

New Jersey Symphony Orchestra

Report of Trustee Review Panel

December 16, 2004

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## **1. Executive Summary**

The NJSO Trustee Review Panel consists of three Trustees who were not part of the original Instrument Committee, and who had no involvement with the assessment of the Golden Age Collection or the negotiations around the transaction. They are:

Bill Baroni (Member, New Jersey State Assembly)

Alan Danzis (President, Danzis Associates, Inc.)

John Forrest (Group Vice President, Finance and Administration, National Starch & Chemical Co.)

## **Introduction**

We have been charged by the Board of Trustees and management of the NJSO with reviewing the events that led to and immediately followed the purchase, in February 2003, of the Orchestra's Golden Age Collection of string instruments. We have had access to all the available documentation and to the trustees, staff and musicians of the Orchestra who were involved in the process. We also spoke to external third parties who provided services or gave advice to the Orchestra at the time of the events in question. We would like to express our appreciation to all those who gave of their time to meet and talk with us.

Above all, we have been granted the luxury of 20/20 hindsight, and all the observations and recommendations that follow should be read with that clearly in mind.

## **Key Observations**

There is no doubt in our minds that the NJSO has in its possession a unique asset, of which the musicians and Orchestra should be justly proud. While there are instruments in museums, private collections or in the hands of soloists that may be of greater absolute quality, nowhere else in the world is such a large collection of great instruments put, daily, to the use for which they were created – to make music in the presence of appreciative audiences. This is a wonderful asset for both the City of Newark and the State of New Jersey, and, over time, it will serve to distinguish the NJSO from its powerful and much respected competitors to the east and south.

We nevertheless wish to make some comments about the process that led to the acquisition of the instruments, about their book value, and about how the Orchestra should exploit more effectively this unique asset.

## **Findings**

- 1. The Instrument Committee<sup>1</sup> did not have a complete and objective appraisal of the Collection.**

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<sup>1</sup> See Appendix E for a list of the members of the Instrument Committee

The seller provided the only complete appraisal. Informal opinions were sought on behalf of the Orchestra but, mostly as a result of the serial deadlines presented by Dr. Axelrod and the uniqueness of the assets, this process fell short of the evaluation of each instrument that we now believe would have been more desirable for a transaction of this magnitude.

We nevertheless do not recommend a complete appraisal now because we believe that it would be impossible to arrive at an objective opinion in the current climate. For example, one respected appraiser has told us that at this point he would no longer be willing to get involved in valuing the instruments and would only assess them for authenticity, for which we believe sufficient information has already been gathered. Even if a qualified appraiser could be found, the cost would be substantial and, since the Orchestra already owns the instruments, would be of little consequence.

**2. The Board of Trustees<sup>2</sup> was led to believe the Collection was worth more than the alternate opinions suggested.**

The alternate and informal opinions obtained by the Instrument Committee suggested that the Collection *might* be valued at between \$15.3 million and \$26.4 million, but the full Board was told that the value was approximately half the seller's valuation of \$50 million, clearly at the high end of the range. Many on the board were not even aware of that fact, and were only aware of the seller's publicity that kept referring to a \$50 million Collection. Therefore, we conclude that the Instrument Committee did not ensure that the Board understood the value of the Collection.

Given the size of the transaction, there was too much concern to avoid conflict with the seller – understandable given his great generosity to the Orchestra in the past – and not enough to ensure that the Board understood what it was getting for the money it was investing. The NJSO Board of Trustees is characterized by having a small group of a dozen or so members who are actively involved in the running of the Orchestra and who regularly attend Board and Committee meetings. The remaining members have significantly less involvement.

It is understandable that the Orchestra did not publicly challenge the seller's \$50 million valuation. But that number was used by the NJSO in the press release and in the 2004-2005 season brochure, further exacerbating the problem. The Orchestra clearly wanted publicity to put itself "on the map" but should have refrained from use of the \$50 million number.

**3. The Board of Trustees was not told of questions of provenance on several of the instruments.**

The independent opinions obtained by the Instrument Committee revealed concerns with the authenticity of parts of several of the instruments, but this information was not provided to the full Board. By not informing the Board of the existence of questions of authenticity of the instruments, the Instrument Committee did not meet its obligation to the Board for a thorough presentation of the proposed transaction.

