allow them to get their
3 credits to become qualified and also utilize the
4 people who are qualified.

5 MS. CUNNINGHAM: I guess I don't
6 understand why would they be excluded because I
7 guess the unanswered question that I don't
8 understand here is, I guess it's the building
9 owner who calls the unionized labor to the
10 building to perform services, is that it? Or is
11 there any prohibition from a touring company?

12 MR. MUZZY: I can't speak to the touring
13 company.

14 MS. CUNNINGHAM: But that's what I don't
15 understand. Why can't the touring company in
16 working with the building owner, if the touring
17 company truly has the need for that skilled labor,
18 why can't the touring company be able to be the
19 employer for the period of time that that person
20 is being asked to perform those services? Is it
21 something in the collective bargaining arena that
22 is missing here? I mean, I understand normal
23 circumstances. From what I'm hearing here, it's
24 the building owner who called for that laborer to

1 be there. So when the touring company comes in,
2 the touring company doesn't have an option. Let's
3 say it's like McCormick Place. When you go in as
4 a vendor into McCormick Place, you do not have an
5 option, you will be using the union labor that is
6 assigned to that building to perform the services
7 when they're in the building. And there's various
8 reasons for it, but the building owner has the
9 vested interest in insuring that the work that's
10 performed in the building is being done with the
11 expertise of the various machines, whether you're
12 using a carpenter, electrician in connection with
13 the building, so that part I understand.

14 Now, to the extent that the touring
15 company needs the services of an experienced
16 pyrotechnician, why can't they be considered the
17 employer for the one, two, three hours or two days
18 that they're requiring a stage hand to actually
19 perform pyrotechnic services?

20 MR. PANTHER: I wish they could.

21 MR. MUZZY: Well, then you're talking
22 about what we did back in 1996, '08 where we
23 expanded the production licensing scheme to
24 television, movie, theater, commercial, visual --

1 MS. CUNNINGHAM: But that's what we're
2 here for.

3 MR. MUZZY: Right. That's going back to
4 what Mark's first point was, then you're talking
5 about expanding that into indoor outdoor
6 entertainment business, which is the primary
7 reason we're here.

8 MR. REARDON: Yes.

9 MS. CUNNINGHAM: But it's there. There's
10 nothing in here --

11 MR. MUZZY: We had music entertainment in
12 there when we wrote that production company
13 definition and we took that out. And that's why
14 the task force is here to discuss extending the
15 production company licensing scheme to the indoor
16 outdoor music entertainment industry.

17 MS. CUNNINGHAM: But what I'm saying is
18 why doesn't it apply to -- because in the music
19 industry, it's my understanding, please correct me
20 if I'm wrong, that typically you have a Bright
21 Panther Company or, you know, Zenith Pyrotechnic,
22 you have a professional pyrotechnic company that's
23 touring, right, that tours with the company. So
24 why can't that professional company, which would

1 be a pyrotechnic distributor working through a
2 local license, why can't that local license do it?

3 MR. REARDON: I guess I'm a little
4 confused too when you talk about --

5 MS. CUNNINGHAM: And by do it, why can't
6 the local license say we need Mr. Kay's services
7 for two hours today, or two days today, and to the
8 extent that we need his services, he's considered
9 our employee because we are registering him has an
10 assistant.

11 MR. MUZZY: Maybe if it's that simple --

12 MS. CUNNINGHAM: Why doesn't that work?

13 MR. REARDON: Let me chime in here. I
14 don't think that the process that's in place,
15 there is a time frame that has to be submitted
16 ahead of time. I think maybe that's where the
17 issue might be is that you can't get to name a
18 person on a permit to say this is going to be the
19 assistant or whatever the case may be. I don't
20 think -- as long as the permit comes in to me and
21 informaton tells me who is going to be there, who
22 the people are, they're proper licensing and
23 credentials, then everything usually goes without
24 a hitch.

1 So if you follow the process that's
2 been adopted in the state, I don't know how
3 anybody can be excluded, especially if the local
4 is using, Brian Panther's company to train and to
5 the resources to get the these people up to speed.
6 That's how I'm a little confused how anybody can
7 be excluded if the permit allows you to get people
8 out of there if they're working through a
9 distributor.

10 MS. CUNNINGHAM: I mean, they're required
11 to have the permit 15 days in advance to you, but
12 you as the AHJ actually do have the ability to
13 shorten it a period of time. So in Mr. Kay's
14 situation he explained before, when he actually
15 required the use of someone, and he provided that
16 person with registration on the spot, I would
17 think that as the lead pyrotechnic operator who is
18 responsible, he's going to verify to the AHJ -- in
19 fact I am using Mr. Panther today, I'm registering
20 him as an assistant and I'll send the paperwork
21 in, does that pose a problem with the AHJ?

22 MR. REARDON: No, not normally. If the
23 paperwork and the insurance is all there.

24 MR. KAY: As the licensed operator, I

1 have to be on the payroll of my distributor. That
2 seems to me to be the regulation.

3 MS. CUNNINGHAM: For your production
4 company.

5 MR. KAY: Yes. I'm workingi for 20th
6 Century Fox. Essentially they're my -- now, my
7 assistants on the other hand, air show, other --

8 MS. CUNNINGHAM: You know, the air show
9 people think they're exempts anyway. I haven't
10 said that at this point in time, but that's a
11 whole separate issue.

12 MR. KAY: Yes, and we haven't read this.
13 Recently it's got Air Force space. When
14 threatened with arrest from DNR, that got their
15 attention. And again, Dan and I worked the
16 strategy to get them to comply. What I'm speaking
17 to is the situation with the assistant. The
18 assistant is not an employee of Hi Tech FX, the
19 assistant is an employee of Tora, Tora, Tora or --

20 MR. PANTHER: Ozzie Osbourne.

21 MR. KAY: Or Ozzie Osbourne or whoever
22 the payroll company is. They could work as Mark
23 points out two hours pushing pyro boxes around or
24 working with pyro as a registered assistant and

1 then go to another department. And they're not on
2 his payroll, they're on production payroll.

3 MR. McMULLIN: Well, production has to
4 have the insurance.

5 MR. REARDON: Just as we sets up in the
6 commercial TV and films, that entity, this
7 production company had provided insurance for
8 those individuals that were going to be working
9 under that license under that amount of time. So
10 if what you're suggesting is that Ozzie Osbourne's
11 production company is going to insure or hire
12 three or four hands that are pyro trained, then
13 there's -- is that what we're talking about?

14 MR. PANTHER: I think we're talking more
15 along the line if your company was retained to
16 tour with a particular music act, your technicians
17 are traveling along with that show, they're your
18 employees. When you go into a situation where
19 you're needing -- and correct me if I'm wrong,
20 Keven, this is where your question is, if, let's
21 say, Mark is from California and his company is
22 coming into Illinois and doing this and they
23 retained the services of a local distributor, what
24 is that relationship there? Is that what you're

1 saying?

2 MR. KAY: Yes, and I'm getting to the
3 assistants status.

4 MR. REARDON: Explain it to me. You just
5 came from California. Please explain to me the
6 situation out there with license holders and
7 pyrotechnic tours that are coming in.

8 MR. KAY: If you're a licensed operator
9 in California, you could work with any pyrotechnic
10 company that has a CPD, which is a central
11 pyrotechnic display and they carry their own
12 insurance and you subcontract with them.

13 MR. REARDON: They carry their own
14 insurance?

15 MR. KAY: Yes, you don't have to be on
16 their payroll. The operators by and large provide
17 their own Workman's Comp.

18 MR. REARDON: Certainly the union is more
19 than welcome to supply the insurance for those
20 employees to be doing this particular work. And
21 then if that's the case, certainly they would be
22 able to provide whatever functions and certainly
23 at a premium to be able to provide that certain
24 work hand in hand with the touring personnel. I

1 mean on obviously, that works in California.

2 MR. PANTHER: The union is not an
3 employer, it's a referral agent.

4 MR. REARDON: But the personnel actually
5 on site, who covers that person on site when
6 they're there?

7 MR. PANTHER: The employer. If it's the
8 Allstate Arena that's making the call, all of the
9 union referral stage hands have filled out
10 employee paperwork with that particular venue. So
11 while they'r working with that venue, they are an
12 employee of that venue

13 MS. CUNNINGHAM: But nothing would
14 prohibit the -- what I'm trying to get at, is
15 nothing prohibits the local licensed pyro company,
16 whoever is acting as a local license from
17 employing the union -- I mean, you don't have a
18 choice when you go into a building, it's my
19 understanding. You don't have a choice when you
20 go in a building like McCormick Place. You're
21 told as a vendor going into this building, you'll
22 be using union labor. Now, when you're using
23 union labor, what you're saying is they're
24 considered an employee of the building, right?

1 But there's nothing that prohibits them if they
2 need a pyrotechnician assistant at that point in
3 time, what function has to be setup for them to
4 establish an employer/employee relationship so
5 that you make sure that they're covered by the
6 insurance.

7 MR. PANTHER: I think what makes it
8 difficult, and Mark can probably speak to this
9 too, that there's only three maybe four carriers
10 in the world that are underwriting types of
11 business operations that we do and the general
12 liability policy, Live Nation, for instance,
13 covers a lot of things, but it does not cover
14 pyrotechnics liability.

15 MS. CUNNINGHAM: But your general
16 liability policy as local license will.

17 MR. PANTHER: Correct.

18 MS. CUNNINGHAM: But not your Workman's
19 Comp policy.

20 MR. PANTHER: Right. That's one option.
21 But then, the question then becomes, is there a
22 gray area in there of -- you know, if, if a stage
23 hand, for instance, is operating under the terms
24 of that collective bargaining agreement and they

1 happened to be assigned to one of four companies,
2 and there's an incident that happens during one of
3 those shows, and it's found to be the direct fault
4 of the individual who was assigned to us to work
5 with us. Where does the liability line gets
6 drawn? You know, that, I think we as company
7 owners need to be concerned about, but I think
8 also the union membership is extremely concerned
9 about that too. Do they have any coverage on it?
10 They're being directed to function in that role.
11 Does the building that hired him get pulled into
12 the situation?

13 And those are all questions that are
14 very real and as I explained it to the union, the
15 only way to make that a very clear cut and defined
16 this is the way it is, is for me to decide which
17 union members I want to actually take on as
18 employees that I would be willing to work with and
19 say yes, I'll put my stamp on that individual.
20 But then it makes it very clear this individual a
21 r employee. They are covered under this --
22 functioning in this role professionally.

23 MR. REARDON: How many individuals would
24 you do that for?

1 MR. PANTHER: Operators? I'm very, very
2 selective. In the state of Illinois I only have
3 four assistants.

4 MR. REARDON: So if we say that Hi Tech
5 would be coming in to do a show, then you would
6 hire, you, Hi Tech, would hire the stage hand
7 directly and he would be an employee of you for
8 that period of time?

9 MR. PANTHER: We have a number of
10 individuals who happen to be Local 2 members. I
11 think we're currently up to about ten. Local 2
12 members who bona fide, legitimate employees of our
13 company when they are working on shows, and they
14 work here in Chicago and they work elsewhere in
15 the state as well and they are working through the
16 process of to get licensed. Kent happens to be
17 the only union member that I currently have which
18 has a a full operator license. We have several
19 folks that are apprenticing, but it's going to
20 take them several years to get to that point, but
21 as a company owner I made that decision to hire
22 those folks because I don't want a lot of gray
23 area floating around out there.

