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POSITION

THE ACTIONS TAKEN BY THE FORT WAYNE PHILHARMONIC AGAINST ITS MUSICIANS USING THE PRETEXT OF THE COVID-19 PANDEMIC SUGGEST THAT THE PHILHARMONIC DOES NOT INTEND TO CONTINUE TO MAINTAIN AND OPERATE A FULL-TIME PROFESSIONAL ORCHESTRA IN FORT WAYNE AND NORTHEAST INDIANA, AS IT HAS DONE FOR OVER 35 YEARS.

- The Philharmonic has canceled all activities of the orchestra and unlawfully furloughed its musicians without pay.
- The Philharmonic's latest proposal for a new Collective Bargaining Agreement (CBA) would bring about the demise of the professional symphony orchestra in Fort Wayne and Northeast Indiana.

THE FORT WAYNE PHILHARMONIC IS UNFAIR TO ITS MUSICIANS.

- The Philharmonic has been charged with two Unfair Labor Practices (ULP's).
- The Philharmonic has been placed on the International Unfair List.

The Fort Wayne Philharmonic should be employing its musicians to provide musical experiences for the people of Fort Wayne and Northeast Indiana, as it has done continuously for more than 75 years.

Instead, under the pretext of the COVID-19 pandemic, the Philharmonic has chosen to cancel all concerts for a year and has un-lawfully furloughed its musicians without pay. Many other orchestras and performing arts organizations throughout the country have chosen a different path. Dozens of orchestras are caring for their musicians and staff and are making their music available by electronic media, thanks in part to special COVID-19 accommodations agreed upon by the American Federation of Musicians and symphony orchestras throughout the United States and Canada. Those accommodations are available to the Fort Wayne Philharmonic as well. Many of these same orchestras also are performing live concerts safely using small ensembles and orchestras in front of smaller, socially distanced audiences. Here in Fort Wayne we have seen that a number of performing arts organizations are also finding ways to con-

tinue their mission, including the Civic Theatre and Fort Wayne Ballet. Even the Fort Wayne Philharmonic's own Youth Symphony Orchestra is performing on PBS television.

We musicians have gone to great lengths to try to persuade the Philharmonic to resume musical activities. After the announcement on July 15 of the cancelation of all concerts from October through January and the furlough of musicians, we met with management to find ways to continue to bring our music to the community. In August we were near agreement on a deal that would have avoided the furloughs and allowed musicians to safely present concerts. That agreement failed because, not satisfied with short-term concessions, management insisted on gutting the CBA for the long term, a demand not in any way related to the COVID-19 pandemic.

If COVID-19 is not the reason for the complete shut-down of the Fort Wayne Philharmonic, could the reason be lack of money? No. The Philharmonic does not lack money at this time, as attested by the recently completed capital campaign that raised nearly \$10 million and an endowment currently exceeding \$21 million, 92% of which is unrestricted funds that could be used to keep musicians employed and provide music to the community. Income continues to flow to Philharmonic coffers from many sources including corporations, foundations and individual contributions. Even in the absence of performances, ticket sales continue to bolster Philharmonic income because many patrons that purchased subscription and single tickets for the 2020-2021 season have donated those tickets back to the orchestra rather than ask for refunds for the canceled concerts. If the Philharmonic is not producing concerts for the public, are the annual donors, the endowment donors, and the ticket buyers getting the return that they anticipated for their investment?

During this time of complete shut-down of concert activity many normal expenses are eliminated or greatly diminished, taking pressure off of the Philharmonic's income and assets: Musicians are not being paid, there are no concert production expenses such as concert hall rental and logistics, and event advertising is not needed. If the Philharmonic is not producing music for the public while income continues and expenses are down, what is the Philharmonic doing with its money? Although a number of staff positions have been eliminated, many highly-paid staff and conducting positions remain. What is their function during a year-long shut-down of concert activities?

The latest contract proposal made by the Philharmonic on September 28, 2020 is radical and destructive. It would have the effect of degrading the orchestra and would signal the end of the professional symphony orchestra in Fort Wayne and Northeast Indiana for the first time in 35 years. Our previous agreement with the Philharmonic expired on August 31, 2019. Bargaining for a new agreement began on June 27, 2019 when negotiating teams met together to begin discussions. Our positions were far apart on many of the initial proposals that we exchanged and talks to resolve the differences continued for several months. When the new concert season began around October 1, 2019 we went back to work under the terms of the expired agreement, pending the conclusion of negotiations and the emergence of a new agreement. Progress was slow, and it was decided to invite the federal mediator to assist us at our December 6 meeting. On February 18, 2020 the Philharmonic offered a proposal that closed the gap on a number of key issues. Discussions were interrupted by the arrival of COVID-19, which became everyone's focus. As of March 12 all remaining Philharmonic services were canceled through May 17, the end of the season. The Philharmonic continued to pay us for those weeks according to the terms of the expired agreement, thanks to a forgivable Payroll Protection Program loan from the Small Business Administration (SBA) funded by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). We were paid also for seven "Patriotic Pops" services that were canceled between June 24 and July 4. On March 31 the Philharmonic sent each contract musician a notice of intent to re-engage us for the 2020-2021 season, as required by our contract. On April 14 the Philharmonic sent notice that the proposal of February 18 was withdrawn, an action that we considered improper.