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<sup>2</sup> See Appendix D for a list of the members of the Board of Trustees at the time of the decision to acquire the Golden Age Collection on October 9, 2002

- 4. The entire Instrument Committee and Board of Trustees were not told about warnings that had been received about the seller.**

There is evidence that some members of the Instrument Committee were aware of rumors that the seller was being investigated by Federal agencies over concerns about over-valuation of gifts of rare stringed instruments. Those members made some inquiries independent of Dr. Axelrod and were led to believe that the rumors were just that – rumors. In hindsight, more investigation of the allegations should have taken place, and all information should have been given to the entire Instrument Committee and the Board.

- 5. Certain key members of the Violin Valuation Committee<sup>3</sup> were not told of the above concerns, leading that Committee to recommend that the NJSO Instrument Conservancy record the Collection on their books in the amount of the seller's appraisal of \$48.99 million.**

In light of the information that was available to the Orchestra at the time of the acquisition, this decision needs to be revisited.

## Recommendations

- 1. The Board of Trustees should review its role and those of its sub-committees in the organization, ensuring that its responsibilities and obligations are more clearly defined.**
- 2. The Golden Age Collection should be recorded in the books of the NJSO Instrument Conservancy at the purchase price of \$18 million.**

We believe that, in the end, the NJSO negotiated a fair, arm's length price for the Collection and that this is, therefore, the only appropriate valuation for book purposes. After receipt of the professional recommendations of the independent external auditors, the Orchestra may need to make amendments to other filings.

- 3. Orchestra management should in a timely manner inform the Board of Trustees of the steps the NJSO is going to take in reaction to our findings.**
- 4. The NJSO should communicate the Trustee Review Panel's findings to its subscribers and donors.**

For example, this entire report should promptly be posted on the Orchestra's web site, [njsymphony.org](http://njsymphony.org).

- 5. The NJSO should implement enhanced marketing plans to derive maximum benefit from the uniqueness of the Collection.**

The Orchestra should set up a marketing committee, with strong representation from the musicians, to develop a strategy to give the Collection a much higher profile than it has today. Some suggestions are as follows:

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<sup>3</sup> See Appendix F for a list of the members of the Violin Valuation Committee

- Create more opportunities to specifically showcase the Collection. One musician commented on the success of the solo Bach evening in Morristown, but that there was no follow up.
- Create opportunities to introduce the Collection (or parts of it) to the community and to businesses that support the Orchestra.
- Establish a tradition of having individual musicians talk to the audience about their instrument at the start of each concert.
- Develop a publicity campaign that establishes a strong link between the NJSO and the Collection. Take the message to surrounding constituencies in Pennsylvania and New York and beyond.

### **Musicians' Perspective**

As part of this review, we had the privilege of interviewing members of the string section of the Orchestra, including musicians who play on several of the instruments whose provenance has been questioned. For each instrument in the Collection, we have sought out comments from NJSO musicians who play them, and they are included in Appendix A.

We have been struck by the overwhelming enthusiasm for the quality of the individual instruments and for the extra musical dimension that they have brought to the Orchestra. This has been echoed in recent favorable concert reviews, most notably of this season's opening night.

### **Conclusion**

This report has pointed to a number of flaws in the process that led to the purchase of the Golden Age Collection. These arose not from any ill intent on the part of the New Jersey Symphony Orchestra, but from a lack of experience in handling a transaction of this size, from the simple fact that the Orchestra relies very heavily on volunteers to conduct its most critical business and, at root, from a strong organizational impetus to secure a deal which had – and still has – the potential to transform the musical reputation and the financial future of the Orchestra.

A financially challenged symphony based in Newark, New Jersey trying to buy 30 rare instruments from a quirky but generous millionaire with an all-volunteer group represented a once-in-a-lifetime deal in all respects. There was no handbook or template. The members of the Instrument Committee created the handbook as they proceeded.

At the same time, we on the Trustee Review Panel must acknowledge that errors of omission were made in the process surrounding the purchase of the Collection. The Board and the public were not informed of questions of value and provenance. There was no independent appraisal. In the Instrument Committee's zeal to complete the deal, they overlooked basic principles of true openness with the Board. The fear of offending Dr. Axelrod prevented the Board from getting all the information that it needed to make an independent judgment.

This was certainly a very large and complex transaction for a non-profit organization like the NJSO and, though there were significant flaws in the way the process was conducted, the outcome is excellent for the future of the Orchestra.

