December 27, 2017

For Further Information Please Contact: J. Bruce Bugg, Jr. at (210) 930-5160:

Statement from Symphonic Music for San Antonio (SMSA) Officers and Board of Directors

J. Bruce Bugg Jr. – Chairman

Dya Campos – Vice Chair

J. Tullos Wells – Vice President, Secretary and Treasurer

Tom Stephenson – President and CEO

In the wake of chronic financial issues faced by the Symphony Society of San Antonio (SSSA), on July 19 of this year, we announced the formation of Symphonic Music for San Antonio (SMSA) as an entirely new, separate organization dedicated to providing a fresh start to preserve the longevity of symphonic music in San Antonio.

SMSA is centered on four guiding principles:

a. Symphonic music in San Antonio is important to the community;
b. A fair and reasonable contract for the symphony orchestra musicians is essential;
c. Symphonic music should be resident in The Tobin Center; and
d. Symphonic music should be available to support other Tobin Center resident arts organizations, such as opera and ballet.

In keeping those four principles, our goal has been to develop for SMSA a business model and tight budget based on reliable revenue models to begin the process, from a donor's perspective, of achieving financial stability of symphonic music in San Antonio for decades to come.

The Tobin Endowment, Kronkosky Charitable Foundation and H-E-B, strictly as donors, have, to date, contributed some $2 million since May, 2017 to keep the current symphonic season going. These funds went to pay the salaries of orchestra musicians and other symphony related expenses.

Beginning with a review of SSSA's audited financials for the period ending August 31, 2016, and in working with SSSA to resolve a number of issues over the past months, we believed SSSA had gotten to the point that it was debt-free.

However, we were surprised and extremely disappointed to receive a November 21, 2017 letter to SSSA from the American Federation of Musicians & Employers' Pension Fund (AFM) in which AFM asserts that the musicians' pension fund agreement was underfunded by SSSA in the amount of more than $4 million. The letter was written in response to a September 29, 2017 request from SSSA regarding its pension fund liability up to that date. A copy of this letter is attached.

In addition, if SSSA were to withdraw from the pension fund at that point, that would, according to the letter, trigger a "withdrawal liability" that SSSA could incur totaling up to $8,922,585.90. Further, the letter states, AFM notes "that this number is only an estimate and that the Fund reserves the right to make any changes to this estimate and, in the event of an actual withdrawal, to assess liability

without regard to any prior estimate." In other words, the number could change – upward or downward.

Prior to the November 21 letter, neither SMSA, nor the other donors, nor the current SSSA Board leadership knew of this liability, which was not disclosed in SSSA's audited financials for the 12-month period ending August 31, 2016.

Faced with this revelation nearly five months after we first began this effort, SMSA repeats that it had made clear, from the beginning, that SMSA would never assume any liabilities of SSSA, and will not do so now. A "fresh start" means exactly that – and we, as stewards for our donors, using our business judgment, cannot be saddled with a liability which is greater than a typical operating cost for an entire symphony season.

Consequently, SSSA must, on their own, and without any further funding from SMSA, since SSSA is the employer under the labor agreements with SSSA musicians, resolve it's financial and legal matters, however it sees fit. SMSA sincerely hopes that resolution is forthcoming. SMSA has not managed or directed SSSA on these matters nor has SMSA had any role in the management of orchestra musicians. SMSA exists as a donor for the charitable purpose of its four guiding principles.

Despite the best efforts of the Board of SSSA's leadership, led by Dr. Alice Viroslav, as Board Chair of SSSA, and the Board of SMSA, on December 21, 2017, the Board of SMSA met with the Chair of SSSA, and terminated all further negotiation for SMSA to acquire any assets or operations of SSSA.

American Federation
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Employers' Pension Fund

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Fund

November 21, 2017

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Symphony Society of San Antonio (Emp ID 010886)

Dear Sirs:

Pursuant to the September 29, 2017 request received from The Symphony Society of San Antonio ("Employer"), we have calculated an estimate of the withdrawal liability that the Employer would incur if it experienced a complete withdrawal from the American Federation of Musicians and Employers' Pension Fund (the "Fund") on March 31, 2017 and during the current plan year (i.e., the 12 months that began on April 1, 2017).

