SAVING THE BALTIMORE SYMPHONY

LEGAL CORNER

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"ARTS ORGANIZATIONS cannot cut their way to financial prosperity." This is a maxim that has reverberated throughout the orchestral community for years and years. Bruce Ridge, former chair of the International Conference of Symphony and Opera Musicians, has had to repeat these words countless numbers of times in response to draconian management bargaining proposals. For instance, in 2013, in response to the Atlanta Symphony's reduction of the size of its orchestra and season in response to a $5 million budget deficit, Mr. Ridge noted that "no business ever solved a financial problem by offering an inferior product. Cutting the length of the season only diminishes the orchestra's presence in the community. Cutting the number of revenue-generating events doesn't help with ticket sales because you can't sell tickets to events you're not putting on. Cutting the size of the orchestra – bringing in more subs and extras, no matter how talented – impacts the style and precision of playing."

Unfortunately, despite its profound wisdom and truth, this is a lesson that has either been largely ignored or outright dismissed. It is as though some orchestra managements are trapped in an existential time loop where they are fated to repeat the same mistakes over and over and over again without respite. A recurring theme among symphony orchestra boards has been their call for adoption of a "sustainable business model" – one that contains costs so that deficits are eliminated, and budgets constrained. To achieve this goal in collective bargaining negotiations, orchestras often demand cutting the size of the orchestra or its season or even both simultaneously. This unfortunately is the position that the board of the Baltimore Symphony has proposed. In order to achieve a "sustainable business model," they have proposed cutting the season from 52 weeks to 40 and have recently canceled the orchestra's summer season. This approach is doomed to failure as history has proven. You cannot improve market position by diminishing the quality of the product. For the Baltimore Symphony, one hopes that this lesson is learned before irreparable damage is done.

Nonetheless, it doesn't have to be this way. Seven years ago, the Jacksonville Symphony management was locked in a death spiral with its musicians. Severe cuts were illegally implemented that resulted in an unfair labor practice charge, which was sustained by the National Labor Relations Board. Basically, what happened was that the orchestra management had declared a bargaining impasse, but they did so prematurely. (See my article from the January 2013 issue of Allegro, archived at **www.Local802afm.org/allegro/articles/take-it-or-leave-it**.)

As a result of this legal wrangling, the Jacksonville Symphony board hired Henry Fogel, a former president of the League of American Orchestras, to serve as a consultant. This proved to be a major turning point in the symphony's approach. Mr. Fogel wrote a report to the board that concluded that that symphony "has developed a culture that is so risk-adverse that it avoids opportunities because of fear of failure." Shining a light on this philosophy proved instrumental in the revitalization of the orchestra and improvement of the level of cooperation between orchestra musicians and management. If it could happen in Jacksonville, it could happen anywhere – even Baltimore.

This approach is not a novel one. It was first advocated by Michael M. Kaiser, the former president of the John F. Kennedy Center for the Performing Arts. In remarks presented to a Philanthropy Roundtable in 2012, Mr. Kaiser detailed arts funding strategies that are congruent with the principals espoused by Mr. Fogel and Mr. Ridge. He said, "We talk about money in the press, to our donors and especially to our board members. Our board meetings are almost entirely devoted to discussions of cash flow and income statements. We forget to discuss what we do for our communities, how much fun it is to come to an exhibition or performance, or how we educated our children to be creative thinkers. Then we are surprised that board members stay away and worse, do not introduce us to their friends and associates." Indeed Mr. Kaiser was the individual who coined the phrase: "Arts organizations cannot cut their way to financial prosperity." When will orchestra managements heed this advice?

It seems probable that a lockout will be declared at the Baltimore Symphony and that an unfair labor practice charge may be pursued. My understanding is that all options are being explored. Whatever strategy is adopted will depend upon a complex array of legal factors that are outside the scope of what I presently know about the dynamics of the negotiation. This situation is not a static one. However, one option that should be included in the mix is presenting the Baltimore Symphony with a consultant like Mr. Fogel who could credibly present it with an enlightened, proven approach to growing and sustaining that world class orchestra. Without such an approach, I fear that the BSO will cut its way to oblivion.