24 Would I prefer it if they were on

1 somebody else's payroll and I didn't have to pay
2 that Work Comp exposure and taxes and employees?
3 You bet. But I did not see a way under the
4 statutory scheme both at the state level and the
5 federal level to be compliant. Any other way
6 other than I become the employer of record and I
7 handle the payroll of those individuals when
8 they're doing those calls. That's the way we
9 chose to do it. Now, is there another model out
10 there? I don't know. This is just the way that
11 we were advised. In consultation with my counsel,
12 that's the way we decided what we would do.

13 A VOICE: Can I make a comment on safety
14 analysis? Because you and I are working too on a
15 committee through the APA too. Our industry has
16 been -- the whole -- Ever since the Rhode Island
17 incident, it's just opened up a whole new bag of
18 things that need to be tracked and qualified
19 programs put together for training people. And
20 just sitting here, a bystander and listening to
21 this, my concern would be -- sounds like you
22 addressed it, but anybody else coming into this
23 town figuring working in McCormick Place, you have
24 use union personnel in a place like that, how does

1 a person that's coming in insure that they get a
2 team of Kent and not just somebody.

3 Like you said, people can hold
4 licenses and be qualified, but it doesn't
5 necessarily mean you have a stamp of approval or
6 myself or Mike or anybody else out there. As an
7 outsider so far as somebody using my product,
8 would be highly concerned about whose hands they
9 get into and used in a public venue. That would
10 be a huge concern. Just because somebody has a
11 license does not make them qualified. It all
12 boils down to experience, and we all know that.

13 MR. PANTHER: And we all know operators
14 that we've run across over the years and they have
15 licenses, but I wouldn't trust them with my own
16 family in the room. Ultimately we all have a
17 vested interest in making sure that this type of
18 service is provided in a safe manner. And I want
19 to be sure that the people who are coming in and
20 providing those services have the proper training,
21 they have the proper experience, and they have the
22 insurance to back them up if, for some reason,
23 something should happen.

24 Ultimately I just want to be sure

1 that everybody who is playing in this market who
2 is working in this field, is playing by the same
3 set of rules, and whether that's, you know, a
4 need, I think we've clearly seen that there's a
5 need for more educational efforts to make sure
6 that everybody really understands what we're
7 dealing with here, because, you know, when
8 something goes wrong, that's when the big curtain
9 gets pulled back and all the I's are not dotted
10 and T's are not crossed, it's not going to be
11 pretty, and I just want to be sure that everything
12 is done properly and that nobody's left holding
13 the bag because they were doing something they
14 shouldn't have been doing.

15 MR. KAY: Now, as an operator, I am an
16 employee of Hi Tech, I am Also an employee of a
17 production company, 20th Century Fox Television,
18 and the insurance profile for those two categories
19 are different. You guys, license requirement, one
20 \$1 million in product liability, \$1 million
21 general liability coverage. The production
22 company --

23 MR. PANTHER: You're talking about
24 pyrotechnic distributors?

1 MR. KAY: Yes. Now, production company,
2 proof of \$2 million in commercial general
3 liability insurance covering pyrotechnic services
4 provided, no reference to product liability for a
5 production company. Now, in my experience, most
6 of the time accidents are caused by products on a
7 set, whether it's a movie set or a theater set.
8 Does this production company profile -- what about
9 product liability there?

10 MR. McMULLIN: What kind of product do
11 they use in a movie set?

12 MR. KAY: Well, I'm imagining even --

13 MR. McMULLIN: Black powder? Gasoline?

14 MR. PANTHER: A movie set, you're
15 experiencing things that are being compounded and
16 for lack of a better definition, they're being
17 manufactured outside, it's custom built for that.
18 My question would be, who is carrying the
19 liability under that operation under the existing
20 regulations that are put forth by the state of
21 Illinois?

22 MR. KAY: Or you would be using look
23 Matrix Body Hits, you would be using MP Associates
24 glass poppers, the SD 100, you would be using

1 second pre-manufactured products. But on a movie
2 set, the operator is absolutely and a
3 manufacturer.

4 MR. McMULLIN: Correct.

5 MR. KAY: So, again, they're different
6 and I wanted to point that out.

7 MR. McMULLIN: Okay.

8 MR. PANTHER: I wasn't involved in all of
9 the discussion on the distributors. For the
10 films, was there a reason in the differenc for the
11 insurance requirements for one type of license?

12 MR. McMULLIN: Actually, that was before
13 my time, but I'll find out what the thinking was
14 there. I'm thinking they were thinking along the
15 gasoline, the big movie stuff where, you know --

16 MR. REARDON: You're destroying a
17 building.

18 MR. PANTHER: Yes, or blowing up a car
19 Stuff that's not within the purview of the
20 average --

21 MR. McMULLIN: That's my thought. We can
22 find out. We can ask Maureen, maybe she would
23 know why. She may have been gone when that
24 happened.

1 MR. KAY: When I sat down with 20th
2 Century Fox when they called me, said we want to
3 do a car explosion, I brought in the profiles for
4 a pyrotechnic distributor. I said now, look here,
5 show them, this is what we're going to need. City
6 of Chicago is not going to issue a permit without
7 this, this and this.

8 They have said, Well, we carry
9 ten million and commercial general liability
10 insurance. And low and behold.

11 MR. McMULLIN: Maureen, do you know why
12 we don't have product liability on the production
13 company?

14 MS. CUNNINGHAM: I think the union
15 wouldn't agree with that.

16 MR. MUZZY: I don't remember the specific
17 discussions under the insurance. I do remember
18 the general discussions.

19 MS. CUNNINGHAM: I have to go back and
20 look at notes.

21 MR. McMULLIN: Okay.

22 MR. KAY: Again, I've just been reviewing
23 all this stuff and because I'm licensed across
24 from one to the other, and again as somebody who

1 would be assembling such -- in fact manufacturing
2 on the set, I was just wondering why product
3 liability was not included in the production
4 company profile .

5 MS. CUNNINGHAM: I think that that came
6 from -- if I remember, I think that came out of
7 the movie industry.

8 MR. MUZZY: I know we talked to some
9 people there.

10 MS. CUNNINGHAM: And the problem the
11 movie industry said that they had, which I
12 disagreed with, they said it's impossible for them
13 to obtain products liability insurance because the
14 product that they use is not manufactured by
15 someone. But the reason I have the argument is
16 because it's no different than what Brian Panther
17 or Mark's company will do oftentimes in a music
18 industry, they don't always necessarily use
19 pre-made products.

20 And that's the argument that I had
21 and it's my recollection that the movie industry
22 would not agree to it. And in order for us to --
23 because we were definitely, if you remember,
24 dealing last minute on changes. I think that's

1 why there's the \$2 million general liability as
2 opposed to the one million and one million.

3 MR. MUZZY: I'd have to check my notes on
4 that.

5 MS. CUNNINGHAM: I'd have to go back.
6 That's my vague recollection, and I was was in
7 disagreement with it.

8 MR. PANTHER: As far as I'm concerned, if
9 you're a manufacturer, you're making something.

10 MS. CUNNINGHAM: We compromised to
11 legislative law because I felt that it's
12 important that we put the production company
13 scheme in place to allow production companies that
14 are coming into the state to be able to hire union
15 labor that otherwise met all the requirements,
16 that they have their ATF license, they have
17 experience, they pass the test, so on and so
18 forth. That's my recollection, Kent, to the
19 question.

20 I was in disagreement with it
21 because otherwise in the industry you do have
22 companies that don't buy premium manufactured
23 products, they're buyin chemicals, they're
24 creating things, exactly. They get product

1 liability insurance. We get the certificates all
2 the time.

3 MR. KAY: Or they mix and match, pre-fab
4 and made on the set.

5 MS. CUNNINGHAM: Exactly.

6 MR. McMULLIN: Okay. This whole
7 discussion that we just had, you need insurance,
8 correct? Everyone in agreement?

9 MR. PANTHER: Absolutely.

10 MR. REARDON: Yes.

11 MR. KAY: Let me be explicit. There is
12 no circumstance people should be handling
13 pyrotechnic products that is lawful in the state
14 of Illinois without insurance. It is unlawful,
15 correct?

16 MR. McMULLIN: Correct.

17 MR. KAY: Thank you.

18 MR. McMULLIN: They need insurance, they
19 have to be registered as an assistant or a lead
20 operator. That distributorship, or whatever
21 company it is, has to be the one that's there at
22 the show. Are we all in agreement on that?

23 MR. KAY: Supervising assistants?

24 MR. McMULLIN: Correct.

1 MR. PANTHER: I'm in agreement with that.

2 MR. McMULLIN: Okay.

3 MR. REARDON: Yes.

4 MR. MITCHELL: Just so it doesn't fall on
5 one of the outstanding issues, and Taylor both
6 raised is that there is an ongoing issue in terms
7 of getting credit for that experience, and that's
8 something we'll have to put our collective brains
9 together. But I just want to make sure that we
10 highlight those issues as Dan is trying to wrap up
11 some things, there are some other things that
12 remain.

13 MR. PANTHER: I really strongly feel that
14 the regulations that are in place currently with
15 regard to who can provide pyrotechnic services and
16 what the insurance thresholds are, are appropriate
17 and I don't think that we should be making any
18 changes to those. I think that it's -- the
19 system's not broken. Let's not make any changes
20 into it at this point. That would be my
21 recommendation that the system is working. Do we
22 have some definite things that need to be
23 communicated in education? Yes, there are
24 significant shortfalls there that could be

1 addressed, but I think the regulation as it stands
2 is appropriate.

3 MR. MITCHELL: And I suspect that you --
4 at least what I heard and what you would also say
5 is there's also a need for some kind of outreach
6 to the venue owners of what the state law
7 requires, what the responsibilities are, so that
8 way when they have somebody come in the door to do
9 a show, those same requirements are shared with
10 them. So that way the people that you're
11 referring to when we first started this morning
12 aren't put in a position where they're asked to do
13 something they can't do. That's sometimes where
14 the problems arises where someone, that they may
15 not know or who knows what the situation is, but
16 that's part of the issue that we're going to have
17 to figure out as well, but it's not a legislative
18 issue or a regulatory issue, I think, what I'm
19 hearing you say, Brian, but it's one where
20 education/outreach effort, we have to make sure
21 that the right people are aware of the
22 requirements so that nobody is ignorant of things
23 that they can't do.

24 MR. KAY: Yes. And I will point out, I'm

1 referring specifically to two individuals from
2 Local 2 that have every qualification for
3 licensing save Article 2, post display report
4 showing their experience. Now, ATF, DNR, got it.
5 Hands on experience, got it. Display report
6 credit, don't got it.

7 MS. CUNNINGHAM: Yes, but as you well
8 know about things have changed, I am no longer an
9 employee of the State Fire Marshall's office, I am
10 at a different state agency. At least when I was
11 at the State Fire Marshall's office, as you well
12 know and I had been dealing with you and Brian,
13 with your people also, as long as the information
14 that's required on the Illinois display report is
15 information that someone can provide about the
16 past experience. In fact, they can use the
17 Illinois display report Even if the experience was
18 out of state, just as long as it's filled out and
19 verified to, we accept it as experienced.

