

THEATRE SHOP CONFERENCE 2004

Friday 1st October

PARALLEL SESSIONS (a)

11.45am – 1.00pm

‘26 Weeks Only’: Challenges of Touring to the USA (Equity Immigration etc.)

Chair: Ronan Smith - Producer, Abhann Productions

Speakers: Brian Goldstein - US Entertainment and Immigration Expert, Fettmann, Tolchin & Majors Law Firm, Virginia, USA; Nick Sweeting - Producer, Improbable Theatre Company, UK.

Ronan Smith: First of all, my name is Ronan Smith. I work with Abhann Productions, who would be probably be best known for producing *Riverdance*, but we are developing other new projects as well, and so we’re exploring a lot of the complications and the tasks that you have to face in moving shows from here abroad. I’m going to be chairing the session today, which clearly puts me in a very lucky position of not having to know anything about the subject matter. This knowledge will be supplied by the two eminent gentlemen beside me who I’ll introduce in a minute. It also allows me not even to have to come up with any intelligent questions. That’s your job. All I’ll be doing is trying to coordinate the proceedings so we’re making some progress. What I’m conceiving as progress, and you can correct me if I’m wrong in thinking this, as a contrast to this morning’s plenary which was very much on a broad, almost theoretical level, I’m certainly seeing this session as very practical. I believe, and correct me if I’m wrong, most of you will be here to actually learn concrete, practical approaches to this issue, rather than debating the morality of restriction on movement or anything of that kind. So, that’s how I’m approaching it for the moment. What we’ll hopefully have the opportunity to do is avail of the expertise of people who’ve been through this process a number of times - in fact probably a multitude of times - on a number of different projects. Hopefully that experience will reflect most of the perspectives that you might be coming to this seminar with.

I'd like to first of all introduce Brian Taylor Goldstein to speak and to introduce a context of the legalities that are involved in taking what are cheerfully called 'aliens' into the USA. We are aliens by the way, just so you know. Brian will give us a ten-minute context which hopefully will set a framework that means we can understand what is being talked about subsequently. So if I could introduce Brian to do that for us first.

Brian Goldstein: Let me say at the outset, what Ronan said, we're going to try and get some contexts and hopefully go back on some particulars later on. For those of you that have heard that the process of getting an artist visa into the United States is expensive, frustrating, illogical, and it's specifically designed to discourage arts, that's all true. That being said, it's a doable process. It's a frustrating process, but it's just one of these things. It's not brain surgery; it's just complicated, once you abandon the fact that it's going to be illogical.

The first thing, just to introduce some concepts, is anybody who performs in the United States has to have a visa, a work permit. There's nothing you can do on a visitor visa. I mention that because a part of what I want to do is try and give you practical advice and also dispel some of the rumours. Any work at all, whether you perform for free, whether it's a non-paying audience, whether you're giving away the tickets, whether it's a university. No exceptions, everything has to have a work permit. There's nothing you can do on a visitor visa.

That being said, there are four basic different kinds of visas that apply to artists. There's the O1, which is for an individual artist of extraordinary ability, and don't take the words extraordinary ability to put you off it really just means distinctive, but we'll get back to that later. For groups, really we're talking about three kinds of visas. They call them a P1, P2 and P3. These letters, by the way, don't mean anything. Nobody knows why, so don't even try and figure that out.

The P1 is for an entertainment group which they define as two or more individuals who have been performing together, or 75% of the members have been performing together for a year or more. When you get groups of five or six, nobody knows what 75% of that would be. But anyway, the idea is that they've been performing together for a year or more. Not full time - they can be performing off and on - but

they've had some kind of international recognition, some kind of notoriety for doing whatever they're doing. It means it's difficult for somebody who's just put a production together for the first time.

There's a P2 visa. The P2 is directly set up by the unions, and I'll get back to that in a second because it'll make more sense when I put some context into that one. So just put that to the side, that's a union only visa.

The P3 is for anybody that is culturally unique, and that can mean individual or it can be a group. Culturally unique is an interesting definition, because the Government defines it somewhat differently to what the unions do. Again I'll get into that when I put the unions in context. Basically what it means under the law is an individual or group who is performing something indigenous to their country. Folk dancing, folk tales. It doesn't necessarily have to have strange headdresses involved, bones and turtle teeth, but it has to be something that is culturally significant.

The reason I used the union context is because of the process. The process for getting any of these visas is the same: you put together the materials, you put together your itinerary – we'll talk about that later if you guys are interested – and, before you can do anything, you have to send all of these materials to whatever union is going to govern the production. That's where the union part of this comes in. If this is a theatrical production, it's going to be Actor's Equity. If it's something that's going to involve ballet, opera, music – other than musical theatre – it's going to involve AGMA, which is the American Guild of Musical Artists. There's also the American Guild of Variety Artists which is basically variety acts, circus performers, acrobats. AGMA and AGVA hate each other, so there's a lot of competition between the two over which one gets jurisdiction. I'll tell you more about that too, because AGMA will automatically take jurisdiction over anything AGVA has, because it does it to irritate AGVA.

They charge for this consultation process, and this is what you need to understand. It's a consultation process only. In the law, this is as it's written in the statutes, all we have to do is submit all these materials to whatever union governs, and ask for their opinion. The actual opinion itself doesn't count. That's the big rumour I want to dispel, because Equity in particular has done a wonderful job of convincing everybody that nobody comes into the United States unless they approve it. Absolutely

wrong. All we have to do is ask them. If they say no, this group's horrible, and it don't have any recognition, you just go thank you very much, and you move on.