Taking all the available information into account, we on the Trustee Review Panel do not believe that the NJSO struck the outstanding deal that was publicized in acquiring these instruments, but we believe strongly that it was a fair deal.

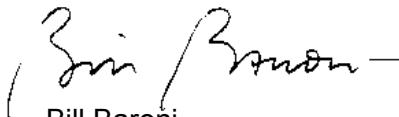
At the press conference announcing his appointment as the Orchestra's new Music Director, Neeme Järvi noted:

"Buying these Stradivarius violins was a heroic undertaking -- it says much about the organization and those who support it. No other orchestra thought of buying just a few of these instruments, and New Jersey buys 30."

We believe it is likely that Maestro Järvi's decision to join the Orchestra – a major coup for the NJSO – was due in some large part to the acquisition of the Golden Age Collection.

Finally, it seems to us that it would have been easy for the organization to decide that the deal was "too risky" and to decline the acquisition. How would the musicians of the Orchestra have felt about such a decision? The subscribers and donors? The media? If another Northeastern orchestra had acquired the Collection, what would everyone say about the NJSO?

So we wish to applaud the vision of the NJSO Trustees, led by Board Chairman Dr. Victor Parsonnet, who worked hard to secure this deal which, process, valuation and accounting issues aside, is of immense and unmatched musical value.

  
Bill Baroni

  
Alan L. Danzis

  
John Forrest

## **2. Valuation of Rare Art**

Before proceeding to the process surrounding the acquisition of the Golden Age Collection, we feel it would be helpful to consider certain characteristics of the field of rare works of art.

What are the qualifications needed to be an appraiser of rare art objects? The IRS definition of “Qualified Appraiser” is not very precise:

“The individual either holds himself or herself out to the public as an appraiser or performs appraisals on a regular basis.”<sup>4</sup>

Clearly, the appraisal of rare art is itself much more an “art” than a “science”. One can easily obtain the exact value of a share of General Motors on a given day, but the value of a rare art object is subject to many variables, among them, the willingness to negotiate of the seller and buyer.

Last month, Christie’s New York held a sale of contemporary art. Two pieces of sculpture by the Italian artist Maurizio Cattelan, each with an appraisal range of \$700,000 to \$900,000, brought \$2.7 million and \$2 million respectively.<sup>5</sup>

A week later, Sotheby’s auctioned an 1887 oil painting that had been “lost” for 60 years in the vault’s of Florida’s Ringling Museum of Art. Pre-sale estimates valued the painting at \$150,000 to \$200,000, but it sold for \$1,352,000, more than 6 times the high estimate<sup>6</sup>.

And the field of rare violins has even more issues to be considered.

Every major appraiser of rare violins is also a dealer. Therefore, it should be expected that an appraiser interested in selling a particular instrument would praise it lavishly, while one who is on the other side will point out all of its faults. In this business, there is no such thing as an independent appraiser.

There are three types of valuations that appraisers/dealers can provide for rare string instruments. They are as follows:

1. A verbal opinion, the least costly option. Often the valuation reported will be a range of possible values.
2. A written opinion.
3. A “Certificate of Authenticity” which provides both the provenance of the instrument as well as an appraised value. This is the most costly option and can run as much as 6% of the instrument’s appraised value.

Almost all rare violins have come under scrutiny at one time or another. The most valuable known Stradivari is in a glass case at Oxford University and is known as “The Messiah”. While a luthier opened the violin and changed the bass-bar and modernized the neck angle in the late

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<sup>4</sup> IRS Regulations, Section 1.170A-13(c)(5)

<sup>5</sup> *The New York Times*, November 11, 2004

<sup>6</sup> Associated Press, November 17, 2004

19<sup>th</sup> century, it has never been played. The value of the instrument has been estimated by the well-known appraiser/dealer, Charles Beare, to be approximately \$20 million.

Stewart Pollens of the Metropolitan Museum of Art, author of *The Violin Forms of Antonio Stradivari*, studied “The Messiah” in the late 1990s. He found glaring problems with the violin's f-holes, rib structure and finishing. Pollens asked a leading dendrochronologist to study the growth rings in the wood of the violin. His conclusion was that the tree used to make the instrument's top was felled after Stradivari's death in 1737. But other scientists arrived at the opposite conclusion. The arguments will probably continue forever.