On May 22 we gave our response to the Philharmonic's proposal of February 18 with our tentative agreement on many points and our proposals for some changes. It seemed that we were close to an agreement. On that same date we sent an email requesting to meet to discuss health and safety protocols for our return to work. Philharmonic Managing Director Jim Palermo responded, suggesting a meet-

ing at the end of June. The meeting was eventually set for July 15, but at that meeting, instead of discussing health and safety protocols, we were informed that we were being furloughed without pay starting August 31. This led to the musicians filing an unfair labor practices charge with the National Labor Relations Board alleging that the unpaid furlough of the musicians by the Philharmonic constituted unlawful unilateral modification of the musicians' terms and conditions of employment in violation of federal law.

On July 21 Mr. Palermo sent an email to all musicians offering to address all of our concerns and to explore how to engage us during the furlough. Subsequently, we met with Philharmonic management many times during the month of August to craft a COVID-19 side-letter to our contract that would allow the Philharmonic to rescind the furlough and employ the musicians under special conditions for the months of September through December. At the end of August we were nearing agreement on a deal that would have avoided the furloughs and allowed musicians to safely present concerts. We signaled our tentative acceptance of Philharmonic management's demands for steep pay cuts (in excess of 30%) and other concessions (including extreme flexibility in scheduling) for these months, while proposing to keep the basic provisions of the parties' long-standing CBA intact. Not satisfied with these near-term concessions, Philharmonic management insisted on gutting the CBA for the long term, a demand that would have resulted in the utter destruction of the professional symphony orchestra in Fort Wayne and Northeast Indiana, something we could not accept. After the failure of this agreement, the Philharmonic announced its "Philharmonic Presents" concerts without the use of Philharmonic musicians.

On September 28, 2020 management presented a new multi-year CBA proposal that includes a cut in the number of contract musicians from 63 to 15; permanent cuts in wages, retirement security and health care; and elimination of industry standard protections against arbitrary firings of musicians. The Philharmonic also seeks to disband the institution's Artistic Advisory Committee and to silence musician input on Music Director and Managing Director hiring decisions. Many of these proposed changes have no impact on the Philharmonic's bottom line, and none are related to the COVID-19 pandemic. On November 4 we gave our response to this proposal suggesting that the expired agreement should be extended coupled with a new sideletter that would allow the 2020-2021 season to be salvaged, to be followed by talks about a new CBA. In an email dated November 9 the Philharmonic rejected that proposal. On November 10, musicians filed an unfair labor practices charge with the National Labor Relations Board alleging the Philharmonic's most recent bargaining proposal constitutes regressive bargaining in violation of the National Labor Relations Act.

The Fort Wayne Philharmonic Orchestra has been placed on the International Unfair List as a result of actions taken by the Philharmonic against its own musicians, including actions described above that led to the two unfair labor practice charges brought against it, and by its employ of non-Philharmonic musicians for its "Philharmonic Presents" concerts. Throughout the pandemic, Philharmonic management has displayed a shocking refusal to bargain in good faith with musician representatives and a persistent failure to involve musicians in critical decision-making about the future of the 76-year-old institution. Management's bargaining position clearly seeks to use the pretext of the COVID-19 pandemic to undermine musicians' livelihood, remove working conditions that have been negotiated over the course of decades, and destroy the profile of one of our community's treasured institutions. In light of this, management's public declaration that they are committed to reaching an agreement that is fair to musicians rings hollow. Placement on the International Unfair List is a signal to performers around the world that the Fort Wayne Philharmonic treats musicians unfairly. It is an industry-wide mark of shame that reflects poor management practices and reprehensible behavior. At this time, the Fort Wayne Philharmonic is the only symphony orchestra in the United States that bears the stain of this disgraceful designation.

The Philharmonic has very solid financial assets and is strongly supported by the community. There can be no case made for intentionally bringing the orchestra to ruin. The orchestra is a community asset developed by many generations of music-lovers and citizens. The current leadership is steward of

the Philharmonic and has a responsibility to all of the people of the community. The Philharmonic is not suffering an imminent fiscal crisis, and has plenty of assets to weather the pandemic and resolve any long-term challenges that it may have. After all, isn't the purpose of an endowment to sustain and perpetuate the institution? The Philharmonic has the resources to endure these hard times without devastating the lives of the musicians and without demolishing the orchestra, the core of the institution, which has been brought to its present-day excellence step-by-step over many years and generations.