The only visa they have any control over is the P2. The P2 is an exchange visa that is specifically approved by a union. That's the only one that requires the union approval. What happens if you want a P2 is you contact Equity or AGMA - although good luck contacting AGMA because in a recent conversation I had with their president, he said as far as he's concerned he doesn't see any reason to bring foreign artists into the United States, so he's basically shut down the AGMA P2 programme. That's ok. He also feels that there isn't any reason for our artists to go outside, so he's as isolationist as they come, but we can talk about him later. Equity will still do it, but what you do if you want a P2 is that you contact Equity and you say I want to bring my group over. What do you want from me? Do you want my first-born child, do you want blood, what do you want? Usually there's two things they're looking for for a P2. One is, they're either looking for your commitment to hire a certain number of American actors or stage managers in your production; barring that, they're looking for a direct union-to-union exchange whereby American Equity contacts either British Equity or Irish Equity and they agree that in exchange for allowing six Irish actors to come to the United States, six American actors can come over. They create these little pockets of exchange. If a P2 programme is set up, then they actually issue the visas themselves. That's, if you can get one, the simplest way of doing it, because all they do is inform the government we've set up a P2, here's our little P2 certificate, please grant the visa. It keeps the Government's hands out of it which is, of course, something we all want. The problem is getting the P2 in the first place, because they will demand a lot for a P2. What they'll say is, if you don't meet our demands, we'll object to the visa. That's where the myth comes up. If they object, let them. It's ok. What happens is you'll get a nasty letter from Equity saying, we object to this visa application, and you send it off to the Government anyway.

There are four processing centres in the United States to process visas: in Vermont, California, Texas and Nebraska. Which one you file with depends on where the show is going to be. If there's an itinerary we can talk about which one you pick. Sometimes the examiners need to be reminded that this process is advisory only. What we usually do is we send a cover letter if we get an objection from Equity, which you

almost always do, unless you go through the P2, because they really don't like it unless you go through their P2 programme. We'll get an objection and we send a letter to them where we quote the statute and the statute says this is advisory only, non-binding. We remind them that Equity always objects because that's what Equity does, and they go and grant the visa anyway.

In practical terms, what does it mean? If you get the visa, you're still not going to be allowed to perform in theatres that are controlled by Equity, but that has nothing to do with the visa process. That has nothing to do with the legal process. That's purely a contract between the venue and Equity. If you're going into a theatre, you're doing universities, you're doing regional things, things that don't have Equity contracts, Equity has no control. They may be upset, they may pound their fist but there's nothing they can do. You've got to bear in mind through this whole process that the people making these decisions, the examiners, have little if any familiarity with the arts of any kind. Sometimes you have to remind them of their own statutes, so you have to quote them and remind them, because they'll look at an objection and say, oh Equity objects, I guess we're supposed to deny this. If you remind them of the law, and you quote that to them, usually there's not a problem. If there is you have pretty good grounds to bang them over the head because, as I said, it's written in the statute that Equity, or any of the unions for that matter, is non-binding.

Let me just stop there, because I think that's the overview of the process, and the main thing is it is doable. People come in all the time. What you've got to get over, what we have to accept is the unions are going to rattle their sabres but they're really blunted instruments, provided that you're not going into an Equity house. There's many situations where small companies don't have the resources to comply to their P2 demands, and they know that. I've talked to them in anticipation of this, through some of my contacts with Equity, and they reiterated that as far as they're concerned – you know I mentioned the P3 visa opportunity – they consider that anything spoken in English is not culturally unique. So their attitude is if it's something in a foreign language they're ok with it. If it's something in English they're automatically going to object to a P3. But, as I said it's not something that really fazes us, you just do it anyway.

Ronan Smith: That's what I was hoping you would do Brian, and you've done it perfectly. Just giving a context and a framework, so now we can start unpicking that as we proceed for the rest of the time.

To balance Brian's contribution, and as he didn't introduce himself, Brian is an eminent lawyer from Washington.

Brian Goldstein: I like to say arts lawyer, because otherwise if it's a regular lawyer I wouldn't do that.

Ronan Smith: He has very, very extensive experience of handling these processes for very many people coming from a great deal of different regions.

To balance the theoretical and legal framework we now have the opportunity to hear Nick Sweeting. If you could, Nick, describe yourself as you would wish, rather than as I would do it. What I'm hoping that Nick's contribution will be able to do is to provide a practical perspective of someone who has actually brought the shows in, who's dealt with someone like Brian, or another lawyer, and has worked their way through the process. So perhaps Nick can give us a context in that practical way.

Nick Sweeting: My name's Nick Sweeting, I'm the producer with a London based company called Improbable Theatre. We're predominantly a touring theatre company. We've been to Dublin once with a show called *70 Hill Lane*, which was actually the first show we took to the United States in January 1997. We through, and I'd like to call it probably a bit of luck, ended up not going through Equity, but through the organisation that Brian mentioned earlier called AGVA, the American Guild of Variety Artists. The reason we ended up going through them rather than Equity was the venue manager that we were going to, the executive director of PS122 in Manhattan decided that because we have puppetry and live music in our show that actually we were variety hall artists. Which ended up being fantastic because AGVA I think, and I think it's probably still the same, is sort of a throw-back to a bygone era where they work, or seem to work purely in paper, and probably work a lot, as Brian was saying, to upset AGMA, and therefore quite like to grant visa permission. We've remained working with AGVA

all the way through, and we've now visited the States on, I think, seven different occasions, going from a small-scale tour of *70 Hill Lane* to performing *70 Hill Lane* in a purely Equity house in Lehigh, which is near San Diego in California - which really upset Equity because actually we were going with non Equity visas, or non Equity-approved visas – through to co producing with venues in the mid-West, through to doing an off-Broadway run.

There are lots of practicalities about doing all of that. What we were talking about earlier is, take all of them really seriously but please don't be overawed by it. I was talking to a British colleague last night and she was saying, what are you going to talk about, talking about the States, are you just going to tell people not to go there? Actually, I'm coming from completely the opposite. I sort of went into this rather weirdly passionate speech about how the States had actually meant so much to us. Then I had images of George Bush and things, and was thinking other things. Actually the existence of Improbable Theatre, who are now luckily a fixed-term funded company in London, and we've sort of hit the establishment, - they're co producing with the National etcetera - would not be in existence if wasn't for our American partners.