Consider that Antonio Stradivari lived to the age of 94. His sons, Francesco and Omobono, worked with him and continued his workshop after his death. In his lifetime, Stradivari produced about 1,200 violins of which 600 or so still exist. This volume suggests that Antonio must have had help from his sons and other apprentices. So, is a violin not a Stradivarius if it was not produced 100% by Antonio?

If one dines at a four-star restaurant expecting to enjoy a fabulous meal, and one's entrée that evening is prepared by the sous-chef rather than the chef, has the diner been cheated?

One of the more famous violin stories concerns a reclusive 93-year-old millionaire named Gerald Segelman who died in London in July 1992. Insiders knew that Mr. Segelman's collection of strings, including works by Stradivari and Guarneri “del Gesù”, was of tremendous value. The estate's appraiser, it was alleged, valued the instruments “substantially less than their true market worth” and then resold at top prices, the profits staying within his group.<sup>7</sup> One individual involved in this case was one of the “experts” cited by many of the press accounts questioning the authenticity and value of the NJSO's Golden Age Collection.

Graham Wells, founder of Sotheby's musical instruments department, concludes, “The violin trade has always been corrupt. Compared with the rest of the art and collectors' market, and even with other instruments, only violins, because of their rarity, history and immense value, attract this level of corruption, with auction houses and the trade – and, of course, musicians who cannot afford these instruments – all suffering as a result.”<sup>8</sup>

It was against this background that the New Jersey Symphony Orchestra received an unprecedented offer from Dr. Herbert Axelrod.

### **3. Axelrod Offer**

In March of 2002<sup>9</sup>, Lawrence Tamburri, then President and CEO of the Orchestra, was approached by philanthropist and NJSO donor Herbert Axelrod with an offer to sell his “Golden Age Collection” of 30 historic musical instruments to the NJSO, with the understanding that they would be for the exclusive use of NJSO musicians. Axelrod stated that the instruments were worth \$50 million, but that he would sell them to the NJSO for \$25 million.

Dr. Axelrod based his valuation on the written appraisals of his dealer, Dietmar Machold, who had given Axelrod a Certificate of Authenticity for each instrument in the Collection. The total

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<sup>7</sup> *The Guardian*, August 31, 2002

<sup>8</sup> As reported in *The Guardian*, August 31, 2002

<sup>9</sup> See Appendix G for a timeline of all major events

valuation was \$48.99 million. In addition, Dr. Axelrod had insured the Collection with Lloyd's of London, which accepted the Machold appraisals.

Dr. Axelrod stated that he did not want to have his wife deal with the Collection after his passing as others had been forced to do (notably, Mr. Segelman's family). In addition, he wanted to keep the instruments in New Jersey where he could hear them played regularly.

There was much publicity surrounding Dr. Axelrod's offer. For example, he appeared on the NBC Today Show in April 2002. All press accounts talked of "\$50 million of strings for \$25 million" and Dr. Axelrod's insistence that the deal be consummated by June 30. Clearly, Dr. Axelrod was driving the publicity. The NJSO attempted to create a confidentiality agreement with Dr. Axelrod but was rejected.

The Orchestra leadership felt that, if the deal were proved to be economically viable, the acquisition of the instruments would be a distinctive and remarkable asset to the NJSO and to the state of New Jersey. The Collection could be a way to help differentiate the NJSO from its counterparts in New York and Philadelphia. Additionally, it could help jump-start an endowment campaign. It was viewed as a once-in-a-lifetime opportunity for the NJSO to become an *institution*. Boston might have the Pops and Tanglewood, Philadelphia the string sound made famous by Ormandy, Chicago the brass sound made famous by Solti, but New Jersey would have "*all those Strads*".

Dr. Axelrod was unwilling to engage in a process of resolution of competing appraisals. The Orchestra was most concerned about known and undisclosed relationships of any nature that Dr. Axelrod might have had with persons in the appraising community, a concern that has proved to be valid by the history of the past year.

Informal valuations from wholly disinterested experts were then sought on behalf of the Orchestra to guide the NJSO to an aggregate purchase price and to make or confirm observations about authenticity and condition. While this process was obvious to all on the Instrument Committee as being less than ideal, the Orchestra believed that it was the only one where independent opinions from sequestered experts could be obtained. The Orchestra relied upon these opinions as a material factor in the purchase price it ultimately negotiated with the Dr. Axelrod.

The appraisers were selected through a recommendation of an independent consultant to the NJSO, who was referred to the NJSO by one of its lead musicians. They were intended to be appraisers who had no prior relationship with Axelrod, either favorable or unfavorable.