20 So I mean, there are a lot of
21 out-of-state companies that are licensed, we
22 licensed when I was at the State Fire Marshall's
23 office and what they would do is take that
24 Illinois display report and they would fill that

1 out for shows that they didn't -- gosh, I don't
2 know, I went back ten years even with people going
3 in -- I mean, the unfortunate part about it is,
4 this is nothing unique to the indoor pyro industry
5 unfortunately. Oftentimes you got -- no offense,
6 AHJs who refused to sign the display report. And
7 in that instance, I always asked -- and Brian
8 knows it, I would ask the company and/or the
9 operator who is having that difficulty to call the
10 State Fire Marshall's office. And I often call up
11 those AHJs and said, you know, did the company
12 have a permit to do the show? Yes.

13 Did you receive a 911 call to
14 respond to injury or casualty as a result of the
15 pyrotechnic services performed? No.

16 Did you receive a 911 call to
17 respond to a fire or a property damage resulting
18 from the show? No.

19 Then why won't you sign the form?
20 My boss doesn't want me to sign a form W.

21 Will you sign a form that they
22 received the permit, that they performed the show
23 to the best of you've knowledge, you never
24 received a response call to an injury, casualty or

1 property damage resulting from the show. Oh, no,
2 not a problem, I'll sign that. No problem. There
3 you go. There's your signature.

4 I mean, I understand, at least I did
5 when I was there, they, you know, your union
6 members that you're referring to, may, in fact,
7 meet resistance in cooperation, you know, but
8 that's something at least when I was in the State
9 Fire Marshall's office, I tried to work with the
10 company or an individual in making sure that you
11 got the cooperation you needed to document your
12 experience.

13 MR. KAY: I understand, and I'm well
14 aware as an operator getting the signatures on the
15 post display report is often an arduous task.

16 MR. PANTHER: Under the current system.
17 Some of them don't want to sign it.

18 MS. CUNNINGHAM: And I as I said, your
19 better AHJs, you know, they do, but some of them
20 have to be educated.

21 MR. KAY: Now, in the case of these two
22 individuals that have a history of experience as
23 well as DNR, ATF and everything else, could they
24 log these experiences post facto?

1 MS. CUNNINGHAM: We did when I was there.

2 MR. KAY: Yes?

3 MR. McMULLIN: Yes.

4 MS. CUNNINGHAM: But what we needed to
5 know oftentimes was missing. Brian, I think it
6 was one of your operators I was dealing with. The
7 Illinois display report requires you to identify
8 the type of experience that you have.

9 MR. KAY: Yes.

10 MS. CUNNINGHAM: I had no problem with
11 you because you provided all of the forms you had
12 with your California shows which were very
13 explicit.

14 MR. KAY: Floor plans, signed permits.

15 MS. CUNNINGHAM: Yes. A lot of times
16 what I received was just a copy of the permit, but
17 the permit might have said, you know, Joe
18 Speedway, and the show was done on this day. And
19 that's fine, but I don't know when I look at it
20 when you insured, were you using comets, did your
21 using mines; and that information is captured on
22 the Illinois display report as you know, sort of
23 check box fax. So that was also something we
24 looked to. And people weren't just denied on

1 hand, we go back and said, you have to tell me
2 what you did, fill out the form. It's easier just
3 to use the form, even though you're doing it, as
4 you say post fact, use the form, fill it out
5 completely, get the signatures on it. At least
6 when I was there, we looke at it.

7 MR. KAY: Yes, I agree. The form in
8 itself is insufficient to evaluate experience.
9 Again, when you fill them out, I try to provide a
10 floor plan and the product list so you that you
11 know that my assistants did -- was there flame
12 effect.

13 MS. CUNNINGHAM: Obviously I'm sure that
14 these guys worked with you in changing forms to
15 make it more -- I think we originally worked on
16 this.

17 MR. REARDON: I mean, right here in
18 California, it has the place for a diagram.

19 MS. CUNNINGHAM: You know, we looked at
20 it and, you know, we had a lot of resistance from
21 the industry in filling out that form.

22 MR. McMULLIN: The new laws that just
23 went through J Car, I mean, they're on display the
24 state has to come to my office first. So when

1 Strictly, Zenith, Pyrotech, Hi Tech is doing a
2 show in the state of Illinois, I get that whole
3 book. So if Brian Panther says, Yes, I did Motley
4 Crew. I can go back and say these are the effects
5 they used on Motley Crew, because I keep all that
6 stuff and then it gets passed onto the local
7 jurisdiction.

8 MS. CUNNINGHAM: I mean if the form needs
9 to be tweaked, I'm sure Dan will work with you.

10 MR. KAY: Oh, I do. Again, the
11 California form, you have to provide a floor plan.

12 MR. REARDON: But it doesn't have
13 anyplace on here for an interview, so each
14 individual person has to provide a blog of their
15 experience.

16 MR. PANTHER: In California, yes, because
17 you're building your log up for licensure, so
18 every person has --

19 MR. KAY: And they're expected to have in
20 their packet, not just that form, but the
21 production book, the product list.

22 MS. CUNNINGHAM: Which is what you gave
23 me when you applied for your license.

24 MR. KAY: Exactly. Right. And then, you

1 go through minimum two years, and then you are
2 eligible to apply for a license upgrade from your
3 entry level license, and at that point you meet up
4 with somebody like Dan who sits you down and says,
5 Okay, now talk to me. And they ask you pressing
6 questions.

7 Very often, the guy's name is Al
8 Adams in California, he says, No, you're not ready
9 for this. Go back to the salt mines and come back
10 when you have done this, this, and this. Which is
11 to me, more descriptive of experience and
12 interactive towards experience because I'm, I
13 concur with Mark, everybody in the room that we
14 don't want wild cards in our industry. The
15 liability exposure is too great. I mean, count
16 the fingers, so to speak.

17 MS. CUNNINGHAM: I see ten.

18 MR. KAY: Yes. Show me ten and then
19 we'll talk more.

20 MR. REARDON: But if you're a new guy,
21 you have ten fingers.

22 MR. KAY: Point well taken. Yes.

23 MR. PANTHER: And the state of Illinois
24 has the licensing review board that acts on these

1 packets of information that are submitted and they
2 make the recommendation whether or not the person
3 should be granted the license.

4 So, I mean, I don't think there's
5 any question at all the State Fire Marshall's
6 office is willing to work with this, trying to get
7 this process implemented. It was very difficult
8 at first. Especially for some of us who have been
9 on the road a long time going back trying to get
10 documentation to fulfill the statute. It was a
11 little bit difficult. We had file drawers full of
12 permits, but they didn't specifically address the
13 information that the state of Illinois wanted.
14 Now, the writing is already on the the wall.
15 Illinois is not the only state doing this. Quite
16 honestly I wish everybody would do it same, but it
17 will never happen. And until it does, we're going
18 to be dealing with these individual idiosyncracies
19 with each of the states. I applaud the Fire
20 Marshall's Office for doing what they've done,
21 given regulations they were put, you know, tasked
22 with enforcing.

23 MR. KAY: And parenthetically, the
24 addition of the production company, I have to

1 commend Dan in accommodating Sony Pictures,
2 accommodating 20th Century Fox Television. I
3 mean, the state legislature gave us wonderful
4 support with a 30 percent rebate for producing in
5 the state of Illinois. I think the movies this
6 summer and television were great for the economy
7 of this state.

8 And again, I commend you on
9 accommodating big shots from the coast and
10 bringing them into this state and putting them to
11 work with ease. And again, being on the business
12 end, we were kind of making it up, but just
13 feeling it out as we went. But, by George, it got
14 done and nobody had to sit twiddling their thumbs
15 and saying, Where's the state of Illinois? Why is
16 my company burning time off the clock without a
17 permit? Never happened.

18 MR. McMULLIN: Yes. We'll accommodate
19 you as much as we can within the law. You know,
20 we don't want, like you say, someone sitting there
21 doing nothing. But we realize things come up at
22 the last minute. I had that with John Newland.
23 We worked through. We're not here as against
24 anyone, we're here to work with you to make it a

1 safe show. We don't want anyone hurt, any
2 property damages. That's our number one goal.

3 MR. KAY: I will say it's to their
4 credited, the 20th Century Fox, the director, the
5 producers were all very safety oriented. We had
6 scheduled safety meetings like you would have to
7 by statute in California. All very good stuff.
8 Nothing that hoisted the flag, and again, I had
9 people to call if I was getting any red flags.
10 Never needed it.

11 MR. McMULLIN: Okay. Anymore discussion
12 on this topic?

13 MR. REARDON: Well, I guess, I mean you
14 had kind of put a motion forward that we all agree
15 that the rules that are presently in place are
16 acceptable. We can vote on the fact, at least
17 that part of this discussion can be --

18 MR. PANTHER: I didn't frame it as a
19 motion, but I'm not opposed to doing so unless
20 there's anybody else has any comments.

21 MS. KREVITT: Yes.

22 MR. MITCHELL: Your name, please?

23 MS. KREVITT: Shelly Krevitt. All these
24 rules are great and everything is great, and yes

1 the members should be educated, but the bottom
2 line is, no matter how many rules you have in
3 place, until we know who is insuring these people,
4 we're still not going to let it happen. I know my
5 people in my theater, I wouldn't even let a stage
6 hand take a wire that has anything to do with a
7 pyro because I'm liable for that.

8 MR. REARDON: What theater?

9 MS. KREVITT: The Arie Crown, McCormick
10 Place. Now, we do with a lot of corporate shows
11 which are available. And we have gone to some
12 point and said we don't want you to do pyro in the
13 theater because our Workman's Comp, do not cover
14 the stage hands on. We want to be more service
15 oriented, we wanted to, happen but right now,
16 there's no one to cover these guys and I'm not
17 willing to take that responsibility for that
18 Because we have nothing to do with the product, we
19 have nothing no do with anything. Our contract is
20 being signed by probably four people removed from
21 the pyro company or the production company. So,
22 you know, there's so many people, so many layers
23 involved, there is no way that I'm told that
24 insurance put into place by somebody or I let that

1 happen at Arie crown.

2 MS. CUNNINGHAM: So what do you look for
3 then if someone comes in and they wanted you?

4 MS. KREVITT: If they wanted to do pyro,
5 first all, I would get our Fire Marshalls
6 involved. Like, the main thing we say is, okay,
7 we are a Local 2 house and who is going to insure
8 these people if you need help in that department?
9 And 99 percent of the they are going to need help,
10 even if it's moving a box, moving a box of
11 chemicals or whatever. It's still -- I mean, down
12 the road, well they didn't put the box down
13 correctly, they didn't do something, silly things
14 that could make up that person liable in the long
15 run.

16 MS. CUNNINGHAM: If you have a company
17 like Brian Panther's company who says I'll insure
18 them, I'm going to use them as assistants, I'm
19 going to insure them, here's my insurance. You
20 can speak better to this than I can as to how you
21 add additional insureds to your policy when you go
22 to an event, is that what you look to to allow
23 that to happen in your venue?