The estimated withdrawal liability is $8,922,585.90 for a withdrawal occurring in the current plan year based on the Fund's net unfunded vested benefits as of March 31, 2017, which totaled $4,448,938,566. Additionally, the following contribution amounts were used to calculate these withdrawal liability amounts:

Fiscal Year Ended	Net Fund Contributions	Employer's Contributions
3/31/2013	$53,506,376	$100,112
3/31/2014	$56,149,401	$100,596
3/31/2015	$58,331,160	$126,075
3/31/2016	$60,257,693	$130,339
3/31/2017	$65,401,276	$121,800

The estimated withdrawal liability is $7,382,429.86 for a withdrawal occurring on March 31, 2017 based on the Fund's net unfunded vested benefits as of March 31, 2016, which totaled $3,630,557,837. Additionally, the following contribution amounts were used to calculate these withdrawal liability amounts:

Fund

Fiscal Year Ended	Net Fund Contributions	Employer's Contributions
3/31/2012	$52,652,603	$112,004
3/31/2013	$53,304,709	$100,112
3/31/2014	$56,584,508	$100,596
3/31/2015	$59,547,933	$126,075
3/31/2016	$62,715,307	$130,339

Please understand that this number is only an estimate and that the Fund reserves the right to make any changes to this estimate (whether or not discussed below) and, in the event of an actual withdrawal, to assess liability without regard to any prior estimate. In the event of an actual withdrawal, the Fund would verify all relevant data and calculate the actual amount of withdrawal liability.

In addition to any corrections that might be made in contribution data, major differences (upward or downward) could result from, among other things, one or more of the following factors:

- You have advised that there are no other members of the control group. If that information is wrong, or if the Employer's status with respect to membership in a control group changes before an actual withdrawal, the estimate will not be accurate.
- This estimate may not fully reflect all statutory exceptions and adjustments to the calculation of withdrawal liability (including, for example, accounting for the withdrawal of certain other employers) that could potentially apply in the case of an actual withdrawal.

Please keep in mind that this estimate applies only with respect to a withdrawal in the specified plan years. If the Employer withdraws in a subsequent plan year (i.e., after March 31, 2018), the calculation of withdrawal liability would be based on updated calculations of net unfunded vested benefits and contributions.

A copy of the Fund's *Notice to Contributing Employers Regarding Withdrawal Liability*, which sets forth the Fund's current withdrawal liability procedures, is enclosed for your information.

Sincerely,

William J Luebking
Director of Finance

Enclosure

Cc: Maureen Kilkelly, Fund Executive Director

American Federation
of Musicians &
Employers' Pension Fund

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Fund

NOTICE TO CONTRIBUTING EMPLOYERS REGARDING WITHDRAWAL LIABILITY

Each contributing employer is required to pay the Fund all amounts due as withdrawal liability resulting from a partial or complete withdrawal from the Fund, in accordance with Article XIII of the Agreement and Declaration of Trust of the Fund (the "Trust Agreement") and the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under both ERISA and the Trust Agreement, the Board of Trustees ("Trustees") has full authority to adopt rules and regulations governing the determination and payment of withdrawal liability. These rules and regulations are binding on all employers. In the event of any inconsistency with governing federal law, that law will be binding.

Withdrawal liability represents a withdrawing employer's share of the unfunded vested benefit liability ("UVB") of the Fund. The calculation of UVB is done on an annual basis and the absence of withdrawal liability for any particular plan year cannot be taken as assurance that there will be no withdrawal liability in the following plan year.

Set forth below is a brief summary of the statutory withdrawal liability rules and the procedures adopted by the Trustees for applying those rules to the Fund.

- **Definition of a Withdrawal**

An employer may incur a withdrawal liability if it experiences either a "complete withdrawal" or a "partial withdrawal." An employer has a "complete withdrawal" when it permanently ceases to be obligated to contribute under the Fund (*e.g.*, the employer and the union agree in their collective bargaining agreement not to require further employer contributions to the Fund), or permanently ceases all covered operations under the Fund (*e.g.*, the employer no longer employs any musicians). An employer has a "partial withdrawal" when there is a 70% or more decline in contribution base units (i.e., the unit by which the contribution is measured) over a testing period or the employer's contribution obligation partially ceases. An employer's obligation partially ceases when (i) it permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements but continues to perform the same type of work in the jurisdiction of the collective bargaining agreement or transfers such work to another location or to an entity owned or controlled by the employer, or (ii) it permanently ceases to have an obligation to contribute for work performed at one or more but fewer than all of its facilities, but continues to perform the same type of work at the facility.

In determining whether a withdrawal has taken place, the employer is aggregated with all other entities under "common control" with the employer, as that term is defined in ERISA and the Internal Revenue Code. Accordingly, if the employer is affiliated with one or more other business entities (*e.g.*, a parent or a subsidiary, or a brother or sister, company), the Fund will need to take this into account in determining whether a complete or partial withdrawal from the Fund occurred and, if so, the amount of the withdrawal liability. Employers should provide the Fund with information necessary to confirm the entities under common control.