Dr. Axelrod began loaning the instruments to the Orchestra in the summer of 2002, as he retrieved them from artists who were performing with them on loan, in order that they could be played and evaluated by the NJSO musicians. Twelve instruments were received by June and the remainder by August. The opinions of the Orchestra's appraisers were in some cases in conflict with each other and with the appraisals of Dietmar Machold and previous appraisers that are referenced in Appendix A. The NJSO musicians, however, were thrilled with the instruments and confirmed that the Collection would be a significant musical asset to the New Jersey Symphony Orchestra.

In order to preserve the objectivity of the reviews, none of the appraisers were shown Machold's appraisals or each other's opinions. Each of them may nevertheless have had prior knowledge of some instruments from their years in the old instrument business. All comments from the

NJSO's appraisers, as well as a summary of the appraisals from Dietmar Machold, which contained information from other appraisers, are included in Appendix A.

The instruments were offered to the NJSO as a complete collection – Dr. Axelrod would not allow the Orchestra to select specific instruments and reject others. Given this stipulation, the NJSO board and administration concluded that the opportunity to acquire the greatest of these instruments, and even most of the lesser instruments in the Golden Age Collection, was a unique and invaluable opportunity and should be pursued.

Members of the NJSO board negotiated the price of the Collection from \$25 million to \$18 million, (\$14 million in cash, and the remaining \$4 million in unsecured notes) on the basis of the conflicting and in some cases negative opinions of some of the lesser instruments put forward by the NJSO appraisers. The NJSO board put together a package of donations, guaranties and loans to finance the purchase of the Collection.

The Golden Age Collection was formally acquired by NJSO on February 14, 2003 for \$18 million. Late in 2003, Dr Axelrod forgave \$1 million of the notes and assigned the remaining \$3 million of notes to other non-profits with whom he had had a previous relationship as a donor. Subtracting these \$1 million in notes that were forgiven, the cost to the NJSO became \$17 million, which number has often been reported in the press.

In April 2003, shortly after the acquisition, Dr Axelrod gave the NJSO a \$1 million cash challenge to help raise funds to pay for the Collection. This challenge would not have occurred if the NJSO had not acquired the Golden Age Collection from Dr. Axelrod. By June 30, the NJSO Board and the public had contributed \$1.1 million, which was matched in its entirety by Dr. Axelrod. If one subtracts the value of Dr. Axelrod's challenge from the purchase price, the actual net amount paid for the Collection becomes approximately \$15.9 million.

After the acquisition was completed, there was much fanfare and publicity for the Orchestra. "There's no orchestra in the world that ever had a concentration like this," Charles Beare told *The Star-Ledger*. "The Berlin Philharmonic has good instruments, for instance, and always made a wonderful sound. But not 13 Strads in a row!"<sup>10</sup>

#### **4. Evaluation of the Offer**

The NJSO established an Instrument Committee comprised of musicians, senior administrative staff, and trustees with a variety of professional backgrounds, for the purpose of assessing the Collection and the multiple opinions garnered during the due diligence process, as well as with overseeing the financing and purchase process. The list of committee members may be found in Appendix E.

The Committee retained an expert consultant, Yung Chin of New York City, and, subsequently, three appraisers for evaluating the instruments. The report of each appraiser was submitted to the Instrument Committee, and all were then compared to one another and to the Certificates of Authenticity of Dietmar Machold, Dr. Axelrod's appraiser/dealer.

In May, 2002, Mr. Chin arranged for Charles Beare, one of the world's foremost violin dealers and appraisers, to provide opinions on the instruments that were then in the NJSO's possession. Mr. Chin asked Stewart Pollens, famous because of his study of "The Messiah", to

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<sup>10</sup> *The Star-Ledger*, February 17, 2003

come to the Newark Museum to photograph the twelve instruments then in hand, which included six Stradivari violins, the Stradivari cello, and the Amati viola. These photographs were hand delivered to Mr. Beare in London.

In early June, Mr. Beare's verbal opinions were received back by the Committee. He gave informal opinions on the value of eleven of the instruments. The total value ranged between \$9.625 million and \$10.775 million.