There are lots of absolutely fantastic presenters out there who have a passion for supporting work that is just extraordinary. We got money towards one show from a venue in Columbus, Ohio. Some commissioning money in dollars. It was the end of his financial year, and he wanted to give us thirty thousand dollars. The only stipulation with that money was, if you ever come to the States we would like to have the show if that's ok. That has just been a fantastic journey from the start, playing in a seventy-seater in lower Manhattan. What we were saying earlier was, take the whole process of all of those - whether it's visas, whether it's practicalities of shipping of set, whether it's insurance, whether it's budgeting, all of those things – extremely seriously, but don't be overawed by them. There are a lot of partners over in the States, whether it's people like Brian, or whether it's your partner presenters in the States, who will talk you through all of those things and who will be fantastic allies. I'm not going to go into all the practicalities of all of that, because I don't really know exactly what you guys want to talk about, but we'll open it up for questions.

Going back to the partner issue. I think this is ok to say for Brian. One of the follow-ons, is that the partners you're working with in the States are vital to the whole process because actually they end up doing the whole application to the Immigration Services, the INS, anyway. Whoever you are working with, have faith in them, and talk to them about the whole process. Plan way, way in advance. Think six months in advance, and then think a lot more. Just go through it in a very planned and serious way, but don't be overawed by it. There are people like Brian around, there are very good presenters over there who will walk you through the whole process, whether it's with Equity, or whether it's with AGVA. It's eminently doable. That follows through for all things like shipping, for budgeting, for taxation issues that people get very confused about. It's about partnership, and there are really good partners over there in the States.

The other thing just to follow up with the whole process of doing the visa applications. I nearly got stuck on it a couple of times - you do your application through one of the four holding centres in the States, and you get this sort of D-day moment where you go, yes we've got approval. Actually the second time we ever applied for visas and got them, I sort of forgot what then had to happen, and I stopped, not actually realising that that's only part of the process. That then gets sent to the US embassy either here in Dublin or in London, and you have to then do your bit as well. In London certainly, and I expect it's the same in Dublin, there are real restrictions now about just the physical movements of people, passports, interviews, all of that. That all takes up time as well, so don't think it stops there. Follow the whole process through until you're on an airplane and you're on your way out there. Just keep thinking about it, take it really seriously, but please don't be overawed by it.

Ronan Smith: Thank you very much Nick. What we are hoping that that introduction to the session has done is given a legal context, a procedural context, and a practical context. Obviously we've only thumb nailed that, because really, my hope is that there are very specific questions, there are very specific concerns that will come from the floor and we're keen to get to that point as quickly as possible.

To underline something a little bit further: from *Riverdance*'s perspective we had no issues with the unions at all because we were going through P3. You know, being

a folk dance company. We only encountered a problem when we put the show on Broadway, because Broadway clearly would be the bastion of union control. There, because we hadn't been bothered by unions at all up to that point, all the unions involved were a little bit embarrassed about suddenly finding us in America, because we'd been there for eight years. Eventually the one that stepped forward was AGMA. I suppose I'm telling you this story anecdotally because it just illustrates the way that you can manoeuvre around things. All that AGMA demanded of us was that they put their logo in the theatre programme. That it was, this production comes to America under approval by AGMA. They wanted to be seen to have done it. They didn't want anything. They just conceded that it would be ridiculous to attempt to object eight years later to this company that had been in America all that time. That's really all they wanted. They also asked could they meet the company, and request people to join the union. Which we facilitated and nobody joined, because there was no benefit for any person to join. All it meant was paying subscriptions and benefits into the union, and then they would then leave the country, and have no recourse to that investment. So nobody took it up, nobody joined the union, the logo was in the programme and the problem was solved.

Just anecdotally, it may be illustrative of the fact that there are ways and means to address all these complexities, and that really the focus should be on the practicalities of your exact circumstances, your partner that you're working with, good advice and lots of lead-time. As Nick was saying, there is a lengthy process, not just the approval of the visa by the immigration centres in America, but also the follow-on in the country of origin, where things can get very difficult and get tripped up, and we have a lot of problems with that. Embassies around the world can be a great deal slower in dealing with these matters than you wish them to be, so lead-time is very important.

Nick Sweeting: Can I just say one other thing about the planning. I think that Brian probably is a bit embarrassed to flag it up, because he put the website together. There's a fantastic website just on a practical level called www.artistsfromabroad.org that Association of Performing Artists (APAP) in the US put together, I think mainly with Brian and his company's advice.

Brian Goldstein: Yes, it was with the National Endowment for the Arts, which is sort of like the Arts Council in many, many ways, having listened to the opening session. Put together for an artist to use as a resource coming in.

Let me also say one thing on the consular process, that right now that's actually the biggest problem. We're having more difficulties in the consular end of things. Since 9/11 because of security issues getting appointments at the consulates are taking longer and longer. The security checks are getting longer and longer. There was a time where when you had a large group coming in you could send in the group representative; those days are all gone. Now everybody has to come for a personal interview at the consulate. It used to be couple of days. Now like in London it's taking 30-40 days, Paris is two months just to get an appointment. So what Nick was saying is crucial, it's the planning and the methodology more than the actual obstacles themselves.

Nick Sweeting: Also from a planning point of view, look at the cost as well. Don't think it all comes for free, because there are costs involved. One of the things we were caught out with the personal interview thing on our last tour is, a lot of our guys lived in the north of England so, again, you've got cost of rail, keeping them over in London because they've got to be there at nine in the morning to queue. It might seem a small amount, but we ended up spending between £1500 and £2000 simply because of the consular rule changes in London. Always bear the costs both within the States and within Ireland in mind when you're budgeting a tour.

Brian Goldstein: There's also filing fees for the applications themselves. The union consultations, they will charge you for the privilege of denying the application. The whole system, in a typically American way, depends on how much you pay as to how quickly you get a response. The more you pay, the quicker you get your denial. The application process itself is the same way. The Government charges a standard, fairly reasonable application fee, but they're only going to get to it in three to four months. If you want anything quicker you have to pay for premium processing, which is an extra \$1000, and they'll do it in 15 days. You have to factor all these costs in as well.