24 MS. KREVITT: Yes. Right now, whoever

1 signs the contract with us, we go to them and we
2 need their insurance certificates. So they're
3 pitting us on as additionally insured. They're
4 not the ones doing the pyro. So yes, we would
5 need somebody, whatever company is come in doing
6 he pyro, first of all, we approve that they're a
7 legitimate company. Then we need to know if
8 they're looking for help and they're going to need
9 some stage hands, are they going to put them on as
10 additionally insured. And then we will then go to
11 the particular stage hand, designate them just for
12 that, and we will arrange that ahead of time if
13 that happens. They will have them on their
14 payroll, we will take them off our payroll and go
15 on their payroll. But it's never happened because
16 no one wants to do it.

17 MS. CUNNINGHAM: Does the payroll have to
18 occur for a whole day or can it occur for part of
19 a day? In other words, as you were speaking
20 before, if you're needed for maybe four hours to
21 actually perform pyrotechnic services/stage hand
22 services for a local license, is that permissible
23 or would they have to actually maybe hire that
24 perso for a day?

1 MS. KREVITT: I don't know. I would
2 think that they would need to -- if we're going to
3 then rotate -- They're on their payroll, so it's
4 however they decide. These people would not turn
5 around and start rigging lights and sound or
6 whatever, they're strictly there for that, and I
7 would think that would be the way to do it.

8 MR. PANTHER: I applaud you number one,
9 doing your homework and using appropriate vendors.
10 I saw that need in this particular market and
11 being a supporter of the union, decided we would
12 try to figure out a way for this to work for the
13 folks that have collective bargaining agreement.
14 And we have a similar collective bargaining
15 agreement that you do. In that type of a
16 situation, everything the way that we chose to
17 approach it was that when they're there
18 functioning as a pyrotechnician today, they're
19 functioning on our payroll. We take care of the
20 steward reports, we take care of the union
21 benefits; we do all of that. It's completely hats
22 offer to you. You have the added ability then to
23 be able to fulfill your contract with Local 2 and
24 providing the union then the work that they needed

1 we fulfill the statutory requirements of the state
2 of Illinois and the federal with respect to the
3 pyro part of it.

4 MS. KREVITT: Now, I noted since I
5 haven't been there at a previous venue at Ravinia
6 Festival, we have not allowed other than just to
7 say no. Which people have come in. Now, Ravinia
8 is the producer themselves. We're not signing
9 contractors anywhere. We don't want their
10 liability. The Crown where rental hours -- and we
11 would love to allow it, but we're not going to
12 until something else is put into place. I don't
13 know about the rest of McCormick Place, because we
14 hold -- in the Crown, we hold the Local 2
15 contracts where they do not go outside. So not
16 out in McCormick Place. So they're separate
17 contracts down there. I don't know what they do
18 there.

19 MR. PANTHER: And the reason we have
20 looked down this road is because we were seeing
21 situations where a show comes to town, let's take
22 the Broadway in Chicago series as a case in point.
23 If you're not in the middle of doing theater, it's
24 not in your normal business operations, there's

1 not a financial reason for a distributor
2 necessarily to want to do that type of thing. We
3 do a lot of theater work. In fact, we do more of
4 that type of stuff than we do live music work. So
5 for us it was in our best interest to go down the
6 road of doing theater.

7 The thing that I saw happening
8 particularly in the Illinois market in Chicago
9 specifically is that Broadway shows were coming to
10 the stage, looking at the regulatory environment
11 and just looking at the regulatory environment and
12 just saying, You know what, we're going the
13 rewrite the show and take the effects out of the
14 show. To me, that's painful that people would
15 make a fiduciary decision like that, to take
16 something out of a show and then, you know, the
17 spectators that watch it here in Chicago don't get
18 the same show that you get when you go to New York
19 City and watch it on Broadway because they didn't
20 want to pay for that additional thing. Well, by
21 us stepping up and providing that service, it
22 allows them an option to be able fulfill they're
23 collective bargaining agreement and to fulfill the
24 statutory requirements. And so, that's where we

1 went.

2 MS. KREVITT: Also, to continue in that
3 service oriented, we want to make it happen. We
4 want them to be happy and give them what they
5 want, but it's got to be by the rules and
6 everyone's got to be covered.

7 MR. PANTHER: You don't need a bad apple
8 out there screwing it up for everybody, so.

9 MR. KAY: Which, again, to get back to
10 Mark's point, the vote, can somebody articulate
11 what we are voting on again, please?

12 MR. PANTHER: I would move that with
13 regard to addressing topics, I guess it's topics
14 one and two, who can provide services and what
15 level of insurance -- what the insurance
16 requirements are with respect to what the
17 legislation has tasked us with. I would move that
18 those two items are adequate as they currently
19 stand and there is no need to change those
20 requirements as they are currently written.

21 MR. KAY: And there has been a second,
22 correct?

23 MR. REARDON: Third.

24 MR. KAY: Okay.

1 MR. MITCHELL: I guess prior to actually
2 having a vote, does anyone have comments?

3 MR. KAY: One more comment to a change we
4 have made in the past, namely, the production
5 company. Unintended consequences. Getting the
6 production company distributor's license is so
7 expensive that in essence, the low budget film is
8 out of the picture. Now, that may be a good thing
9 in terms of pyrotechnic service. But as a --
10 because I have gotten calls on this. Well, gee,
11 Kent, what do we do? I got a call from a low
12 budget film that's working in Chicago and they
13 have want a car explosion.

14 I say, Well, they could use Hi Tech
15 FX, they could use Strictly FX, you could get your
16 own license. They say, Really?

17 And then they look into it. Well,
18 we can't afford it. I say well, these are your
19 alternatives by creating this category, we are
20 really putting the welcome mat out for the Sony
21 Pictures and for the Fox broadcast.

22 MR. PANTHER: Or any other production
23 company that wants to come in and do business in
24 the state.

1 MR. KAY: Exactly. Right.

2 MR. PANTHER: Everybody plays on the same
3 playing field, that's what I think we're all here
4 to do. Fulfill the requirements and you have no
5 problems.

6 MR. McMULLIN: Taylor.

7 MR. MUZZY: I'm still a little unclear on
8 the discussion on understanding the production
9 company entertainment industry. It doesn't make
10 sense. I don't understand the entry that well.
11 I'm a little unclear exactly if there's been any
12 conclusion reached there.

13 MR. REARDON: I don't think there was a
14 conclusion. We haven't really discussed whether
15 or not expanding the production company because of
16 the fact that that industry in the sense that a
17 company comes in and doesn't have, or the
18 operators don't have insurance. So production
19 companies supplies that insurance, i.e., a theater
20 production, a movie, a commercial, something like
21 this. A concert situation isn't like a movie and
22 it's not a theater. So connecting the two are the
23 same. I think it's -- we're going to move on up
24 to a completely different conversation or the

1 production company is in itself, we've defined it
2 and everyone it's quite happy with the way they
3 defined it and it's working.

4 MR. MUZZY: So it means that
5 entertainment production company, for example Live
6 Nation, that's a high tech production company?

7 MR. REARDON: They are a promoter,
8 concert promoter.

9 MR. MUZZY: Would that be an example
10 where a company like that would come in and
11 provide -- would it make sense for them to have an
12 option to get a production company license?

13 MR. PANTHER: They could.

14 MR. McMULLIN: They could, but they would
15 already -- Live Nation comes in with Janet
16 Jackson. They hire Brian and he is the pyro
17 company, so they wouldn't have the need to get the
18 production license. Because Brian is a
19 distributor in the state of Illinois and he's
20 licensed, so there would be no need for Live
21 Nation to get that.

22 MR. PANTHER: Technically yes, they could
23 get it, but it doesn't make financial sense for
24 them because they're not a motor carrier, they're

1 not going to have a real team effort, they're not
2 going to get registered r.

3 MR. REARDON: And they're also not
4 additionally insured, someone without insurance to
5 be able to do the show, which is the whole purpose
6 of the production company.

7 MR. MUZZY: So really what we're talking
8 about then, comparable to the music, or to the
9 film and television, you're talking about the
10 actual music group that's touring because they're
11 the ones with the trucks, they're the ones that
12 are driving around?

13 MR. McMULLIN: Yes.

14 MR. PANTHER: I can tell you from
15 experience when I've been on contract with Live
16 Nation, the first thing they asked me for is my
17 insurance certificate, because they're not
18 interested in insuring me. So they don't have the
19 coverage themselves, why would they want to jump
20 through all these hoops?

21 MS. KREVITT: They want you to get the
22 insurance from them.

23 MR. KAY: Same in california. Show me
24 the GPT. Show me your liabilities.

1 MR. REARDON: The promoter buys a show,
2 they buy a package and that package contains
3 supplies, vendors, all of those vendors and
4 supplies by part of them having that have their
5 own insurance.

6 MR. MUZZY: Is there a current -- how do
7 you refer to the music figure?

8 MR. PANTHER: The artist.

9 MR. MUZZY: When the artist comes in with
10 their group and they hire a distributor, is there
11 a mechanism under the current regs and statute
12 whereby, you know, the distributor can, they can
13 hire the distributor and then, you know, other
14 people can provide services. It's not -- like the
15 employees of the distributor have to do the high
16 tech.

17 MR. REARDON: In a concert situation, you
18 understand I don't think if you use the products,
19 put on stage and used in various close proximity
20 to artists as well as to audience, there's
21 something that level of trust through experience
22 and direct contact. The artist says, this is
23 where I want this and it's going to happen at this
24 point in the show. And he has an operator that

1 tours with that tour and is in charge that that
2 happens when it's supposed to happen every time.

3 MR. MUZZY: Is that person who is the artist
4 pyro person, are they being employed and paid by
5 the distributor?

6 MR. REARDON: They are paid for by the
7 distributor. The vendors on the tour. They have
8 the license number that support --

9 MR. PANTHER: In those situations whether
10 it's my company or Mark's company, we have a
11 contractual -- and basically we're being
12 contracted to provide that for them. Their
13 employees remain their employees, but s a business
14 service, we are providing the supervision, and
15 quite frankly, by putting our stamp and sour
16 distributor's license on it, we're also assuming
17 liability for that show.

18 MR. MUZZY: I just don't understand on
19 the statute how it works because the statute says
20 that nobody shall need or make an employee without
21 being a registered assistant or lead operator.
22 And you're telling me those people aren't --

23 MR. PANTHER: We register them as
24 assistants. We do register them as assistants.

1 However, we're not making them full fledged
2 employees. They have Work Comp coverage in place
3 through their employer, so it's not necessary for
4 them to become full fledged employees on our
5 payroll. We are charging them a fee for our
6 service and we are as part of that service
7 extending our liability umbrella to cover them and
8 we are supervising them while they're performing
9 in that jurisdiction.

10 MR. MUZZY: So then why couldn't that
11 extend to the current employer whereby the
12 employer is providing the Workers Comp coverage
13 and the distributor extends the other insurance
14 coverage and pays the individuals?

15 MR. PANTHER: Because of the exclusionary
16 policies of the Work Comp policy. For instance,
17 when she goes to her insurer and says I need -- I
18 have 150 employees that work for me. They're
19 going to classify her business based on the type
20 of work that they do and they're assigned into a
21 particular risk group. They're going to ask them
22 what type of his things do you do? Do you do
23 riggings, do you cook the hot dogs in the
24 concession stands? They're premiums are based and

1 their overage is based on the type of work that
2 they're doing. When you say the F words, the
3 fireworks or pyrotechnic, instantly a wall goes up
4 between the insureds and the people who are trying
5 to purchase that.