When the rest of the instruments were received from Dr. Axelrod, further discussions were held on July 17, 2002 with Mr. Beare's organization concerning obtaining opinions on them. Since Mr. Beare would not be able to do this in New Jersey until October at the earliest, it was decided not to go ahead given the pressure from Dr. Axelrod to complete the transaction. Mr. Beare also suggested bringing the instruments to London for examination, but this was not possible because the NJSO did not own the instruments and would have to pay substantial shipping and insurance costs in addition to Mr. Beare's fee.

Mr. Beare's organization now takes the position that his opinions were only off-the-record impressions and that they would not get involved in valuing the instruments. However, this is at odds with their proposal of July 2002 "...to advise you on the authenticity and value of the purchases you plan to make." The Trustee Review Panel understands that an appraiser would never offer a firm value without personal inspection of each of the instruments. We believe that the Instrument Committee understood that the June assessment by Mr. Beare was very informal since it was based on photographs and prior knowledge of the instruments in question and not on personal inspection.

Mr. Chin recommended another respected violin dealer and appraiser so that the Orchestra might obtain an assessment by physical examination of the entire Collection. This expert is the subject of a confidentiality agreement entered into in 2003, the terms of which the NJSO was and remains willing to waive. Despite multiple attempts by the Trustee Review Panel to convince this appraiser to waive confidentiality, he will not repudiate or amend the agreement to consent to use of his name, release of the contents of his opinion letter or permit reliance by anyone other than the lenders and the Symphony on his opinion letter. Therefore, regrettably, we have decided to refer to him only as "Expert X" and can only provide cursory details publicly about the letter's contents. The NJSO has previously provided his letter in a timely fashion to all relevant authorities.

On August 9, Mr. Chin brought Expert X to the Newark Museum to examine the Collection. Expert X spent a total of 6 hours examining the instruments. He offered few comments at the time, and few, if any, notes were taken. A few days later, Expert X's verbal opinions and values were received. The sum of these valued the Collection at between \$16.98 million and \$23.9 million. Since this was the only review of the entire Collection, we feel that there should have been contemporaneous notes of the activity.

Expert X only had about 10 minutes to examine each instrument, an extraordinarily small amount of time. The Trustee Review Panel is not surprised, therefore, that this was a "very informal" opinion, yet it was the only complete evaluation of the Collection other than that provided by the seller's dealer, Mr. Machold.

It was suggested by both Mr. Beare and Expert X that the Orchestra "cherry pick" certain instruments from the Collection that were of better quality and value. The Instrument Committee

determined that Dr. Axelrod had made clear that this was not an option. In addition, the Committee saw value in the purchase of a "Collection".

During this period, there was increasing pressure from Dr. Axelrod to complete the transaction. The original Axelrod deadline of June 30, 2002 had past. Dr. Axelrod was quoted in the press as saying that other orchestras were contacting him, wanting to step in if the deal in New Jersey fell through. At one point, he suggested that a representative from Vienna was already on a plane with a check for \$55 million. We have discovered no evidence that any of these other overtures were real, and suspect that they were all part of a negotiating tactic. While the members of the Instrument Committee understood these stories for what they were, that same level of understanding was not felt among members of the Board of Trustees, who were not dissuaded from their belief that there were other pending offers.

In some cases, there were differences between the opinions voiced by Mr. Beare and Expert X. One of the senior musicians on the Instrument Committee recommended the services of a third expert, Adam Crane. In late August, Mr. Crane examined fifteen of the instruments in the Collection at the Newark Museum and gave verbal comments on those fifteen and a value for five of them. For the remaining ten, he felt he did not have enough information.

If one takes the low value for each instrument as given by any of the NJSO's three appraisers, and then the high value, the value of the Collection was estimated to be in a range of \$15.33 million to \$26.4 million.

As part of our review, we met with several Orchestra musicians who not only play instruments in the Collection but also are aware of the price range for stringed instruments. We were told that several of the instruments in the Collection could not possibly be purchased for the amount of the low opinion. This gives us greater confidence that the low number is an absolute floor on the value of the Golden Age Collection.

Just prior to completion of the purchase in February 2003, for purposes of obtaining financing, the Committee obtained from Expert X a written opinion that "...under certain market conditions, the Collection could currently be valued up to \$24,000,000..."<sup>11</sup>

The NJSO by-laws establish an Executive Committee that, with minor exceptions, is empowered to act with all of the authority of the Board between its meetings. Historically, the Executive Committee of the NJSO has been a very active group of trustees who meet regularly and are very involved in the workings of the Orchestra. Many of the trustees on the Instrument Committee were also members of the Executive Committee, so we believe the Executive Committee was kept well informed of the status of the Golden Age Collection purchase. However, we find no evidence that the Executive Committee was directly involved in the appraisals or purchase agreement.