In making its choice vindictively to undermine the orchestra and its musicians the Philharmonic leadership has not consulted outside of its own ranks. Indeed, when it recently conducted its first capital campaign in almost 20 years it did so by appealing privately to a limited number of donors. There was no widespread appeal made to the community of concert goers, music lovers or the community at large. If the Philharmonic believes that it has problems that are so massive that it must eviscerate the orchestra, it must first explain that and seek solutions from the community at large. As stewards of a community asset, the leadership does not have the moral authority to make an independent decision to diminish the institution that is the Fort Wayne Philharmonic. Such a decision can be taken only with the full understanding and acquiescence of all who would be affected.

The loss of the professional symphony orchestra would be a major blow to Fort Wayne, Northeast Indiana and all who live here. The Fort Wayne Philharmonic Orchestra permeates the lives of the people of Northeast Indiana. Many thousands of residents of Northeast Indiana hear live music each year thanks to the musicians of the Fort Wayne Philharmonic.

- We give 10 traditional symphony orchestra concerts each year at the Embassy Theatre in downtown Fort Wayne and at Auer Performance Hall at Purdue University Fort Wayne.
- We give 10 POPS performances, including the highly popular Holiday POPS, at the Embassy Theatre.
- We also play Holiday POPS concerts at venues in various other cities all over Northeast Indiana.
- We give 4 Chamber Orchestra concerts each year at First Wayne Street United Methodist Church
- We give 3 other Chamber Orchestra concerts at the Joseph Decuis Farm near Roanoke.
- We give 3 Family concerts each year at Auer Performance Hall at Purdue University Fort Wayne.
- We provide the music for performances by the Fort Wayne Ballet of Tchaikovsky's beloved Nutcracker.
- We provide the music for performances of the Fort Wayne Ballet's annual spring dance production.
- Every year we play educational concerts for thousands of school children at the Embassy Theatre.
- Every year we take the orchestra to schools in nearby counties to play educational programs for the children there.
- We give 4 chamber music recitals at Artslab in downtown Fort Wayne.
- We give 4 chamber music recitals Rhinehart Recital Hall at Purdue University Fort Wayne.
- There are 10 small ensembles within the Philharmonic ranging from 2 musicians to 5 musicians each, and these 10 groups give over 300 performances each year in schools, nursing homes and retirement communities in Fort Wayne and throughout Northeast Indiana.

This scope of activity is possible only because Fort Wayne has a resident professional symphony orchestra.

When businesses, universities and others seek to recruit talent from around the country and around the world, they like to describe the assets and amenities of their location. Cultural activity is important, and the presence of a professional symphony is seen as a hallmark of that activity. Most cities the size of Fort Wayne cannot claim the presence of a professional symphony, and we must not lose ours. A professional orchestra fills its ranks by competitive auditions that are attended by musicians from all over the country and all over the world. Orchestras, ours included, are filled with a vast diversity of people. Orchestras like ours attract graduates of renowned universities and conservatories, very often with advanced degrees.

Many of our musicians came to our community from other states and even other countries when they won a competitive audition for a vacancy in our orchestra, and we have happily forged a life in this vibrant community. Together we make up a kind of local infrastructure that reaches in to our community far beyond the Philharmonic, providing music education for our children (and adults) and providing the

music for many sacred and private events including birthdays, weddings and other milestones of our lives. Individually, we are deeply involved in all aspects of community life.

The year of inactivity that the Philharmonic leadership wishes to impose is unconscionable and unnecessary. By not producing concerts for a year, the Philharmonic would not only deprive the public of the talents of its musicians but would also put at risk the future of this treasured musical ensemble. Musicians need to make music together in order to maintain the quality of the orchestra. We also need to eat and maintain a home. For most Philharmonic musicians, the income from the Philharmonic is the largest component of their livelihood. A year without Philharmonic employment would mean that most of us would have to find work in other professions or leave the city to find employment elsewhere, with devastating results for the orchestra and for the musical infrastructure of our community. It would take generations to build it back, if it could be built back. Yet, that would seem to fit well with the Philharmonic's apparent desire to eliminate the professional symphony orchestra from Northeast Indiana.

We musicians will resist the retreat by the Philharmonic leadership and, with the help and support of the music-loving and civic-minded people of Northeast Indiana, we will see the Philharmonic continue its artistic growth and deepening commitment of service to all who benefit from its activities, and indeed from its existence.