6 Like I was saying, there's only
7 about four or five companies in the world that
8 underwrite the type of business that we all do
9 because of the assigned risk group that we're in.

10 MS. KREVITT: Ours specifically says no
11 pyro.

12 MR. PANTHER: And that's where the
13 problems comes in. The companies that are coming
14 in have been retained to provide pyrotechnic
15 services for the tour are already set up, they're
16 already insured. They're paying astronomic
17 amounts of insurance coverage. That's already in
18 place. And when we enter into these agreements
19 with these companies, we're trading insurance
20 certificates. We're claimng each other
21 additionally insured. It's not something that we
22 all jump up and down and get excited about doing,
23 but it's a necessity of the business that we're
24 in. We can't physically be licensed everybody

1 where, so we very to do this type of practice in
2 order to work all over the United States or in
3 other countries. It really gets complicated
4 overseas.

5 MR. KAY: Now, if I can clarify by
6 example. Recently States Events called me to
7 cover Disturbed, a heavy metal band. No live
8 audience, they were just renting the hall in
9 Springfield to get their show together. Now, they
10 had a road operator, our old friend Fly doing to
11 gas cap. I am a the license. I am the employee
12 in this situation of Hi Tech FX. The road
13 operator is registered as my assistant. He's on
14 the payroll of the touring company. He's a
15 Disturbed employee.

16 MR. REARDON: We're talking about Fly.

17 MR. KAY: And also, we could make
18 comments about Fly but I'll pass. Now, a
19 situation arise on the set where production has
20 worked the road pyro 21 hours straight. It's
21 sunrise and he's still on the job. I'm the
22 licensed operator, I am the de facto compliance
23 officer. And I go to the producer and I said, you
24 don't rest this guy and I'm pulling the plug. He

1 says, Well, what do you mean? I said, I'm going
2 to go walk over to the fire station and get the
3 three captains that have approved this job to come
4 over and we're going to turn the rights out. So
5 that's the structure.

6 I'm the license, I'm the compliance
7 officer. The employee. I'm representing his
8 interests and if authority having jurisdiction.
9 That's one of my jobs. But Hi Tech stuff paying
10 Fly, Hi Tech's paying me to perform this service
11 on the set, correct?

12 MS. CUNNINGHAM: Correct.

13 MR. KAY: All right.

14 MR. MUZZY: And that person is an
15 employee of the artist covered by the Workers Comp
16 policy, but the distributor is extending the other
17 insurance coverage registering those people as
18 assistants.

19 MR. PANTHER: And we have a contractual
20 agreement with that individual to provide that
21 service.

22 MR. MUZZY: Is that scheme? Is that
23 written down anywhere? Is that in writing?

24 MR. PANTHER: I don't know that that's

1 written down anywhere in the country. It's just
2 become the de facto service of providing that
3 service.

4 MR. McMULLIN: Yes. The way the law is
5 written, you have to have a distributorship and a
6 licensed operator. That's how it's written and
7 it's shown.

8 MR. PANTHER: And we as distributors have
9 the right to say no. There have been times when
10 road operators have called and said we would like
11 to do this. And we know by this individual's
12 reputation, that this is not somebody we want to
13 be associated with and we have on occasion said
14 thanks, but no thanks, we're declining to provide
15 you with that type of coverage.

16 MR. MUZZY: Well, there's no requirement
17 that an individual on pyro B, an employee of the
18 distributor, has to have Workers Comp coverage
19 together insurance coverage requirement.

20 MS. CUNNINGHAM: Your lead pyrotechnic
21 operator has to be an employee of the production
22 company.

23 MR. MUZZY: What about the assistants?

24 MS. CUNNINGHAM: The assistants are

1 required to be employees. But as we've gone
2 through this, you know, it's assistant as an
3 employee of the licensed pyrotechnic distributor
4 or the licensed production company, they think we
5 do need to add some words after that. To the
6 extent the assistant had been directed by the
7 pyrotechnic distributor or the production company
8 to perform pyrotechnic services.

9 MR. PANTHER: Which section are you in
10 there, Maureen?

11 MS. CUNNINGHAM: I'm in Section --

12 MR. PANTHER: Is this under 225?

13 MS. CUNNINGHAM: The 225 ILCS 227,
14 Section 35 C -- no, E. Section E. A person is
15 qualified to assist a lead operator. A lead
16 operator is a person who meets all the following
17 minimum requirements. Seven, is employed as an
18 employee of the licensed pyrotechnic distributor
19 or the licensed production company. And I think
20 to grasp the conversations that we've had today, I
21 would suggest adding the words to the extent the
22 assistant has been directed by the pyrotechnic
23 distributor or the production company to perform
24 pyrotechnic services.

1 And the reason I would suggest that
2 change is based on what Mr. Kay has pointed out as
3 a stage hand who shows up at the Arie crown
4 theater, or to be a stage hand, he may actually be
5 asked to perform pyrotechnic services. You are
6 going to look to see if the production company
7 coming in needs his services as a pyrotechnic
8 assistant. To the extent that they do, you're
9 going to ask the company to provide you with proof
10 of insurance, correct?

11 MS. KREVITT: um-hum.

12 MS. CUNNINGHAM: In order for Mr. Kay to
13 receive his credentialing as an assistant for that
14 production company, he's technically supposed to
15 be an employee. And the reason we required the
16 employment is because we wanted to make sure, two
17 things, that there would be Workers Compensation
18 insurance because your technically an employee.
19 You would also be an employee possessor federally,
20 and it seems to me the important direction has to
21 come from the pyrotechnic distributor, you know,
22 an individual licensed pyrotechnic distributor
23 company for a production company making that
24 direction. So that it's not a building owner who

1 is directing you to do it. It has to be someone
2 who is authorized by the production company or
3 pyrotechnic distributor that your services are to
4 going to be used for pyrotechnic services. That
5 your assistance is going to be used for
6 pyrotechnic services because they're insurance is
7 on the line.

8 Now, nothing on in the law says you
9 have to be paid as an official employee, but what
10 we're saying is you're employed to the extent that
11 you're being directed to perform pyrotechnic
12 services.

13 MR. MUZZY: I think that's a legal issue
14 whether someone is in a contract. That's based on
15 various factors. I think one of them is being
16 paid, you get a W-2, you get don't get a 1099. I
17 don't know that you can use the word employee
18 without bringing in that connotation. If you're
19 talking about directing someone to perform
20 services, that's another issue.

21 MR. PANTHER: Then under the Internal
22 Revenue Section 55 defines what constitutes an
23 employee versus independent contractor. And you
24 are providing him with tools, you're providing him

1 with time schedule, and you're directing them as
2 to what they're doing. Time and time again, they
3 have held that you are an employee, not an
4 independent contractor. And that's the limit test
5 that we've always faced in the pyrotechnic world
6 of, well, this guy, he may have his own licenses,
7 but if he can't come to me and show me that he has
8 a business license and show me that he has his own
9 work Comp insurance, then I'm sorry, you're not
10 take independent contractor and that's where -- I
11 understand what you're saying. I think it is a
12 legal gray area that's not specifically addressed
13 here. The way I understand it and the way my
14 counsel advised me is if that individual is being
15 paid by you or they're being directed by you to
16 perform a service, they're your employee unless
17 you can show that A, B, C, D, E is all met to fit
18 the criteria of becoming classified as an
19 contractor.

20 MR. KAY: Let me give another recent
21 example. I'm called in to do a cover license on
22 are for Felt on the circus. They have a road
23 operator who is an employee of Felt. I, in turn,
24 register him as an assistant. Now, Felt no way

1 upside down or backwards is going to let me pay
2 him. He's on their payroll service. So are we
3 talking about the same thing here?

4 MS. CUNNINGHAM: Well, then is the issue
5 addressed then, Taylor, if you say an independent
6 contractor hired by or an employee. That way you
7 can be an independent contractor or you can be an
8 employee. But here is the problem that we run
9 into not in the indoor industry. In the indoor
10 industry and the movie industry tends to be far
11 more professional than the outdoor part of the
12 industry. What happens all the time in the
13 outdoor part of the industry, we truly need to
14 have in here is an independent contractor or
15 employee because in the outdoor industry, what
16 happens is the minute something happens is, oh, he
17 was a volunteer. He was a volunteer.

18 We have a situation in Quincy,
19 Illinois, where a woman was assisting in a company
20 in the setup and her arm got blown off and part of
21 her head. And the company said, Oh, she was a
22 volunteer. She wasn't our employee. And we
23 weren't covering her under our Workers Comp
24 insurance. So then why not say that? Why not

1 say either an independent contractor or an
2 employee.

3 MR. MUZZY: That makes sense. It seems
4 to me that's in there.

5 MS. CUNNINGHAM: Because they don't want
6 this whole volunteer situation and it wasn't a
7 unique situation, it happened all the time.

8 MR. McMULLIN: At least once a year.

9 MS. CUNNINGHAM: We had a situation down
10 in, we were just talking about it, Arthur, when a
11 girl got part of her hand blown off and the
12 company tried to say, Oh, you know what, she was a
13 spectator and she ran out on the field. She
14 wasn't a spectator out on the field. They had
15 pictures of her where she was loading product.
16 She was loading product. After the fact they
17 wanted to say, Oh, she was a volunteer, she was a
18 spectator. They don't want any liability. So
19 it's important that the concept be in here that
20 somehow the individual is being directed by the --
21 there's a relationship by the company or -- I
22 don't care if it's a distributor or production
23 company, and the person, whether it's an
24 independent contractor or an employee, that has to

1 be in there.

2 MR. MUZZY: Well, it's interesting that
3 it comes from the volunteer scenario. I think
4 depending on what exactly you need, the Workers
5 Comp, the other insurance, this is in here because
6 you want someone who is acting as an assistant to
7 be covered by the Workers Comp.

8 MS. CUNNINGHAM: Because the production
9 company licensed in the pyrotechic company
10 visitor's license, it requires Workers Comp, which
11 obviously we are audited on all the time. It
12 doesn't say it always has to be just your Workers
13 Comp, it could be, in fact, Workers Comp that
14 that's being provide by Disturbed or the assistant
15 who in that sense would be -- you could consider
16 to be an independent contractor.

17 MR. MUZZY: Maybe then, the way to change
18 this, it would be to one state explicitly the
19 person can't be volunteered. I mean that's always
20 the option. Or you go to the employer/employee
21 situation where you say a person must be covered
22 by workers Comp insurance, must be covered by the
23 other insurance policy.

24 MS. CUNNINGHAM: It doesn't get us around

1 the employer/possessor issue though.

2 MR. PANTHER: Well, employer/possessor is
3 under 27 CFR only is required if you're handling
4 regulated material. If you're working with
5 articles pyrotechnic, you're never mixing
6 binaries, you're never handling device that has an
7 igniter that was not integral to the design of
8 that device, then 27 CFR does not apply. It's
9 specifically exempted.

10 So there would be the situation that
11 can exist that a pyrotechnic distributor may exist
12 that does not have an ATF license because they're
13 not required to. Most of Them will have it
14 because a lot of the manufacturers won't Even talk
15 to you unless you do have it, which I think is a
16 good industry practice.