Ronan Smith: What I'd like to do now is see what you want us to talk about, and to get into that phase of the discussion as quickly as possible. Is there anybody who'd like to kick off with an initial question?

Audience 1: It's not a question; it's actually another little piece of advice, a practical piece of advice. I'm Enid Reid Whyte, now a theatre specialist with the Arts Council, but formerly a theatre maker. In touring to the United States from Ireland in 1999, and this was prior to 9/11, I already knew - because I'm from the States originally and worked in a presenting organisation there before I came here - of the difficulties of shipping a set. I knew particularly about the difficulties of shipping a set from Ireland because we'd had a company whose set was off-loaded and remained on the dock for a long time because there might be bombs in it. What I decided to do, and what worked quite well for me, was to have our set re-built in the United States. We avoided all of the shipping problems that way. That is very possible. There's a lot of good set building expertise in the United States.

Just to add punch to that: I didn't even talk to the people on the telephone. It was all done through e-commerce. They were in upstate New York. We arrived in Washington DC for our first show, and our set arrived and it was perfect. It can be done, they have the technology. That's just one little possible way of looking at it.

Also it's a big country. We had a lot of food products in that show. We sourced them in New York, and we had the food shipped to us in our tour spots around the United States from a source in the United States so we didn't have to import any food into the United States. There's a good theatre-making infrastructure there. You can use it, and it will work to your advantage.

Brian Goldstein: There's an interesting other practical advantage to what you just mentioned if you decide to go the P2 route. We can talk about whether you even want to even give them a head's up, because sometimes if you approach them with a P2 and they deny it, then you're on their radar screen. I'm talking mostly about Equity because, as Ronan says, it tends with the others that their bark is worse than their bite. If you are in fact giving work to other unions, in this case you're talking about IATSI,

which is the International Association of Theatrical Stage, something. They're the techies. If you're giving techies work that's something you can use as a bargaining chip to make them a little more approachable if you're going to go the P2 route.

Audience 2: Michael Scott, City Theatre, Dublin. We toured off-Broadway in 2002, and we did ship some elements of the set over there, and built the others there. To be honest, it would have been far cheaper just to get everything in the States. Literally all the stuff we shipped over cost us I think \$5000 or \$6000 to ship over. I think a table, two chairs and a floorcloth, back and forth. I could have got it in a market on a Saturday morning in New York for about \$20.

I suppose the thing is that Enid's perfectly right. If you are going to the States it really does make sense to really look at duplicating as much as possible and not bother the transportation. The other thing we found: because we were playing off-Broadway we fell into all of the fun with Equity and whatever. We had one member of the cast who had a Green Card, which was fine, but the other member, although an established name, still had to go through this onerous process, and eventually the Equity sub-committee for international artists approved the application. But it was very last-minute stuff; they really held it out as long as they could. The show was advertised, and the cards were all out and the visa still wasn't through. Eventually when it came through Equity were sending us congratulation notes. But it was even for somebody who was a star not only here but also in America, although an alien, it still took an inordinate amount of time for them to process the thing and they really held it up as long as they could.

I would certainly advise if you are going to duplicate. It really doesn't make any sense to do any shipping, unless for the costumes. Things like costumes that were absolutely essential, we travelled them as much as possible as personal baggage, because from my experience shipping stuff it does end up on the docks. It gets stuck with visas. Somebody won't approve what you need to open on Monday; they've all closed on Friday and they aren't going to open again until eight on Monday morning. That does happen. If you can travel your costumes and those other smaller elements as personal baggage in some way, even if you have to pay an excess baggage there, do that. Don't get involved if you can in crating stuff. It just becomes very complicated.

Audience 3: I'm John Sheehan. I used to work in Ireland at Síamsa and at the Lyric Theatre in Northern Ireland, and now I'm with the Colorado Festival, which is bringing in theatre from all over the world. We're planning an Irish season for any of you who would like to come to the Rocky Mountains. You can't ski in the summer, but there's lots to do.

Suzie Bassani my colleague is with me. A couple of things I wanted to say. One, we've just been through the visa process for an Italian troupe that we brought to Colorado Springs this summer, and it was virtually six weeks of eight-hour days just preparing all the work to get the visas. We're security-crazed in America right now. The homeland security business is just through the roof. I would like to reiterate that, yes, if you can work with an American presenter that will solve 90% of your problems, because the onus is on us to get the petition filed, and to get the approval. Then you have to do your work.

The thing that would help us the most is to give us the correct information in the correct order. That took three weeks of our time. We said to the Italian company we need everybody's name, everybody's birth date, everybody's passport number, etcetera, and we got some of the information and they left out a few numbers, and they left out a few names. Please, please just give all the information as accurately and as completely as possible because that will save us a lot of time and trouble.

The other point is shipping. If you can get around sending things in containers. We had a container that had to be x-rayed and sent through Texas. The company was there before the scenery was there, and everybody was breathing hard. You can bring your costumes as part of your baggage if the company is agreeable. Give everybody their own costumes and tell them to take them as clothes. See if the set can be built in America. We have plenty of people who can do that; it's not brain surgery or rocket science.

The other point I would make is once the petition is approved, and then the onus is on the foreign, international, Irish, company - the alien company - you do have to deal with the business of the consulate and that is very time consuming. There are waiting lists. We called the Italian consulate and said we have people from all over Italy who had to come for the interview, and was there any exception? No exceptions are made. They

don't care. I'm afraid our current administration is not very partial to the arts, and you do have to wait in line, and you do have to wait for an appointment. They don't care if the show is going on in three weeks. Tough. You've got to get your appointment. As we used to say in Northern Ireland, when you do go for your interview, whatever you say, say nothing. Give them the absolute minimum information, and don't go on to how you're going to sightsee all over America. That can be happening, but don't tell anybody that. Also don't say anything when you actually fly into the country. Just say here's my visa, end of story. Everybody's got very suspicious.

