DESPITE GAINS, OUR PENSION FUND IS STILL IN THE RED ZONE

But here's why musicians don't need to worry...

THIS SUMMER, SEVERAL trustees from the AFM pension fund spoke to musicians at a Local 802 membership meeting. One noteworthy development was the disclosure that at the close of the 2014 fiscal year, the fund had achieved a 86.9 percent funded percentage status. That means that if everyone who's currently vested decided to retire at the same time (a practical impossibility), there are enough fund assets to fully pay for 86.9 percent of the benefits owed. This is an extraordinary development, given the fact that only five years ago when the fund's rehabilitation plan was first implemented, the funded percentage status was only 65 percent. In fact, if the funded percentage was the only criterion that Congress looked at to determine whether or not a pension fund should be declared completely healthy (which is known as the "green zone"), our fund would currently be there.

So why aren't we in the green zone yet and when – if ever – will we be there? That was the most important question asked during this meeting (along with the question of when the pension benefit multiplier might ever be increased).

The fact remains that the determination of whether a pension fund is in the red (critical), yellow (endangered) or green (healthy) zone is dependent upon two factors. The first is the fund's funded percentage. But the second is whether or not the fund has a "projected funding deficiency" for a selected period of time in the future. Currently, the actuaries have ascertained that within the next nine years, the fund will potentially have a funding deficiency. By March 31, 2019, the fund may not have sufficient contribution levels to meet its future obligations.

This *does not* mean that the fund will

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go insolvent or even that it *might* go insolvent. It has been determined that the fund has enough current assets to continue paying out pensions for at least the next 20 years, which is as far the fund's actuaries will project at present. (This projection assumes that no further contributions are made to the fund – which is a doomsday scenario and extremely unlikely – and that current investments will earn a 7.5 percent rate of return.)

Nor does our potential funding deficiency mean that the fund will enter into "extremely critical status," where vested benefits can be modified and pension checks can be lowered.

It just means that we must take steps now to increase contributions to our pension fund.

So what can be done to stem this tide and bring the fund out of the red zone? Well, the first and most important steps were taken in the fund's rehabilitation plan of 2010. Those remedial measures were specifically designed to diminish the potential funding deficiency and will in time do so. Just the fact that we have had a dramatic increase in the funded percentage is proof of this.

What other measures can be employed? Local 802 can seek to increase pension contribution levels in our existing contracts. We can also work to unionize more orchestras, ensembles, music organizations and employers of all kinds who will then have an obligation to pay into the pension fund on behalf of our musicians.

These measures were discussed extensively at the meeting. Additionally, it is my understanding that the AFM has initiated suits against several record labels to collect pension contributions. that are past due.

We can anticipate that all these measures will improve the financial health of the fund.

One extremely important fact should not be lost on readers. The fund is a defined benefit pension fund, which means that benefits, once earned, are guaranteed – regardless of whether there is an economic downturn. As recently noted by the United States Supreme Court in Tibble vs. Edison International, 575 U.S. ___ (May 18, 2015) this form of pension gives a level of security that cannot be found in 401(k) plans or defined contribution plans, where financial returns are subject to market forces outside the workers' control. Also, defined contribution funds like 401(k)'s often include administrative expenses that diminish the performance of the funds. In the case above, the Supreme Court found that a certain fund's trustees were potentially in breach of their fiduciary duty by failing to reduce administrative expenses, which

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were eroding pension payouts. This is not a concern for defined benefit plans like the AFM pension fund, where payout is guaranteed.

As AFM President Hair remarked during the meeting, when it comes to a defined contribution plan like a 401(k), it's the workers who bear the risks. If there is another recession or economic crisis, the workers' pension benefits may not come close to the contributions they had deposited. On the other hand, in a defined benefit plan like the AFM pension plan, it's the employer who bears the risk. And employers who might decide to stop paying into our pension plan would find themselves facing "withdrawal liability," which is their apportioned share of unfunded vested pension liability – potentially a lot of money.

In our plan, once you're vested and retired and drawing a monthly pension check, that check is guaranteed. That is no match for a 401(k).

It's really a no-brainer. A defined contribution plan like a 401(k) is inferior in every way to a plan like ours. Even one in the red zone.

My recent articles about free speech, Internet threats and the case of Anthony Douglas Elonis prompted a thoughtful reply from Local 802 member Jennifer Hoult. See her essay at right with a short response from me.