- **Amount of Withdrawal Liability**

For a *complete* withdrawal, the Fund determines the amount of withdrawal liability using the "one-pool" method, set forth in ERISA. Under this method, a withdrawing employer shares in the Fund's total UVB that exists as of the end of the plan year preceding the date of withdrawal, based on the ratio of (i) the employer's contributions during the preceding five consecutive plan years of its participation in the Fund to (ii) the total contributions to the Fund during that same period made by all contributing employers. (Generally, contributions of other withdrawn employers that have received a notice of withdrawal liability or have contributed at least $250,000 during any of those five plan years are disregarded in calculating this ratio.) Again, for this purpose, each employer is aggregated with all other entities under "common control."

The Fund's actuary calculates UVB based on the market value of assets. The investment return assumption used to calculate UVB is based on the interest rates published by the Pension Benefit Guaranty Corporation ("PBGC") for the purposes of determining the value for deferred and immediate annuities, which are prescribed as the basis to determine plan liabilities for a mass withdrawal, for the month of March in the plan year preceding the plan year of withdrawal. Further, in calculating withdrawal liability, the Fund will disregard (as required by law) any reduction in benefits under the Fund's rehabilitation plan through the use of the simplified method set forth in PBGC Technical Update 10-3.

An employer's liability for a *partial* withdrawal is a *pro rata* share of the liability that would have been assessed had the employer completely withdrawn.

Employers with a withdrawal liability of $100,000 or less are entitled to a $50,000 "deductible" that is subtracted from the total amount of withdrawal liability. For every dollar of withdrawal liability over $100,000, the deductible is reduced by one dollar. If the employer's withdrawal liability is $150,000 or more, no "deductible" applies.

- **Exception for New Employers ("Free Look" Rule)**

An employer that had an obligation to contribute to the Fund for no more than five plan years that withdraws from the Fund generally will not incur withdrawal liability unless it was required to contribute 2% or more of the total contributions in any plan year of its participation in the Fund (or it has previously avoided withdrawal liability because of the application of the "free look" rule). This rule will apply only if the requirements of Section 4210(b) of ERISA are also satisfied.

- **Exception for Certain Employers That Contribute on a Temporary or Project-by-Project Basis**

An employer that contributes to the Fund primarily on a temporary or project-by-project basis may not be liable for a complete withdrawal unless it continues (or resumes) operations employing professional musicians and does not make contributions to the Fund for musicians it employs. Such an employer is also not liable for a partial withdrawal (unless the Pension Benefit Guaranty Corporation issues regulations to the contrary). Whether an employer contributes "primarily on a temporary or project-by-project basis" will be determined by the Trustees based on the specific facts and circumstances of the employer's participation.

- **Payment of Withdrawal Liability**

Upon learning of an actual or possible withdrawal, the Fund will notify the employer and will request any information necessary about the company (including its parent, subsidiaries or other affiliates) to determine whether a complete or partial withdrawal has occurred, and to calculate the amount of withdrawal liability. Employers are required by ERISA to promptly provide such information to the Fund, and any other pertinent information or documents that the Fund may deem necessary to fulfill its obligations under ERISA.

An employer's withdrawal liability obligation is payable in quarterly installments over a period of time that varies with the employer's contribution history under the Fund, subject to acceleration as described in the delinquency/default provisions below.

Once the Fund assesses withdrawal liability and provides the employer with a payment schedule, the employer must commence quarterly payments, *even if it wishes to contest the Fund's assessment*.

- **Challenges to the Fund's Assessment of Withdrawal Liability**

An assessment of withdrawal liability by the Fund may be challenged only by filing a written request for review with the Trustees within ninety days of the employer's receipt of the Fund's initial withdrawal liability assessment. After filing a request for a review with the Trustees, the employer may initiate a binding arbitration regarding the assessment by making a formal filing with the American Arbitration Association within sixty days after the earlier of (i) the date that the employer is notified of the Trustees' decision on review; or (ii) 120 days after the date on which the employer requested the review. If an employer does not meet any of these time deadlines, the Trustees' determination will be deemed final and not subject to challenge in arbitration or court.

All arbitration hearings shall take place in New York City unless the Trustees and the employer agree on a different location.

- **Delinquency/Default**

Delinquent payments will be assessed interest at the annual rate of interest set forth in the Fund's Trust Agreement (currently, the greater of 7.5% or the prime rate of interest plus 2%). Delinquent withdrawal liability payments will also be assessed a liquidated damages penalty equal to *the greater of* the amount of the interest assessment or twenty percent of the amount involved, plus attorneys' fees, court costs, and other possible relief.

An employer will be required to pay immediately in a lump sum the full amount of its outstanding withdrawal liability (plus interest and the amounts above), if the employer defaults on its withdrawal liability payments. Default occurs when an employer (i) fails to pay the amounts when due, plus interest, and fails to cure that default within 60 days of notice from the Fund; or (ii) experiences an event that the Fund's rules identify as indicating a substantial likelihood that the employer will be unable to pay its withdrawal liability when due.