The Instrument Committee authorized an Agreement of Sale signed on August 12, 2002 among the NJSO, Dr. and Mrs. Axelrod and Axelrod Fine Violins, Inc. The Agreement provided that "for the purpose of procuring the financing ... (and such other purposes as it shall deem necessary or appropriate to consummate the transactions contemplated by [the] Agreement), NJSO shall be entitled to obtain an appraisal, by an appraiser of its own selection, with respect to the value of each of the Offered Instruments (the 'NJSO Appraised Value')."

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<sup>11</sup> Letter from Expert X to the NJSO, February 5, 2003

On the basis of the analysis of the reports from the appraisers, and in conjunction with the opinions of the Orchestra members who had been playing the instruments, the Instrument Committee made their recommendation to the full NJSO board. The Committee fully endorsed the purchase, deciding that the final price agreed was one that they were comfortable with for the entire Collection, even taking into consideration questions around certain instruments, and the lower values proposed in some cases.

The Committee presented the purchase proposal to the NJSO Board of Trustees on October 9, 2002. The purchase resolution was approved unanimously. The minutes of the meeting reflect that the Trustees were told, "Our Appraisal of instruments is currently showing that the instruments are approximately half the amount originally stated from the Axelrod appraisal of \$50 million." It should have been stated that the \$25 million number was actually the upper end of a range of values that had been obtained.

In addition, the Committee chose not to disclose all the appraisers' comments to the full Board of Trustees at the meeting, due to sensitivities about the confidentiality of the deal, the perceived (and probably real) possibility that it might unravel, and the desire to consummate it without public embarrassment to the seller.

Since \$4 million of the \$18 million purchase price consisted of notes due to Dr. Axelrod, management felt that it was possible that Dr. Axelrod might, in time, forgive some or all of the notes. Indeed, he eventually forgave \$1 million of notes and interest, and issued a \$1 million challenge to the NJSO Board and audiences to help pay for the Collection. The challenge raised an addition \$1.1 million which was matched fully by Dr. Axelrod.

It is clear that if the Instrument Committee had allowed the facts concerning the alternate opinions to become public, there would be no possibility of convincing Dr. Axelrod to forgive any of the notes.

On January 22, 2003, a resolution was introduced and approved at a meeting of the Board of Trustees to ratify, authorize, adopt, and approve the Agreement of Purchase and Sale dated August 12, 2002. That agreement had contained several contingencies. By this time, the final financing arrangements had been resolved and the opinions of the appraisers reviewed. This resolution was therefore the final corporate approval necessary to complete the transaction.

## **5. NJSO Analysis and Decision**

The Orchestra members (some of whom were members of the Instrument Committee), after playing the instruments for some months and rotating them among themselves, were wholeheartedly enthusiastic about the Collection. The Instrument Committee therefore came to the conclusion that, even if some of the instruments were of questionable authenticity in one respect or another, even if some of them had been repaired or restored or taken apart and used to create composites (as was common practice in the 19<sup>th</sup> century), the Collection as a whole would be worth the significant financial investment if the musicians who were playing the instruments endorsed them as a significant leap forward in sound from the instruments on which they had been playing.

To compete with other nearby large orchestras, the NJSO needs dedicated and motivated musicians. The Golden Age Collection was viewed as not only a gift to the audiences for the

sound quality they could provide, but also a gift to the superb musicians of the Orchestra, because, as one Executive Director put it, "Happy musicians make great music."<sup>12</sup>

The NJSO was not making an investment in these instruments as a collector would - the most significant value the instruments had to the NJSO was in how they *sounded*. Additionally, there were at least five instruments in the Collection of exceptional, and undisputed, quality, added to many instruments of excellent quality. Thus, in determining the value of the instruments for the purpose of the potential acquisition, the Instrument Committee decided to de-emphasize Machold's Certificates of Authenticity and to use a number at or near the *lowest* evaluation of the three NJSO appraisers.

