

***American Federation of Musicians
Symphonic Services Division
Canada***

September 2000

**Winnipeg Symphony Musicians Win
Arbitration Award**

On September 21st, Lawrie Cherniack, an arbitrator for the Province of Manitoba, issued an award in settlement of the wage reopener being negotiated between the Winnipeg Symphony Orchestra and the Winnipeg Musicians' Association, Local 190, AFM. It is indeed a relief that the arbitrator chose the Local's last offer of a 0% increase for the 2000-2001 season as the amount of the award, rather than the wage rollback proposed by management. But the true importance of this award lies in the reasons given for it, which are excerpted below.

We have all heard management bargaining teams say that funders are demanding balanced books and/or cuts to artistic rosters and compensation. If that is true, says Mr. Cherniack, the funding bodies need to think about this a different way.

Congratulations are due to the musicians of the WSO for resisting repeated requests for contract concessions. They have refused to consider downsizing of their fine orchestra as any kind of solution. They continue to be a force for excellence in the arts.

The following are excerpts from the arbitration award.:

"I was appointed as sole interest arbitrator to hear a dispute between the parties about the appropriate minimum weekly pay to be paid musicians in the last year of the six-year collective agreement. By virtue of Article 4.6, the parties are to negotiate the minimum weekly pay, and, if they are unable to agree, they are to submit the matter to binding arbitration. The hearing was held on 18 September 2000... By agreement the hearing was extremely informal. The relationship between the parties was exceedingly respectful, collegial, and open. All the information needed was shared; both sides accepted without reservation the clarifications and corrections provided by the others... The ease with which evidence was presented and the hearing was

conducted, and the clear mutual respect... between the parties makes my task, unfortunately, all that more difficult."

"Put bluntly, the Winnipeg Symphony Orchestra ("WSO") is in terrible financial shape. As a result of decisions made by the orchestra in the past and (as agreed by the WSO) through no fault of the wages paid to the musicians under the collective agreement, the WSO has posted half-million dollar deficits in each of its three previous fiscal years. As well, put as bluntly, the musicians are underpaid, and their minimum wages have barely kept up to the cost of living for the last number of years... The WSO asks for a reduction in wages of from three to six per cent. The musicians ask that their wages not be reduced at all. I was informed that a three per cent reduction in pay is equal to approximately \$60,000.00 in the WSO's budget of approximately \$6,400,000.00, or a little under a one per cent savings overall... If I grant the WSO its reductions, then the WSO believes it can provide a financial plan acceptable to its funding bodies which will enable it to eliminate its accumulated deficit and become a viable artistic organization. If I do not reduce the wages of the musicians, the WSO believes that the funding bodies will not provide the moneys necessary for the WSO to eliminate its accumulated deficit, and therefore that its financial situation may force it into bankruptcy. The WSO cannot guarantee that the reductions will provide the plan, or that the funding bodies will come up with the funding required to eliminate the deficit. It can only provide its sense that it needs to balance its budget for the 2000/2001 season in order for it to receive serious recognition as an organization that is on the correct path to recovery."

"The musicians respond that there is a limit beyond which they can no longer subsidize the WSO. They consider that their offer to get no increase in salary is in itself a major subsidy, and that taking a further reduction is simply too much. They are not willing to make any further sacrifice without guarantees about the future... I am faced with ordering no increase in pay or ordering a rollback in pay. I was not provided with, nor am I aware of, any interest arbitration award which has ever ordered a rollback

in pay. Certainly if any interest arbitrator had made such an award, he or she would have had to have been convinced that such a rollback was absolutely necessary for the ongoing viability of the employer. The proof of such need would have to be overwhelming... While it is obvious that the WSO is in dire financial straits and that it is at the limit of its credit I have not been provided with overwhelming evidence that the rollback requested by the WSO would make the difference between financial viability and bankruptcy.”

“It is not a matter of "compromising" between the two positions of the parties. The musicians could justifiably have asked for a cost of living increase, and any "compromise" would have been different. The issue is what is fair and reasonable under the circumstances... I therefore order that for the 2000/2001 season there be no increase in the minimum weekly fee from what it was in the 1999/2000 season, which I understand to be \$841.91, \$926.10 for musicians as per Article 4.11b, and \$1010.29 for musicians as per Article 4.11a.”

“Whatever the recent past I am convinced by the documentation placed before me and by the discussions between the parties that the current administration and Board of the WSO are developing a respectful cooperative relationship with the musicians. I am convinced that this relationship is developing to the point that the parties will in fact be able to reach agreement on a future collective agreement, with all the creativity that such agreement will require. That agreement should provide an ongoing stable environment (both with respect to finances and to labour relations) within which the WSO can plan properly and make intelligent financial decisions. I am also convinced that the current administration and Board are taking a very activist role in raising money and taking responsibility for the financial viability of the WSO as well as its governance. I was very impressed by the approach that Mr. Duggan and his staff are evidently taking.”

“That Winnipeg and Manitoba need the WSO seems clear to me. The WSO and its members play a major role in Winnipeg's cultural and musical life. If the WSO were to disband, or if the WSO were not, through wages and working conditions, able to attract and retain the high calibre of musicians currently at the WSO, Winnipeg and Manitoba would suffer a grievous loss... It would therefore be tragic indeed if my award were to be used by

funding bodies to deny the legitimate need of the WSO to eliminate its debt. I would hope that the notion of balancing the books - which appears to the WSO to be the precondition for elimination of the debt - is not used as the only criterion by the funding bodies for deciding to assist in eliminating the debt. That would be most closed-minded and, I submit, unfair to the major changes the WSO has made in its organization. The funding bodies should, with respect, make their decision on funding, based not on the inflexible notion of whether the budget is balanced but on the clear question of whether they are satisfied with the direction that the WSO is taking. And based on the evidence I heard, that direction should satisfy the most skeptical observer. It is clear as well, that the musicians want to be part of the direction and are willing to work hard to make certain that the WSO does succeed....”

DATED this 21st day of September 2000,
Lawrie Cherniack, C. Arb.

SETTLEMENTS

Kitchener-Waterloo Symphony. On September 5 the basis for a settlement was reached. Musicians' pay will increase by an average of 3% for the current season, and 3.25% for next season, with a \$300 signing bonus for 1999-2000.

Edmonton. A one-year deal has been reached, providing a 5% increase in the per service fee, and an increase in the service guarantee from 285 to 307 for an overall increase of 12%. Private studio practice increased from 21 to 28 services. There are two new seniority categories for musicians with more than 25 years of service as well as increases in per diem and travel pay.

OTHER NEWS

Orchestras Canada Comparative Report. The most recent report (1998/99) shows that orchestras are generally thriving. The collective annual and accumulated deficits are down from the previous year, attendance is up, government grants are up. Private sector funding is described as “steady” but it is clear that there is work to do...

NACO reduces workload. In a bid to stem the growing tide of repetitive stress-related injuries, the National Arts Centre Orchestra is reducing the number of new concerts it will perform this season. There will be more rehearsal time for fewer

programs. Bravo to the NAC for this enlightened effort.

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