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## A Postscript on the Kansas City Symphony Contract Negotiations and Settlement

by

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## A Postscript on the Kansas City Symphony Contract Negotiations and Settlement

*Editor's Note: Susan Martin, the attorney who represented the musicians of the Kansas City Symphony, was unable to participate in the roundtable discussion. Because her role in the story was significant, the Institute supplied her with a transcript of the roundtable, and invited her to add comments on the process. Those comments follow.*

**T**his project was quite challenging. My assignment went something like this: Help the musicians in a three-tiered orchestra—one that had been nonunion for 16 years, had low wages, no pension, and a conservative, antiunion board—achieve union recognition and become a full-time orchestra with a respectable wage scale and pension benefits. Do not cause loss of life and limb in the process. Do not add to the Kansas City unemployment rolls. Do not destroy the organization while trying to change it.

By far the most difficult hurdle was to get the symphony to the bargaining table with union recognition in place. The musicians had advised me that the turbulent history of the old Kansas City Philharmonic made the board determined to avoid having anything to do with unions ever again. It's no wonder Gordon and Roland both commented during the roundtable discussion that they thought I was "strident" at the very first meeting. (Although I do not recall raising my voice, Brian reminds me that I did—surely the only occasion in the entire bargaining process?) However, whatever my tone of voice, it's my belief that mere mention of the word "union" on November 12th had to sound so discordant a note in Gordon's and Roland's ears that had I whispered it, I still probably would have seemed strident.

November 12th was a tense evening. It was my job to let the musicians' employer know that they were totally unified in their desire for union recognition. This wasn't something that could be exchanged for comparable benefits. There were no comparable benefits. The musicians did not view the union simply as a vehicle to a pension or the ability to attract better players, although these factors weighed in. Rather, they saw the union as a way to reclaim their dignity and right of self-determination, things they felt had been diminished in the nonunion era, as they communicated them to me. The orchestra had agreed there would be no negotiations without union recognition in place or understood. After all,

as I reminded Roland and Gordon, union representation is a legal right, not a benefit to be conferred. At the same time, we tried hard to convey the message that the musicians were most sincere in their willingness to work reasonably to achieve a first collective bargaining agreement that everyone could live with. We also were willing to defer any public announcement concerning the union until an agreement was in place.

We did not attempt to comment on whether the board's apparent collective opinion of the union was justified. Gordon assured us that it was. So certain was he of the inevitable doom that would follow from the musicians' demand for recognition that, at that first meeting, he and Roland had in hand charts, purporting to show contributors who would withdraw their support if a union came in, with the dollar amounts they predicted the symphony would lose if we continued with our misguided plans. We were setting out to destroy the organization, we were told. It was hard for the musicians who were present (luckily only two—who had especially strong stomachs) to listen.

We stuck to our guns (so to speak). We asked Gordon and Roland to urge the board to “give peace a chance”—to look forward, not backward, on their relationships with the musicians. We spoke at great length about positive developments that had been taking place between other union orchestras and their managements in the years that the Kansas City Symphony had been divorced from the labor scene. No one left the meeting feeling lighthearted. After assuring Brian and Dave Everson, the chair of the orchestra committee, that I thought the meeting had gone about as well as we could have expected, I returned home worrying whether the musicians' strategy was correct.

*“... we tried hard to convey the message that the musicians were most sincere in their willingness to work reasonably to achieve a first collective bargaining agreement that everyone could live with.”*

## Subsequent Events

After that meeting, when it was agreed that the board was willing to have a dialogue on the issues with the musicians, I retreated happily to the background to allow the process to unfold. Needless to say, the process worked—the board members on the task force developed sufficient trust and confidence in the orchestra committee and vice versa that there was a willingness to allow the parties and their counsel to sit down at the bargaining table with the understanding that if an agreement were reached, union recognition would be included. Nevertheless, I was concerned whether we would be able to come up with a solution for an initial nine-year agreement. (I don't think I yelled here either, but the orchestra committee confessed they were not anxious to advise me that they had agreed in principle to the concept of a nine-year contract.) “Even if you never intend to use it, you can't just go and give up the right to

strike while buying a pig in a poke,” I told them after the proposal for a lengthy agreement and an evergreen provision had surfaced in the task force discussions.

When the formal negotiations began, I had no idea how the parties were going to be able to reach an agreement within the parameters set by the task force—it was a tall order. How could we preserve power and protection for the musicians without a fixed economic agreement after the first three years, while simultaneously agreeing there would be no right to strike (for better or worse, labor’s ultimate weapon) for at least nine years? As Jim Baker noted correctly, we agreed to focus on the areas we thought we could resolve and took things one at a time, building confidence and commitment to the process as we went along.

The benchmarking concept, and the idea that the employer would declare its intention to raise salaries and benefits to the level of peer orchestras, or the early genesis of these ideas, surfaced during a conversation Brian and I were having after a bargaining session in which it began to appear that an agreement on economics for the first three years was feasible. I remember how excited we were to have stumbled upon the rudiments of a framework for addressing the remainder of the contract. When the time was right, and Roland and the board agreed to work with the concept, we spent a lot of time ironing out the details in a way we hope future bargaining parties will be able to live with.

## Assessing the Results

Looking back, it is pretty remarkable that things went as well as they did. The process involved a considerable amount of risk taking which was critical to its success. For example, if, during my first meeting with orchestra, the musicians as a group had not been willing to risk the kind of dire consequences we expected and in fact heard from Roland and Gordon, I suspect they would still be asking for union recognition and management would still be telling them to be patient. Likewise, if Roland had not been willing to go to the board (his employer) and advocate that the matter be given a prompt and fair review, the parties might now be embroiled in contested proceedings at the National Labor Relations Board. And, if board members Shirley Helzberg, Bob Kipp, Gordon Kingsley, and others had not been willing to break with the past and, once an agreement was in the works, approach major patrons with these new developments and provide assurances that all would be well, then perhaps the predictions of loss of substantial financial support might have come true.

*“The process involved a considerable amount of risk taking which was critical to its success.”*

Risk taking was accompanied by reasonableness. The orchestra committee, Roland, the board, and, yes, even the lawyers were able to work with open minds, trust, and mutual respect. These qualities were contagious. Once unleashed (like the flu that felled every member of the orchestra committee while negotiations were in progress), they continued to spread and influence

the process. Don't get me wrong. There were serious disagreements along the way. But the bottom line was an honest commitment to reach an agreement that addressed fundamental needs of the musicians and the organization.

Much about this contract remains to be seen. The orchestra understands this part clearly, as I hope does the board. The success of the agreement and, in turn, the future success of the Kansas City Symphony is dependent, in part, on continued good faith and honesty between the parties. Hopefully, as there are changes in orchestra and staff personnel or board leadership over the years, the organization will take pains to ensure that the kind of institutional culture that has begun to emerge is continued.

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