Events that the Fund's rules identify as indicating a substantial likelihood that the employer will be unable to pay its withdrawal liability include: (i) the employer's insolvency, or any assignment by the employer for the benefit of creditors, or the employer's calling of a meeting of creditors for the purpose of offering a composition or extension to such creditors, or the employer's appointment of a committee of creditors or liquidating agents, or the employer's offer of a composition or extension to creditors; (ii) the employer's

dissolution or the making (or sending notice of) an intended bulk sale by the employer; (iii) the assignment, pledge, mortgage or hypothecation by the employer of property that the Trustees deem to be material in relation to the financial condition of the employer; (iv) the filing or commencement by the employer, or the filing or commencement against the employer or any of its property, of any proceeding, suit or action relating to any bankruptcy, reorganization or consolidation, arrangement-of-debt, receivership, liquidation, or dissolution law; (v) the entry of any judgment or the issuance of any warrant, attachment, injunction or governmental tax lien or levy against the employer or its property with respect to a material portion of its property; (vi) the employer's ceasing or substantially curtailing business operations; (vii) the employer taking steps to liquidate a material portion of its assets; (viii) the employer's failure to provide information requested by the Fund pursuant to Section 4219(a) of ERISA regarding its ability to pay withdrawal liability (or as to whether it has taken an action for the principal purpose of avoiding paying withdrawal liability); (ix) the employer made three consecutive withdrawal liability payments more than thirty (30) days after their due date; (x) the employer's taking an action for the principal purpose of avoiding paying withdrawal liability; or (xi) any other event that the Trustees determine materially impairs the employer's creditworthiness or indicates a substantial likelihood that the employer will be unable to pay its withdrawal liability when due. This paragraph also applies to such occurrences with respect to an employer's controlled group of corporations or trades or businesses.

- **Obtaining an Estimate of Withdrawal Liability**

As required by Section 101(l) of ERISA, at an employer's written request, once during any 12-month period, the Fund will provide the employer with a notice of the estimated amount of the employer's withdrawal liability if the employer withdrew on the last day of the plan year preceding the date of the request. Upon written request, the employer also will be provided an explanation of how the estimated withdrawal liability was determined, including the actuarial assumptions and methods used to determine the value of the plan liabilities and assets, the data used in making the estimate, and the application of any relevant limits on the estimated liability amount.

Because the plan year runs from April 1 to March 31, this estimate will be made as if the employer had withdrawn on the March 31 immediately preceding the request. This estimate will be provided within 180 days of the request (or such longer period as permitted by law).

Since this information will be of limited utility to employers (because it only applies to withdrawals in a plan year that already ended), an employer can instead request in writing that the Fund provide (subject to the same conditions) the estimated amount of the employer's withdrawal liability if the employer withdrew in the current plan year. In that case, the Fund will provide one as soon as it reasonably can after the necessary information is available.

Two of the key pieces of information needed for such an estimate are the audited amount of Plan assets and the actuarial determination of the Plan's unfunded vested liabilities as of the end of the previous Plan Year. The Plan Year ends on March 31. The Fund will provide an estimate of employer liability prior to the completion of the actuary's valuation report (which is normally presented to the Trustees at their meeting in October or November) based on a roll-forward of the Fund's vested benefit liability from the prior year's actuarial valuation (when such information becomes available) and on unaudited assets as of the end of the prior Plan Year. Employers requesting current estimates should understand that this will be merely an estimate, which may change once the current year's actuarial valuation is completed and the audit of the Fund has been completed.

The Fund Office will provide these withdrawal liability estimates to an employer that makes a written request and that identifies any entities that are within the same "controlled group" (because all such entities must be treated as one employer for purposes of calculating the liability).

The Trustees will impose a charge to cover copying, mailing, and other costs of furnishing withdrawal liability estimates. Currently, the charge for such estimates is a flat fee of $1,000. This fee should be included in all written requests. No additional charge will be made to an employer that receives an estimate based on rolled-forward calculations and that requests a confirmation of its actual withdrawal liability after the actuarial valuation is completed.

Employers should note that, while the Fund does not provide a copy of withdrawal liability estimates to the union (the AFM or AFM local, as applicable) as a matter of course, there may be circumstances in which it will do so upon the union's request if the Fund's Withdrawal Liability Committee concludes that doing so is in the interest of the Fund.

- **Record Retention**

Because an employer's contribution history is critical to the determination of its withdrawal liability, employers are strongly encouraged to retain records evidencing their contribution history to the Fund for at least ten years.