That said I would also like to reiterate that there are many, many people in the United States of America who do not share the public profile that our country has presented to the rest of the world. There are many, many people in America who are eager to have international artists and international companies. There are audiences across the fifty states who are thrilled to welcome you, and to see your work, and to applaud it, and to pay for it. So do not be daunted, fill out the forms. You think the Arts Council form is bad? Wait until you see this visa thing. The visa petition is just not to be believed, and it costs an enormous amount of money. We have to pay \$1000 for every one to be expedited. We have to pay the \$180 fee. You guys have to pay \$100 for your visa interview. It just get ridiculous. But we are not going to let it daunt us. We are going to bring in companies from all over the world. We will get you there, and once you do get inside you will be appreciated and applauded and loved. So, do not be daunted.

Ronan Smith: Thank you very much. I think that adds the context of the presenter being maybe the third point here. You have legal advice, you have the care in preparation of all the details that Nick was speaking about, and you have the presenter in America facilitating the process. They probably are the three legs of the stool really.

Brian Goldstein: Some excellent points. Let me just expand on a couple of them, some things you said that are really key, on the presenter. Everybody has to have a petitioner. Somebody in the United States has to petition on behalf of the group coming over. The selection of petitioner has got some practical implications as well. If you're going on an itinerary of performances, that means you're performing in more than one

place around the United States, the service centre that governs your petition is going to be determined by where your petitioner is located.

The reason I put so much emphasis on that is because, as I said, we've got four service centres, Vermont, Nebraska, Texas and California, and they are very, very different. They're all sort of goofy, but Vermont is the most arts-friendly one we have. They do a lot of arts petitions in Vermont. They are slightly dogmatic, but they are familiar with it. They know right away without any explanation that if Equity objects they ignore it. They understand the arts process. Nebraska is absolutely insane. Then there's California, which is in another world by itself, and there's Texas, and as we all know people from Texas are from another planet. The problem is California doesn't know the law, and they're proud of that fact. They actually just love the fact that they're ignorant and they revel in it. Nebraska is mean. We recently got some indications from the Nebraska service centre that they recognised the fact that they have a very bad reputation in the arts community, and they're going to try and help and fix it. We're waiting to see if that actually comes to pass. They will find silly little stupid reasons to deny petitions, simply because they don't like artists and they think that they're all left-wing wackos.

The reason this is significant is because the way to manipulate the jurisdiction is by your petitioner. Let's say you're being sponsored by a festival in Colorado, but at some point you're also going to the Kennedy Centre, or at some point you're going to Dartmouth, or at some point you're going to something on the East Coast. Any place where you are performing can be your petitioner. You can also appoint anybody in the United States to be your representative, even if you're not working for them at all. So, let's say you're doing everything out in the West Coast but you don't want to get stuck with the California service centre because it's nuts, so you find somebody on the East Coast to be the group's manager in the United States. It does not have to be a professional manager; it doesn't have to be a professional agent. It's your appointed manager for immigration purposes, and then you've got the Vermont service centre. That's why Nebraska made this comment that they realised that because of doing this our firm and others were pushing everybody into Vermont so Nebraska wasn't getting any arts applications.

The other comment about information, and this is crucial. The USCIS (US Citizen and Immigration Services), which is what they're calling themselves by the way, it used to be INS, then they changed their name for about one week to BCIS. The department for homeland security didn't like that, so now they've changed their name back to USCIS. Their website is wrong. The official publications are not correct. They have not been updated since 1990. Just ignore it. The arts presenters website is accurate, the artists from abroad site is accurate, but be very careful using official publications. Even if you call the government and you manage to get through, and the agent tells you something, if it's wrong they have no obligation to even update themselves.

The thing about the evidence is a really, really crucial point. You've got to work with your American partner, because you cannot underestimate the importance of the information and the accuracy that you're giving to the petitioner. This is one issue that I have all the time. People will have a group and they'll give you a couple of newspaper clippings. You've got to be exhaustive in creating evidence. You've got to have every programme, every newspaper article, everything's got to be copies. A lot of time people will take their press clippings and they'll do a press summary sheet. No, you've got to have actual copies of the newspaper articles. If you paraphrase anything they assume you're lying.

Other thing is names, addresses. We're getting from the consulate because of homeland security these days, if there's a misspelling the visa's denied. If the birth date's wrong the visa's denied. The United States has not understood the fact that not everybody in the world does dates the way we do, so the consulates are infamous for flipping birth dates back and forth. Spell out the birth dates. The key is give whatever your American petitioner needs from you and from your perspective you've got to assume the person reading your petition is a teletubbie. My background is in the arts, I've got a theatre company as well, so know your audience. You've got to know the audience that is sitting down and picking up this piece of paper for your petition. That means everything's got to be spelled out. Stage names, birth dates, addresses. Nothing can be left out because everything is time sensitive.

One last thing. There are provisions, even though I know the Italian consulate told you no exceptions. For emergencies there are ways of getting quick appointments, if

it's an actual emergency. One of the ways is contacting or making good friends with the cultural affairs attaché at the consulate because they can back door into the immigration unit. The important thing is understanding what they define as an emergency. Cultural importance: never an emergency. Cultural interest: never an emergency. What they want is, somebody broke their leg, that the USCIS service centre messed up causing a delay, something beyond your control. Their famous thing is poor planning is not an emergency. You've got six months to a year to plan, they're not going to budge, but if you really do have an emergency there are ways to get quicker appointments.

Audience 4: I've actually a million questions but I'll just keep it to two. Firstly a very quick one: most Irish theatre companies have basically been together for a number of years, but would employ freelance actors, so that they don't have a full-time company of actors. The question is if you were re-contracting the same actors to tour to America would that qualify for a P1 visa?

The second question is to do with the P2 visa and this notion of a commitment to hire American actors or stage managers, and as you were saying the costs are often prohibitive for small companies. Are there creative or economic ways around those requirements?

