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September 26, 2011

Philadelphia Orchestra Bankruptcy at Crossroads

The journey in bankruptcy continued for the Philadelphia Orchestra Association when the proceedings arrived at a critical crossroad. At the hearing before Judge Eric L. Frank, two options were presented – one which could see a quick resolution to the disputes or the other that could result in a long-drawn bankruptcy battle.

The first option is for the management of the orchestra and musicians to continue trying to come to agreeable terms on a new labor contract which would include how musicians' pensions will now be structured. They could either go along with the existing arrangement for pensions or draft out a new one altogether. The negotiations on this matter are currently being arbitrated by Stephen Raslavich, chief judge of US Bankruptcy Court, Eastern District of Pennsylvania.

If a consensus can be reached and an agreement forged, it could spell a quick end to the bankruptcy negotiations and pave an early exit from bankruptcy for the Orchestra. Then the Orchestra may even open its Verizon Hall season soon assuming they and the Kimmel Center agree on a new lease agreement, or decide to handle those talks apart from the bankruptcy process. With the matter of the lease out of the way, we might be seeing the Orchestra back as early as next month.

The second option is for sure much less pleasant. In the event that mediated talks between the management and musicians fall through, the American Federation of Musicians and Employers Pension Funds will most certainly take action.

A source of contention is the amount of money in the association's endowment. Based on some of tens of thousands of emails and other documents taken from the association's computers and records, it appears that some of the money should not be there and is therefore eligible to be used to pay creditors. The national musicians' pension fund appears to be the largest creditor in the case. If the association decides to withdraw from the pension plan, that will result in a withdrawal liability estimated at between \$23 million and \$35 million which they hope to cancel through filing for Chapter 11 bankruptcy.

According to the legal representative of the pension fund, investigations thus far have unearthed leads that could recoup millions of dollars for creditors and the fund intends to request for permission from the court to obtain more documents from the association that could shed further light on how endowment money has been spent.

On the other hand, the association could counter these actions by filing to abrogate the musicians' present labor agreement if mediation efforts are unfruitful. If this happens, bankruptcy proceedings will shift into trial mode and further lawsuits could potentially materialize.