17 MR. MUZZY: That's it.

18 A VOICE: That's the way we do it. It's just
19 one of those things that shows legitamacy. I'm
20 not saying that happens in 100 percent of the
21 cases because there are legitimate people, never
22 buy a binder, never buy a lose igniter. They're
23 very good at doing what they do, but haven't had a
24 license, certainly showed the legitimacy rather

1 than like us who is just a supplier.

2 MR. MUZZY: Certainly a complicated
3 issue. It sounds to me like there's an easy way
4 to draft it, but an assistant doesn't have to be
5 an employee of the distributor, get certain things
6 in place. Maybe they're not handling certain
7 material, If. They're not an employee, if they
8 are, you know, I think there may be a way to put
9 together that makes sense for every one.

10 MR. KAY: I've only had one instance in
11 the last two years where the assistant was an
12 employee I registered them as an assistant.
13 They're on somebody else's payroll.

14 MS. CUNNINGHAM: Yes, we've never had a
15 problem with that.

16 MR. KAY: And it would seem to me, the
17 material, to complicate matters if employees had
18 to be on distributor payroll, the assistants.

19 MS. CUNNINGHAM: I mean, what are your
20 options other than being an independent contractor
21 or employee?

22 MR. MUZZY: Well, you're an employee of a
23 different company, you're not an employee of a
24 distributor. I mean, isn't that what we've been

1 talking about?

2 MR. REARDON: Or the assistants can be
3 the people who are actually directed by the
4 distributor to actual handle that product. If a
5 distributor doesn't tell you what to do that, then
6 you can't be expected to do that.

7 MR. KAY: Indeed. Now, the other thing
8 about the --

9 MR. REARDON: I mean know the two don't
10 go hand in hand.

11 MS. CUNNINGHAM: So maybe it must be
12 directed by the pyrotechnic distributor or the
13 production company to perform pyrotechnic
14 services. Under no circumstances may the
15 assistant be considered a volunteer, is that what
16 you are saying? But unless they're an
17 employee/possessor under -- and maybe put that in
18 there. They're employees/possessor under 27 CFR
19 maybe not handle certain types of product, maybe
20 put those restrictions in there.

21 MR. KAY: Here's something I've run into
22 on a set. Because there is no entry level license
23 in the state of Illinois where you're a beginner
24 and you take a basic test. In California they're

1 trainee license. Now, I have members of Local 2
2 that I'm training. By bringing them to jobs with
3 me, registering them as assistants and getting
4 their hands on the product and finding out the
5 dynamics of the back stage of pyrotechnic
6 operations that they can only do under my
7 supervision. They can't get this experience
8 anywhere else. In those cases, many times I'm not
9 even in the jurisdiction o Chicago, but Local 2
10 has sanctioned them to volunteer in lieu of
11 training. Now, to make them legal, I registered
12 them has assistants, but they're not getting paid.

13 MS. CUNNINGHAM: I wasn't saying they had
14 to be paid. Important concepts that have to be
15 covered by this is that there's Workers
16 Compensation in place. You have to have Illinois
17 Workers Compensation in place for that. Because
18 that's the problem that I ran into with this whole
19 volunteer argument. I'm not going to register --
20 Cunningham Pyro, I might need pyrotechnic
21 operators. I have no employees, no assistants.
22 Because I'm not going to take it up. As the CEO
23 the Cunningham Pyro, I could exempt myself out of
24 Workers Compensation insurance and all the times

1 they do.

2 MR. PANTHER: In fact, it's very
3 difficult to get yourself added onto these
4 policies.

5 MS. CUNNINGHAM: And the argument that
6 came to me, which we were trying to deal with
7 because the statutes was requiring Workers
8 Compensation insurance for very good reason, is
9 that then they want to say everyone is volunteer.
10 If no employees, I have no assistants. Well, you
11 and I know, I don't care if it's in the outdoor
12 world for indoor world, there's no one man show
13 puts on these displays. They have people who are
14 assisting them, but they want to call them all
15 volunteers.

16 And unfortunately we've had these
17 situations where people have been -- well, she
18 almost died. I don't know if she -- because she
19 had some serious health issues after that. There
20 are people who have been severely injured and they
21 want -- and the person who directed them to help
22 them with the setup, they want to walk away from
23 them, declare bankruptcy, you know. If the assets
24 of my company which are minimal are at risk, I

1 have \$1 million of insurance, well how do you
2 truly compensate a 21-year-old woman who has lost
3 her arm, her ar part of her -- the back part of
4 her brain? She's going to live. The \$1 million
5 isn't going to cut it.

6 And that's the reality of what we
7 live With. So whatever that subparagraph is,
8 there is important concept to gain there. What we
9 have to do is make sure there's Workers
10 Compensation in place whether Kent Kay is being
11 used for pyrotechnic services as a stage hand or
12 whether he is the lead pyrotechnic operator for Hi
13 Tech FX. You know that assistant has to be
14 covered by someone. To grasp the concept that the
15 assistant can actually be an employee of
16 Disturbed, but they have Workers Compensation
17 coverage in place. It may not be Brian's Workers
18 Comp in place. I guess in order for that Workers
19 Comp to cover him, you have to to have a
20 contractual relationship between Hi Tech FX and
21 Disturbed.

22 MR. PANTHER: Yes, you're either an
23 employee or independent contractor.

24 MS. CUNNINGHAM: You're additionally

1 insuring one another somehow.

2 MR. REARDON: But at the same time, the
3 venue is supplying the labor and is being
4 contractually in place to supply that labor.

5 MS. CUNNINGHAM: Well, in a different
6 venue, you're right.

7 MR. REARDON: No, in the state of
8 Illinois the venue is -- that's what you
9 described. The venue is who describes the local.

10 {Whereupon, a short recess was
11 taken.}

12 MR. PANTHER: Okay. In light of the
13 discussion that we had just before recess, I would
14 like to formally withdraw my motion to finalize
15 the first two topics pending further discussion in
16 task force.

17 MR. KAY: I second that motion.

18 MR. MITCHELL: All those in favor?

19 {All say aye.}

20 MR. STRINGER: I'm John Stringer. I'm
21 with Drayton Insurance Brokers in Birmingham,
22 Alabama. We had a pyrotechnic program for about
23 25 years, both out door pyro and indoor pyro. I
24 didn't hear your original discussion, but I gather

1 it was two areas, Workers Comp and general
2 liability.

3 Workers Comp is fairly straight
4 forward. It follows the employer. Whoever is the
5 employer of the person involved is the person who
6 is responsible for paying the benefits. If a
7 pyrotechnician works or Strictly, then he's
8 injured in the course of his employment,
9 Strictly's Workers Comp program is responsible.
10 If they hire a temporary person, provided he's on
11 their payroll, they're also responsible for any
12 injuries to him.

13 If a volunteer is working with him,
14 which you probably don't have volunteers, but if a
15 volunteer or an unpaid person is working, he's
16 probably not entitled to Workers Compensation
17 benefits. If he tries to collect them, again
18 Strictly's carrier would respond to the claim.
19 Either denying the claim or paying the claim.

20 If a third party is involved, is
21 injured, then the claim for Workers Compensation
22 benefits goes back to his employer. So if the
23 pyro company goes into a venue and the venue's
24 employee is assigned to an assistant in whatever

1 capacity, and he is then injured during that work,
2 then his employer is responsible for the Workers
3 Compensation benefits. Does not go back to the
4 non-employer.

5 As a follow-up on the claim, if the
6 Workers Compensation carrier for the venue feels
7 that their insured was not responsible for the
8 injury, they pay the benefits and then they would
9 subrogate for reimbursement against the pyro
10 company. And that would then be covered by the
11 pyro company's general liability coverage because
12 it would not be an employee. So it's fairly
13 straight forward, you follow the employment chain
14 and that's it.

15 General liability gets more
16 complicated. Pyro company general liability
17 policy permits him to include as additional
18 insureds the owner of the venue, it covers the
19 licensing, or can extend to cover the licensing
20 authority and it can cover sponsors, people who
21 hire him to do the pyro. In this case perhaps a
22 tour. And they are additional insureds, but they
23 are additional insureds in respect of the
24 operations of pyrotechnic company. They are not

1 additional insured in the respect to their own
2 negligence.

3 So if the fire service comes as an
4 additional insured and goes to the venue, it does
5 something that's their negligence, perhaps they
6 turn the sprinklers on, something they shouldn't
7 do. That is their responsibility because it
8 didn't arise out of the operations for the
9 pyrotechnic company. They might try to put in a
10 claim. It's probable that the pyro insurance
11 company would deny it.

12 The fire service company insurer and
13 the pyro insurance company would argue it out.
14 Automatically on a pyrotechnic company's policy,
15 employees are insured, officer, partners,
16 employees while acting within the scope of their
17 duties are responsible. They're not additional
18 insured, they're just part of the general
19 insurance picture. And so if someone is injured
20 and puts a claim in directly against the
21 pyrotechnician has an individual, if he's acting
22 within the scope of his employment and the
23 pyrotechnician employer's insurance company will
24 handle the claim.

1 We also get situations where
2 pyrotechnic's company has coverage, but the
3 additional insured does not. Where we cover the
4 vicarious liability of the pyrotechnic company for
5 someone else's actions. We seen claims where
6 someone's stolen pyrotechnics, caused an injury,
7 induced them, they will cause an injury, and a
8 claim has come in against the pyrotechnic company
9 for not safeguarding their product in saying they
10 were responsible for that person's actions. But,
11 again, it's fairly straight forward. The general
12 liability covers the named insured, any additional
13 insureds for claims arising out of the named
14 insured's operations.

15 MR. KAY: John, in the City of Chicago,
16 as a function of getting one's permit, you have to
17 name virtually the entire Chicago Fire Department
18 as additionally insured.

19 MR. STRINGER: Right.

20 MR. KAY: Can you go into a little more
21 detail on that? What are we doing?

22 MR. STRINGER: Well, if there's an
23 endorsement, there's a standard endorsement. I
24 don't remember the number, but it's called the

1 perpity endorsement and it's issued mainly a local
2 authority or someone who has jurisdiction and
3 issues a permit. Claims that are made against
4 them by the fact they issued the permit. Perhaps
5 a claim is made that they didn't investigate the
6 person who received the license and therefore
7 they're responsibility for that person's actions.
8 So that endorsement covers the fire department
9 for, say, claims arising from its perpity
10 activities.

11 MR. KAY: I also presume that it would
12 apply to if they dispatch hook and ladder and
13 somebody to fight a pyrotechnic fire or the
14 results of a pyrotechnic effect, that the
15 insurance would be applied to that as well?

16 MR. STRINGER: Well, the perpitting
17 endorsement would not because it specifically
18 relates to the perpitting operation.

19 MR. KAY: I see.

20 MR. STRINGER: That was one of those gray
21 areas I tried to mention before. If you're named
22 as an additional insured and a claim comes
23 against -- you receive a claim arising from your
24 operations and you feel that those operations were

1 pertaining to your work for the pyrotechnic
2 company, you can request the pyrotechnic's company
3 insurrer to identify if they would do so if they
4 felt it did arise from the pyrotechnic operation.
5 But if it was anticipating negligence on your
6 part. You didn't perform your fire fighting
7 functions to the standard that's required of a
8 professional fire department, then that would be
9 an independent act of negligence and probably
10 would not be covered by that policy.