Brian Goldstein: Yes to both of those questions. First of all, on the length of time being together, the statute says that 75% or more of the group – this is for P1s not P3s – has to have worked together for a year or more. They don't define what worked together is. If you ask Equity they will say consistently working together. My definition is when did you first meet this person? You've been working together off and on during the past three or four years, that's good enough. The USCIS is not an investigative agency. Somebody said don't give them more information than you have to. This is a clear example of where you don't want to let the right hand know what the left hand is doing. You tell them what they need to know; it's the tail wagging the dog. You work backwards. They want 75% or more working together? 75% or more have worked together. That's all you need to worry about.

As for P2. Are there creative ways? Well, you avoid the P2 process completely and just file for a P1 or a P3. Equity is not in the creative business. Their business is to keep out as many foreign artists as possible and AGMA and AGVA the same way, although they won't want baulk quite as much. Equity is going to say we want the following amount of stage managers, we want opportunities in the United States, and if you can't give in to them, they're going to deny your P2. But you don't need a P2 to begin with. For small companies that don't have huge budgets I don't even get involved in the P2 process to begin with. I just say we're going to go with P1, we're going to file it, we'll get our objection from Equity, we'll ignore it and say thank you very much, and move on. I say that too because once you approach them with a P2 and they can't work something out, then now you're on their radar screen. Whereas AGMA and AGVA when you get right down to it, they don't want anything other than a mention in the programme. Equity won't be able to do anything, but they will do things to make your life difficult. So I like to avoid them whenever possible, that's my creative solution.

Ronan Smith: Could I ask Nick as well to respond to the second question, particularly that notion of creative ways of handling the technical crewing as well as performers? Have you dealt with that? Crews as well as performers?

Nick Sweeting: Because of the nature of our work we always include the crews in the whole thing because most of our work is devised and improvised. Our big claim all the way along, and while it's helped us fit into AGVA rather than Equity, is that the flyman on the show, the DSM calling the show, the lighting technician, they are all in their own way performers. We've always done it as a whole, because if anything goes wrong on stage, the nature of the way we work is that the lighting designer will respond to it rather than sit and wait for the next cue. That's always helped our case for going for AGVA. So we've never had to go down that route because we go as an ensemble, which includes offstage as well as onstage.

Brian Goldstein: Let me say one thing about the crew, if you're bringing technical crew. We've talked about AGVA, AGMA and Equity; those deal with

performers. Technical crew is going to come under IATSE or come under one of the trade unions. The way to get around that is how you label people, which is a bit like what Nick was talking about. When you fill out your beneficiary list and you see lighting technician, scratch out the word technician and put in designer, or assistant director, or make up terms. Remember the one thing that always trips people up is they'll say, there's no such thing as a lighting manager. The people who review your petition, if you've not been on stage with Britney Spears, they don't know what you do. So, you can call them anything you want. It's the tail wagging the dog. Just don't have any trade people in the show and it doesn't trigger the unions. They don't govern management positions, except stage managers. So lighting managers, sound managers, sound directors, designers, those people are not governed under IATSE.

The other thing as Nick was saying is, if you're doing a show where you've got three actors and four technical people, you're talking about two petitions. I didn't mention this before, but you've got with each of the categories - P1, P2, P3 - there's a complimentary petition called a P1s which is a P1 support, P2 support, P3 support. Those are two petitions, which means two filing fees, two premium processing fees. Everything is doubled, unless you just make everybody a performer, which you can do as well. It's very easy to do. You simply cross out the word technician and write in performer.

Audience 5: Alistair McGukian. My interest is *The Ha'penny Bridge*, our show. I've heard most of the answer to my question just now. You were talking originally about the performers, and now you're talking about stage management and all of that. Before that there's probably a sequence of events where others arrive maybe before the actual production goes. Are there unions involved all the way through, with all personnel that might go with the company?

Brian Goldstein: There are unions involved with all personnel except people that are involved in management. Except for stage management because Equity governs that. If you're talking about advance technical crew coming in, or production designers, or production teams, they're all going to fall under the same petition. If you need

somebody who's going to come in in advance of the show itself what you want to do is include that on the petition so it's part of the classification period. As you're getting the impression, there's lots of side tangents we can go off on. The classification period is the amount of time you're requesting. You need to produce some kind of evidence of when the show is going to open and what time you're going to need. If you want the cast to come in, and the show starts on November 1st you obviously don't want to put November 1st as your classification period because you want them to be able to come in a couple of days extra. You always want to build that in. If you have an advanced production team that needs to come in September, then you ask for your classification to begin in September, with the rest of the cast and crew following later. That's fine; they're all going to get the same classification period. You don't want to piecemeal that out because every time you put a separate request in, it's a new petition. You want to lump everybody together, starting with the very first person that's going to come over and do anything and then you start the clock from that period.

Audience 5: I've seen shows in London where the American cast arrived for a period of maybe of four or five weeks and then the local cast comes. Does it help your application to say that eventually your cast will change to an American cast?

Brian Goldstein: That could help with the P2. If you're eventually going to be changing the Irish or British cast with an American one, yes that definitely what Equity wants to hear, or AGMA, or whoever is doing your P2. If you can say as of this date we are committing to hire the following American performers, sure. That going to be very helpful on your P2.

Nick Sweeting: Two of our directors conceived a show called *Shockheaded Peter* which some of you may know, and has toured a lot in the States, and which is going into off-Broadway for the first time at the beginning of next year. For the first time rather than going under AGVA they're having to go under Equity. It's very much helping their cause that for ten weeks they've got the British cast in, but they're slowly

rehearsing through an American cast. That's been the P2 salvation for it, shifting from AGVA to Equity.

Ronan Smith: It might be important to hold a little bit of time at the end. It seems to me that what we've been discussing is the securing of the visa, for the admission to the States. I wouldn't mind having a few minutes to make clear to people where the second hurdle can be a problem, which is what kinds of tours can you do where Equity cannot create a problem for you, and what are the tours where they can create a problem for you once you've got your visa.

Audience 6: My name's Maureen Vanacore. I do marketing for some presenting organisations in New York. Many of the small to medium sized presenting organisations would be interested in some sort of collaborative effort to bring smaller groups over that might not be able to afford Broadway or even off-Broadway, but say off-off-Broadway. What advice could I give to presenting organisations as to how to proceed with this? I tried it for a friend of mine a couple of years ago and I gave up on it because it was a nightmare. What advice would I give them in how to proceed? Is it this website? What's the total cost for say a cast of five? How long does it take? And do you need an attorney?