11 MR. KAY: I see Okay.

12 MR. REARDON: The biggest thing we were
13 talking about before, you know I don't know, John
14 wasn't here to hear much. Maybe that we're
15 compelled to hire, whether or not Workmen's Comp.
16 and how all that would relate in the sense that
17 it's certainly not an employee of ours, it's not
18 something that we would hire, we are aware of or
19 anything, this is a person who we are assigned and
20 how that Workman's Comp and the fact that the
21 building is actually hiring itself.

22 MR. STRINGER: Well, in those
23 circumstances, if you pay the person directly, he
24 is an employee whether you wanted to hire him or

1 not and your Workers Comp would respond because
2 you're incurring payroll and your reporting that
3 payroll to the Workmen's Comp. If you don't pay
4 him directly, if you pay the building, the venue,
5 out of that money, they pay the employee, then
6 probability your Workers Comp carrier would not be
7 responsible to an injury for him because he's not
8 your employee.

9 You get gray areas here, who is in
10 control, who directs him, things like that. And I
11 was mentioning to someone just a few minutes ago,
12 we had a claim where -- well the person injured,
13 or the pyrotechnic company felt that he was an
14 employee and they sent him Workers Compensation
15 benefits and he declined them, returned them
16 because he wanted to put in a a claim against them
17 as a contractor, as a third party where he thought
18 he could collect more money. So it was a gray
19 area.

20 Gray for both sides. Not you can be
21 absolutely sure whose an employee. But both
22 parties have Workers Comp coverage and both
23 parties have general liability coverage, then
24 there's insurance somewhere and it's up to the

1 insurance companies and the attorneys to argue as
2 to who is going to pay.

3 MR. McMULLIN: John, the general
4 liability, it has to stay pyrotechnics in order to
5 cover it, correct, 1.4?

6 MR. STRINGER: Most general liability
7 policies describe the insured's business and
8 certainly one issued to a pyrotechnic company
9 would describe him as a fireworks dealer,
10 fireworks operator, works on effects. If it
11 described him as a building owner and he put in a
12 claim for a pyrotechnic operation that he had
13 conducted, it's quite possible his insurance
14 company -- well, they would have the right to
15 decline it. They might feel that it was, let's
16 say, somebody went and shot a firework display off
17 the roof and guy fell down an elevator shaft on a
18 roof. Well, it was close enough on a building
19 that he would have coverage, but it's certainly
20 questionable and it does need -- what we always
21 tell our insured. You tell your insurance
22 company, your insurance agent what you do, and you
23 pay the appropriate premium and they will get you
24 appropriate coverage. If you try to get by, then

1 you run the risk of getting by with no coverage
2 You've got to be open. Tell, me people what you
3 do and they will arrange the insurance for you.
4 You may not like the premium, but they'll arrange
5 the insurance.

6 MR. KAY: Are the premiums dependent on
7 compliance to regulation?

8 MR. STRINGER: The premium. The premiums
9 are not dependent on regulations. There are
10 some -- we have competitors in the pyrotechnic
11 insurance business. At least one of them, two of
12 them have gotten a specific exclusion in the
13 policy. That coverage is dependent on the insured
14 complying with the appropriate NFPA Code, which is
15 11, 23 or 26, I think. In fact, I gave court
16 testimony against a claim where an insurance
17 company turned one down on the basis it didn't
18 meet one of our competitors.

19 MS. CUNNINGHAM: We just had an insurance
20 where they denied coverage because the company
21 failed to follow our regulations as well as NFPA.

22 MR. STRINGER: That's the Lloyd's policy.
23 They require not only the NFPA Codes, but also the
24 local requirements

1 MR. KAY: I as an operator, again, when
2 I'm on the set, what I pitch to my client and the
3 AHJ is that compliance in my mind as an operator
4 ratifies the liability insurance. In other words,
5 if I'm not in compliance, there's a cloud over my
6 insurance, is that correct?

7 MR. STRINGER: Some carriers. I wouldn't
8 say, everyone. Every policy wouldn't have that
9 exclusion, and it would have to to be a really
10 blatant violation of law for us to deny a claim.
11 You might not get them in your policy the way you
12 want it, but that particular claim would be
13 covered. Workers Comp, they couldn't turn a claim
14 down for failure to comply with regulation.

15 MR. KAY: I see.

16 MR. STRINGER: The thing about Workers
17 Comp is the benefits are lower, but the payout is
18 assured. It's a trade-off. Insurance companies
19 can't turn claims down and the insured person gets
20 less than the amount than if he could establish
21 liability.

22 MR. McMULLIN: Under your policy would Brian
23 or Mark, whoever the company is, who can handle
24 the product and who can mount the product?

1 MR. STRINGER: We don't have a specific --
2 general liability policy doesn't have a
3 requirement as to who can do anything. All we do
4 is cover the pyrotechnic company for claims made
5 for injury or damage arising out of its
6 operations. There are exclusions, of course, in
7 Workers Comp, but it covers claims arising from
8 their operations and any operations they conducted
9 or in conformity of being a pyrotechnic company,
10 we cover. We wouldn't say that's not covered, but
11 the pyro company shouldn't have done that. They
12 go out to a convenience store and shoot somebody,
13 that's not covered under their pyro policy. I
14 lost part of your question, I'm sorry. Could you
15 repeat your question?

16 MR. McMULLIN: Under the insurance, they
17 go into a venue and going to setup. Can only
18 their employees do that because you're insuring
19 that company?

20 MR. STRINGER: There are two avenues.
21 One is for the coverage for the pyrotechnic
22 company and the other is any coverage that might
23 be for the person who does the setup. If the
24 pyrotechnic company permits someone else so setup

1 their equipment, then they are still covered for
2 any claims that arise out of that operation.

3 However, the person who does it, the
4 independent contractor does the setup, he has no
5 liability coverage. In fact, our insurance
6 company might pay a claim Strictly and then go
7 back against that independent contractor saying
8 this claim wasn't our insured's fault. We had to
9 pay it, but we want you to reimburse it. He would
10 have no coverage, but we're talking about parallel
11 area.

12 MR. PANTHER: That independent contractor
13 is personally off the hook.

14 MR. STRINGER: Or his employer.

15 MR. PANTHER: That's why we're saying,
16 it's so clearly important that that relationship
17 is established because you're opening yourself up
18 for huge liability.

19 MR. STRINGER: Then you could be held
20 responsible for their employee's action.

21 MR. PANTHER: But I think one of the
22 questions that this lady had made regarding -- she
23 is in management of one of the theaters. In the
24 case that seems to be a hot topic of discussion in

1 this particular situation. If a company like
2 Strictly FX or myself comes into Chicago and we're
3 working in a venue that has a collective
4 bargaining agreement with a labor union, and the
5 labor union says you need to utilize these people
6 as laborers for your project. What does that open
7 up us as the pyrotechnic company to if one of
8 those individuals is being directed to --

9 MR. STRINGER: Well, who is doing the
10 directing? Are you doing the directing or is the
11 theater doing the directing?

12 MR. PANTHER: That's part of the whole
13 discussion.

14 MR. STRINGER: Well, that would effect
15 your liability. If that person is injured and
16 you're not paying him, then I don't believe your
17 Workers Comp carrier would respond. The theater's
18 Comp carrier would have to respond. As respects
19 general liability, it would depend on the degree
20 of control that you had on that person. If you
21 control him tightly, your GL carrier may have to
22 pay it. It depends what he does where You control
23 him. But if it's your responsibility to minutely
24 control him and you failed to do it, that could

1 setup a claim against your policy. It is acting
2 independently or without close supervision and he
3 does something wrong, then it's the theater's
4 responsibility.

5 MR. PANTHER: Let's take on the general
6 liability question, a hypothetical example. Same
7 situation. You got a show that comes in, they
8 hire Mark's company to provide pyrotechnic
9 services. The venue says, here's the labor you
10 need to use and they direct an individuals to
11 assistant Mark's employees with the execution of
12 the show. Through an error that's made by that
13 third party employer, the stage hand provided by
14 the venue, does his policy cover injury that might
15 have occurred because he loaded something
16 incorrectly?

17 MR. STRINGER: Well, again we're back to
18 to parallel avenue.

19 MS. KREVITT: To add to that, what I'm
20 directing this person to do is go to this the
21 gentleman or this gentleman and gets direction on
22 them what you're supposed to do because we don't
23 know anything about pyrotechnic, the venue --

24 MR. STRINGER: Then you're having three

1 avenues now.

2 MS. KREVITT: Correct. So then you go
3 there and find out what you're supposed to do from
4 there.

5 MR. STRINGER: But then he's got to do it
6 or I find out what he's going to do. But he might
7 be doing something he was thinking he knows more
8 than they do, and whose responsibility would it be?
9 Good chance it would be your responsibility,
10 Certainly there would be a big argument as to your
11 insurance company and Mark's insurance company as
12 to who had responsibility for that person's
13 actions. If we prevail, the pyro company is not
14 held responsible and your carrier felt that
15 pyrotechnics were not part of your insurance
16 protection, your got a black hole there and that's
17 what it is now.

18 But back to the parallel avenue. If
19 it's held the pyro company is vicariously
20 responsible for that individuals's actions, our
21 insurance company will pay the claim on behalf of
22 the pyro company, but it will not pay the claim on
23 behalf of the theater and we would retain the
24 right to go back against the theater seeking

1 indemnity, but it could be the insured person
2 would be happy, two insurance companies. The
3 theater might wind up with no coverage. So it's
4 not a straight yes or no. There's always an
5 argument about these things

6 MR. PANTHER: That's why I think in our
7 line of businesses we don't like question marks,
8 we like definitive, yes this is covered. No, this
9 is not covered.

10 MR. STRINGER: Absolutely. You set it
11 with your employee and shoot it with your
12 employees, you've got coverage. And the venue has
13 coverage, the claims made against them as a result
14 of your actions. Anything else you start getting
15 into the gray area.

16 MR. MUZZY: I understand there's also a
17 scenario where a performing artist will come into
18 town, they have their own employees. The
19 distributor will come in and provide the cover
20 license, they will provide the general liability
21 insurance coverage, register the performing
22 artist's employees as assistants, but those -- the
23 performing artist's employees are covered by the
24 performing artist's Workers Comp coverage.

1 They're paid by the artist's Comp, they're paid by
2 distributor. So in that scenario, everyone's
3 covered.

4 MR. STRINGER: You might have double
5 coverage.

6 MR. MUZZY: Then you have the insurance
7 companies fighting it out.

8 MR. STRINGER: What might happen in that
9 case is if the group's employees actually or
10 contractors actually shoot the show and the cover
11 holder is sitting in the wings just generally
12 supervising that Illinois law is being followed,
13 the primary responsibility would probably be with
14 the touring company's insurer and only if it was
15 independent negligence on the part of the cover
16 holder or the claim itself went through the
17 touring company's Comp, but the second involved,
18 but they both have general liability coverage.

19 MR. MUZZY: So that setup, that could
20 apply to the venue distributor relationship
21 whereby the performing artist has its employees
22 are covered by the performing artist's Workers
23 Comp insurance coverage, that coverage would be
24 covered by the venue's Worker's Comp coverage,

1 those employees could be covered by the
2 distributors general commercial liability
3 insurance company for pyro.

4 MR. STRINGER: If a touring company comes
5 into town and they usually don't use employees
6 they use another contracting company, nine times
7 out of ten, more than that. And the touring
8 company's contractor performing the event, it's
9 his computer, it's his equipment, it's his design,
10 he shoots the show, and the Illinois company is
11 over there merely to ensure that Illinois law is
12 being followed, in those circumstances, the
13 contractor who is shooting the show or the touring
14 company would be primarily responsible. The
15 license holder would only be there as a backup in
16 case the claim was so bad, it it through the first
17 company, or if he did something wrong, if he
18 interfered with their events, but it's highly
19 unlikely. If he did something wrong, then the
20 insurance could kick in, but with a venue, I don't
21 think the venue shoots a show, so the scenario
22 doesn't apply in those circumstances. You don't
23 have a venue shooting a show. The venue people
24 are back in the back.

1 MR. PANTHER: And the venue is not
2 engaged in the regular business of providing
3 pyrotechnics.

4 MR. STRINGER: Might not even have
5 pyrotechnic insurance.

6 MR. MUZZY: Could the venue get
7 pyrotechnic insurance?

8 MR. STRINGER: The easiest way to get it
9 is to go to the insurance company who insures them
10 everyday. Say, oh, by the way, once or twice a
11 year this happens, will you make sure our policy
12 is enforced to cover that. When put it to them
13 like that, the insurance company will know. The
14 important thing is to tell him that you do, but
15 minimize it as much as possible. Get back to what
16 what I said in the beginning. Always tell your
17 insurance what you're doing and pay whatever
18 premium they say is necessary for that risk and
19 then you've got coverage. If you don't tell them,
20 that's when you got problems. If you've done what
21 I say, explain to your insurance company, this
22 happens and I need coverage for this, then you'd
23 be okay. Always tell them what you're going to
24 do. You know, we're going to fire a cannon or

1 something. Who knows.

2 MR. PANTHER: The issue, though, with
3 most of those insurance carriers that dealing with
4 general liability. They're not very interested in
5 underwriting pyrotechnic liability --

6 MR. STRINGER: That's why I said you
7 minimize it. Oh, we do this once or twice a year.
8 You're paying a lot of premium, they say go to
9 hell, they they don't want to ensure pyro once or
10 twice a year. That's between you and them. You
11 tell them and then you know. It's not knowing
12 that's obnoxious. It's knowing after the accident
13 that is the problem

14 MR. REARDON: We're not talking about
15 liability.

16 MR. STRINGER: I was talking about
17 liability.

18 MR. REARDON: We were, but I mean the
19 conversation isn't about liability in the sense
20 that anyone other than the vendor is actually
21 pushing the button which is generally where it
22 starts, the liability chain is whoever pushes the
23 button back.

24 MR. STRINGER: That's what I was trying

1 to explain with the tour coming to town. The tour
2 shoots the show and the Illinois company is in the
3 wings making sure that Illinois law is followed.
4 He's not pushing the button because he doesn't
5 know what key to push.

6 MR. PANTHER: Exactly.

7 MR. REARDON: But it would be the venue
8 explaining to their Workman's Comp company that
9 the labor they're also supplying entails in every
10 once in awhile or whatever.

11 MR. STRINGER: Or general. You need to
12 tell the general. You've got these huge
13 basketballs here. The insurance company is not
14 going to say, We're not going do insure you
15 anymore because some of your guys work on pyro
16 twice a year. If they did, you can easily find
17 another carrier. Back to what I say, you tell
18 them and make sure it's covered.

19 MR. MUZZY: So it sounds to me like the
20 conversation we were having earlier, that
21 depending on the details, that there could be a
22 scenario where an employee can be an employee of
23 the venue and still be covered to perform displays
24 as assistant?

1 MR. STRINGER: If the venue tells his
2 insurance company. But he won't get coverage
3 under the pyro company's policy because he's not
4 an employee of the pyro company.

5 MR. BARNES: There's no way to create
6 additional insured or rider or something like
7 that?

8 MR. STRINGER: We don't issue coverage
9 for independent contractors. We cover, our
10 insured, the carriers liability for the
11 contractors, but not the independent contractor
12 himself.

13 MR. MUZZY: In the scenario where the
14 performing artist is coming in, none of the
15 coverage for that artist's employee is covered
16 from the distributors insurance company.

17 MR. SRINGER: That's right. And under no
18 circumstances is the same company insures both.
19 There are only two or three pyro companies,
20 insurance companies. I mean, it could quite
21 possibly be that one ever them is providing
22 coverage for both the touring company and the
23 comer home. It happens a lot.

24 MS. CUNNINGHAM: But the issue becomes

1 complicated when you get into a question of whose
2 directioning the services being provided, is that
3 what I'm hearing? So that if you have a --

4 MR. STRINGER: The liability gets
5 complicated.

6 MS. CUNNINGHAM: Yes. If you have a
7 venue employee, say in your theater, you just
8 assigned the venue employee to the production
9 company.

10 MS. KREVITT: We would also put another
11 layer in there. There is another layer. I would
12 just go to the union steward. The union steward
13 is going to be the one that assigns the person.
14 That takes the liability off of me, because I
15 don't know these stage hands. He's the one that's
16 going to know who has got the most experience.

17 MR. STRINGER: Whose paying them?

18 MS. KREVITT: The vendor is ultimately
19 paying, but.

20 MR. STRINGER: You're not losing any
21 liability at all by letting the union guy select
22 the person who is going to cause the accident.

23 MS. CUNNINGHAM: And then let's suppose
24 that THE union steward assigns the person to the

1 pyrotechnic company who is merely in the venue for
2 the show. It's the pyrotechnic company should be
3 directing what pyrotechnic services that union
4 employees would provide.

5 MR. STRINGER: It should be. The
6 probability is they will sit over there in the
7 corner and say you're going to do the show and
8 keep out of the way.

9 MS. KREVITT: As for the show I think
10 we're more talking about getting ready for the
11 show, and moving box A from to point A to point B
12 and running a wire or something. They would never
13 run the show

14 MR. STRINGER: If you're talking about
15 getting ready for a show, you're getting into a
16 grayer area, boxes are there. Ron says, I need
17 that box 30 feet up in the air. He's been
18 assigned to me, it's heavy. I don't want to do
19 it, let the employee of the theater do it. And
20 it's a very simple, it doesn't need a lot of
21 supervision. If he causes an injury by doing
22 that, the probability is the theater's got the
23 liability, but both companies would be involved.
24 You can't supervise somebody carrying something.

1 MS. KREVITT: Correct. But, I mean --
2 okay. I know this is taking it so simplified, I
3 don't know what's in these boxes. I don't know
4 what's going to make this pyro happen. What if
5 something happens. The guys moves this box from
6 point A to point B. Later on, something happens
7 with what was in that box and they come back and
8 say, Well the stage hand moved the box too roughly
9 and shook the stuff in there.

10 MR. STRINGER: You're getting into a
11 whole new area.

12 MS. KREVITT: I know, but that's how it
13 gets down to the nitty gritty.

14 MR. STRINGER: That's not even liability
15 insurance, that's property insurance.

16 MS. KREVITT: It still goes back to that
17 stage hand moving that box.

18 MR. STRINGER: Well, if, in fact, someone
19 saw him sling it and it was damaged, then probably
20 the theater's got responsibility for it. If they
21 open the box and it's damaged, they can't prove
22 stage hand did it. I mean, that is so specific to
23 the circumstances, stop talking.

24 MS. KREVITT: Because everybody is always

1 looking for that scapegoat. That's what we're
2 thinking. We're trying to maybe avoid a lot of
3 that but later to get removed first.

4 MR. STRINGER: To be honest, I'm thinking
5 more of the really serious accidents here. I'm
6 not talking about \$5,000 damage to a piece of
7 equipment.

8 MS. KREVITT: No, but they could cause a
9 serious accident if they use that stuff to blow
10 something up or whatever.

11 MR. STRINGER: Probably. They probably
12 need to make sure it's okay before they use us.
13 That's probably going to the pyro company. It's
14 up to them to make sure the equipment is usable
15 when they use it, but, you know, you can get down
16 to really fine points.

17 MR. KAY: Well, I just recently had an
18 experience where I was the licensed operator. My
19 crew was provided by the pyrotechnic vendor and
20 during the course of the evening, my crew
21 conspired to deceive me and in so doing, we're
22 flagrantly in violation of pyrotechnic codes. Now
23 in my mind, liability migrates to them for the
24 deception.

1 MR. STRINGER: If some one had been
2 injured, I suspect it would land back to your lap.
3 But again, you're being so specific about an
4 incident.

5 MR. KAY: Okay.

6 MR. PANTHER: I think this just
7 illustrate how complex an issue it really is, and
8 that's why as a task force we've been tasked with
9 putting into the writing here or making
10 suggestions for the legislation what constitutes
11 an appropriate level of insurance. And in trying
12 to get back to that, I think we all agree there's
13 some language that maybe could be suggested for
14 minor changes, but overall, the general framework
15 which has been provided by the legislature is for
16 the most part adequate, may just need a little bit
17 of tweaking to address some specific issues that
18 have come up. It's impossible for the
19 legislature to know all of the little nuances
20 that are going to occur in practice when a new
21 piece of legislation is introduced. That's why
22 we're here to help guide them in making the
23 process better. And I appreciate your
24 clarification.

1 MR. STRINGER: I hope it made it sense.

2 MR. McMULLIN: Anymore questions for
3 John? Thanks, John.

4 MR. MITCHELL: Thanks. Towards wrapping
5 up today and --

6 MR. PANTHER: Following with Maureen's
7 suggestion she had earlier, she had some language
8 she was suggesting possibly can consider. Would
9 that be appropriate for us today since we're not
10 going forward?

11 MR. MITCHELL: Well, I think Taylor
12 raised an interesting point. He would like to
13 take a look at it as well. I suspect it's
14 something we could e-mail out once you've had an
15 opportunity to go over it so there will be an
16 opportunity to have a thoughtful discussion on it
17 at the next meeting. And to that end, I would
18 also suggest -- we talked about a number of bits
19 and pieces on the fringes of this and to the
20 extent that anyone has an idea to bring to that
21 next meeting. It would be nice to maybe have that
22 a little bit in advance so that people have an
23 opportunity to review it, to again that have
24 thoughtful discussion so again can have a

1 productive meeting on it and we could put it on
2 the agenda as well.

3 MR. McMULLIN: Unless there's anything
4 else. The task force wants to makes a motion to
5 adjourn. And second?

6 MR. PANTHER: So moved.

7 MR. REARDON: I'll second that.

8 MR. MITCHELL: Thank you.

9 {Which were all the proceedings had
10 on this date.}

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1 STATE OF ILLINOIS)
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2 COCOUNTY OF C O O K)
3

4 SUSIE SHANAHAN, do hereby certify
5 that she is a court reporter doing business in the
6 City of Chicago; that she reported in shorthand
7 the proceedings at the taking of said Music
8 Entertainment Task Force Meeting and that the
9 foregoing is a true and correct transcript of her
10 shorthand notes so taken as aforesaid, and
11 contains all of the proceedings given at said
12 Music Entertainment Task Force Meeting.
13

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SUSIE SHANAHAN, C.S.R.
Illinois License #084-000863.
Date: October 19, 2010

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