Brian Goldstein: I would start with the website because the www.artistsfromabroad.org walks you through every step of this process. Do you need an attorney? That really depends on the complication and the size of the tour, and whether it's going to get on the radar screen or not. Maybe that ties a little bit to what Ronan was saying. If you're going to be bumping up against Equity, it's probably going to be helpful to have somebody who's familiar with the process to guide you through the minefield. This is not brain surgery, it's just complicated, unnecessarily complicated. Once you get your hands around it, it's time consuming. The first thing I would say is, you're not going to do this in a month or two, this will need to be planned a year or two in advance. The second thing is, planning is going to keep your costs down. For example, the filing fee for one of these petitions is \$185, but that's only going to give you

a turnaround time of between ninety to a hundred days. If you built that into your plan, no problem. You don't need to pay the \$1000 premium processing fee. Being able to coordinate the consular interviews for a time where some of the people may already be in the city where the consulate is located, rather than having to fly them in particularly may be helpful. There's a lot of people who prepare the petitions and then they'll hire an attorney to look over the petition. Other people will say, this is way too complicated, we just want to put it in. It doesn't go by the size. It's the same cost to do three people as it is to do three hundred. These are group petitions. A group that has a lot of notoriety, that's performed in Europe or toured and has a lot of press and media attention is going to be a lot easier to do than a brand new production that's maybe just come out of a fringe festival. That's doable to, but you're going to have to do some more legwork to substantiate the petition. It can cost anywhere from \$2500 to \$3500 including fees to do something like that.

Nick Sweeting: Another tip. There was recently a mini-festival off-off-Broadway – Brits on Broadway or something – but it was very much done in collaboration with the British Council and that whole government tie-in. To use the government agencies, and to use the consulate over in New York to help smooth that process, and to hopefully, who knows, to put money in and underwrite it, but mainly to give support and guidance. For a lot of the small presenters in downtown Manhattan it's as much of a minefield as it is for some of the smaller companies over here.

Audience 7: Paula McFeteridge in the Lyric Theatre. The one thing that would concern me about not going in under a union banner would be the protection for the individual artist. Then you're going on a relationship between two managements. If anything happens as regards personal injury, or a contract a falling through, or any major disaster happening when you're out there, you don't then have the support and backing of your union that you have paid your dues for and been with for the whole period of your career. I was just concerned about that.

Brian Goldstein: It's an interesting question because what you've got to do is separate the union involvement from a union contract. That's where I think things are getting mucked together. If you're bringing a group to perform at universities, or you're doing something in the Midwest or way, way, off Broadway, and these are not Equity productions to begin with, the fact that you got a P2, the fact that Equity has approved isn't going to make these people Equity members because it's not an Equity show. Therefore they're not going to get Equity membership. They're simply going to get a P2 approval to come in; they're not getting the benefits unless it's an Equity production. Then they'll make them Equity members.

Audience 7: But if it starts as an Equity production here, and it goes as an Equity production under union contract?

Brian Goldstein: You can't do an Equity production in the United States without Equity's approval.

Ronan Smith: There isn't a reciprocity between the unions, like there is between Ireland and England. If you're a member of Irish you can work in England and you have reciprocal rights etcetera. The American Equity is an entirely separate jurisdiction. If you have an Equity approval to tour in America, it doesn't actually give any jurisdiction or protection from American Equity to the people on that tour.

Brian Goldstein: That's right. Because you've got a British Equity production that comes to the United States that means you don't get any Equity membership in the US. You don't get any protections of Equity. All you get is the privilege of paying Equity \$250 to give you an approval, or if you go through the P2 programme only if it's an Equity production and Equity grants membership. But here's the catch 22: Equity's own membership does not apply to anybody who doesn't have a green card in the United States. Even if you are coming in to perform in an Equity production in the United States, they'll give them tentative Equity membership. You can never be an Equity

member of US Equity without having a green card, and they're very adamant about not waiving that because of other protection reasons.

Unless they're coming in to do an Equity show and Equity agrees to give them membership, going the P2 route is not going to protect them in cases of accidents or anything else, but that's where your production contract will. We're contract-happy and litigation-happy in the United States of course. I don't ever rely on Equity to protect my performers. If I'm doing a contract, that's something that has to be built into the production contract. Who's responsible for accidents, who's responsible for injuries, that type of thing. That's something that need to be negotiated regardless of whether you're going through Equity or not.

Audience 3: This is John Sheehan again. Just a couple more recommendations from our perspective, which is the presenters. I agree with you in that if there's anyway at all you can qualify as an AGVA production, if there's puppets, or music, or strange dancing, or anything at all, go to AGVA because they're a lot more relaxed about it than Equity. However I think the emphasis here again has to be on the American partner. Much of what we've talked about today to a greater or lesser extent, depending on the individual organisation, the onus is on the presenter to get all of this information through. To figure out what union to get the approval from and how to present the petition. I think that if you have a good American partner they can take the heat off you for figuring all of this out, and all you have to do is give the correct information. The corollary to this is that we as presenters would prefer not to bear the entire burden of all of the petitioning and the expense and the transport and so forth, just for a gig which is still going to be relatively speaking short-term. If you have any other friends, or any other interested parties who want to bring you over, or who have said, gee if you ever get over here we'd love to have you for a week, try to put those people together. We would love nothing more than to ask a company to come and have them say to us, but somebody in California wants us, and somebody in Michigan wants us, and some people in Atlanta were talking about inviting us. If we can pool resources with other presenters in America that gives you a much better chance of coming over. We can then contact those presenters and we can share the costs and share the effort, and position it in the best service centre that is

most likely to grant the request. So you can help us enormously by putting together potential presenters for your tour. Give us the ball and we'll run with it.

Nick Sweeting: Can I just also say that it works the other way around, John, encouraging American presenters? For the Irish companies here, if they get one presenter to see them in a situation like this, at the Dublin Festival or the Dublin Fringe, that's great. But it's going to be people like yourselves who are in a way going to be the gatekeepers or the gate openers who go back to the States and go I saw a great piece. Come on board. It happened for us with a wonderful presenter in Ohio called Chuck Helm.

One of the things I realised we haven't spoken about, because it's all been about technical stuff, is that probably some young companies are going, if only we were at that stage. If only we were at the stage where we could apply for visas. How the hell do we get contacts in the States, let alone get them to see our work, let alone set up gigs. I'm assuming there might be mechanisms here through the Arts Council or through consulates abroad of getting American presenters over here to see work during the Dublin festivals, or getting young Irish companies over to conferences like APAP in January in New York. I'm going to be around at lunchtime. I'm sure there are lots of much more experienced Irish companies here who can give advice, but if anyone wants to talk specifically about starting those networks, if anyone wants to grab me during lunch and start talking about contacts.

Ronan Smith: If Brian would just comment a little on that question we touched on. Taking for granted you've got your visa approval and you're in the States, just a very brief description of where you would encounter problems thereafter with a union, that is Equity, attempting to block your tour.

Brian Goldstein: The only real problem you're going to have is if you attempt to take the show from a non-Equity venue into an Equity venue. What I mean by that is that Equity has contracts with certain venues in the United States where they say that this venue agrees to only do Equity productions there. Obviously Broadway is socked up,

and certain off-Broadway theatres. Doesn't apply to most of the regional theatres and a lot of national performing arts centres. There are certain theatres, which are what we call an Equity house. If you're going to go into an Equity house, then the fact that you have a visa just means that the Government has approved you, and you now have to deal with Equity to go onto their turf. This is really a turf battle here, which is why I said at the beginning if Equity says no, but you're not going to be performing in one of their theatres anyway, it doesn't make a difference. You're only going to encounter it if you go to make that move. This happens, where a company comes in, a producer wants to pick it up and take it into a Broadway or off-Broadway run. Then you're going to have to deal with Equity to work out that arrangement, so that the theatre can in fact put on the show.

One thing I want to mention about if you're coming in to do APAP, which is the big performing arts festival trade show they have in New York. There are other trade shows and festival opportunities for people to come and show off their work. You don't need visas if you're coming into audition, if you're coming in to do a showcase. You need to get a proper visitor visa, but a visitor visa is easier to get. You do not need a work visa if you are simply coming in to display your work at a festival so that you can get future bookings. It can't be open to the public, but if it's coming in for what we like to call cattle-call auditions or a festival or a showcase, then you just need a visitor visa for the whole group.

Audience 2: Michael Scott again. One of the complications we had when we were touring was that although the people who were working on the show were all resident in Ireland they didn't all have Irish passports. That makes it just slightly more complicated. One of the ways we found to go around it, because these people were actually technicians, we found that it was easier for myself and the designers to actually just go on holiday visas. The cast were already in the process of being sorted. Effectively, unless they're doing a major build and even then, you're going to see professional work.

Nick Sweeting: Because they're not actually holiday visas. They're visitor visas. If any of us are going over to the States for a meeting they're enough.

Audience 2: At Immigration you have to be quite clear, I'm a theatre person; I'm going to see colleagues, gain information. That generally, at the nasty desk with the horrible person, sort of works.

The other interesting thing is the relationship that we have with the cultural department in the embassy is seriously helpful. If it's a show, then you can actually ask the cultural attaché and the assistants in the embassy to come and see it, so that when down the line, stuff clicks in there's a reference back here in this country. The attaché has seen it, or he knows the work, or the conversation's been had. That all adds up very slowly to facilitate the situation.

One way we found and it's now easier to tour in the States, is to license the productions. It's nice to bring your own company, it's fun, but we've found that you can make your show there. They build the set and you simply create them in America with American performers. We've done that this year in America and in Scotland. In America they simply build the stuff. We go over and rehearse and create it there, and we found it a really interesting way of bringing Irish theatre, because you're still branding it with your own company so that it becomes a co-production without the hell of it. It's maybe down the line for some companies but it's quite an interesting way of doing it. That changes the problems that the presenters have because in fact we are using American technicians.

Brian Goldstein: You mentioned one thing about this visitor visa. You're correct, but it's a tricky loophole and I don't want everyone to go out with that being the last thing they hear. As an Irish citizen or a British citizen you can pop on a plane with what they call visa waiver. You don't ever have to get a visitor visa. What that allows you to do is do anything you could do on a visitor visa, which means have business meetings, go to auditions, have production meetings. I don't mean people don't do this all over the place, but if you are a set designer or you're a technician and you're going over to help construct or help supervise, that's work. You can come and look at the show, but if part of your fee, part of your job, part of what you're being contracted to do, is to make sure that the set transitions properly for the new stage, you are supposed to

have a work visa. In practical terms does everybody do that? No. I'm the first one to say that part of the job of an arts attorney is to figure out what the law is, and then figure out where are the risk factors in getting around it. But you need to know that it's not simply as easy as saying, just tell them you're not working. It's kind of like running a red light at three in the morning when no one's looking. It's wrong and bad, but sometimes you do it for practical purposes. You don't want to make that part of your planning. You don't want to go out and say, we're going to avoid the technical visas by just having them go over as visitors. It can be done, but you've got to make sure that the people are saying the right things at the border. They've got these very nasty little border trolls whose job it is to second-guess everybody. You've got to do a very, very good job of training and giving a good script to get past the troll.

I meant to say this before about sending people through the border. Always, always give them a copy of the petition itself. What the petitioners have done in the United States is prepared this package of information that they've sent off to the service centre. Make sure you in Ireland or Britain get a full copy of that and every person's got a copy. That has the itinerary, the contracts, the evidence; everything the troll could ask is in this package. It helps give a little bit of a parachute to the person coming through all on their own.

Ronan Smith: I'd like to thank both Brian and Nick very much for their contribution.