The Star-Ledger's account (August 1, 2004) of the NJSO's evaluation of specific instruments contended, "*The three composite Stradivari violins in the New Jersey collection, the Appraisers say, are the 1685 ex-Gagliano, the 1687 ex-Kloster Traunstein and the 1701 ex-Ferraresi. They are valued in the symphony's appraisal at \$1.2 million, \$1.6 million and \$2 million, respectively. But the Appraisers who spoke to The Star-Ledger say Stradivari composites rarely sell for more than \$500,000.*" Although the values quoted by the Ledger do indeed reflect Machold's Certificates of Authenticity, the values assigned by the NJSO's Instrument Committee to the three instruments in question were \$300,000 for the ex-Gagliano, \$500,000 for the ex-Kloster Traunstein, and \$400,000 for the ex-Ferraresi. Armed with information as to the likely value of the Golden Age Collection, members of the Committee went back to the negotiating table and succeeded in reducing Dr. Axelrod's price for the instruments from \$25 million to \$18 million.

## **6. Financing**

To finance the purchase of the Collection, the Instrument Committee put together a complex financing package. The Axelrods were paid \$14 million plus \$4 million in unsecured notes, \$1 million of which were later forgiven by Dr. Axelrod.

The \$14 million initially was financed by a \$9,180,000 bridge loan from Commerce Bank North that was converted into a New Jersey Economic Development Authority Bond placed directly with Commerce Bank, as purchaser, and a taxable loan from The Prudential Foundation (as second position secured lender) in the amount of \$5 million at an interest rate of 5 per cent per annum. The NJEDA acted as a pure conduit agency to provide the NJSO with a low cost of capital, a tax-exempt bond placed with Commerce Bank carrying an extremely favorable initial five-year interest rate of 4.37 per cent per annum.

No NJEDA or State funds were or will be used in the acquisition of the instruments despite media rumors to the contrary<sup>13</sup>. To the best of our knowledge, this is the first time that tax-exempt financing of the "equipment" or "rolling stock" of an orchestra has ever been undertaken.

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<sup>12</sup> Rita Shapiro, Executive Director, National Symphony Orchestra as reported in *The New York Times*, November 23, 2004

<sup>13</sup> The bond contains the following language: "THE STATE OF NEW JERSEY IS NOT OBLIGATED TO PAY, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF NEW JERSEY IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE, IF ANY, OF OR THE INTEREST ON THIS BOND. THIS BOND IS A SPECIAL, LIMITED OBLIGATION OF THE AUTHORITY, PAYABLE SOLELY OUT OF THE REVENUES OR OTHER RECEIPTS, FUNDS OR MONEYS OF THE AUTHORITY PLEDGED UNDER THE BOND AGREEMENT FOR THE PAYMENT OF THIS BOND [FROM THE NJSO AND THE NJSO INSTRUMENT CONSERVANCY]"

The loans from Commerce and Prudential Foundation are secured by guaranties, cash and investments totaling \$9 million (plus the Collection itself - a total security package of approximately \$27 million) for loans of approximately \$13 million that are now outstanding. This gives Commerce Bank, as primary lender, at this moment more than 1:1 collateralization from guaranties and cash and investments and 2:1 from instrument collateral. One foundation, one trust and four individuals serve as guarantors. Two other foundations made sizable grants to secure the financing.

## **7. Announcement**

Dr. Axelrod had been a longstanding donor to the Orchestra and many other charities, including the Curtis Institute of Music, the Jersey Shore Medical Center, and the Metropolitan Opera. A few years earlier, he had donated \$1 million to the NJSO to fund an annual concert featuring the top student at Curtis. In fact, Dr. Axelrod was such a benefactor to Curtis that they once honored him at a special Carnegie Hall concert.

Notwithstanding the skepticism with which the Instrument Committee regarded the \$48.99 million Machold appraisal, which had been paid for by Dr. Axelrod, it was felt that it would be inappropriate and embarrassing to the Axelrods to publicly release the results from the NJSO's appraisers, and that it might even threaten the eventual consummation of the transaction. For that reason, the NJSO's Instrument Committee chose to retain the confidentiality of the appraiser opinions it had solicited. Given the large size of the NJSO's board, and the delicacy of the negotiations, it was felt that it would be fair process for the Committee to make a recommendation to the board without releasing the full details of the multiple opinions that had emerged. In hindsight, the Trustee Review Panel disagrees with this decision.

Once the decision was made to purchase the Collection, the NJSO needed to determine how to present the transaction to the public. Almost no instrument from this era is completely untouched, as the vast majority of 17<sup>th</sup> and 18<sup>th</sup> century instruments were altered during the 19<sup>th</sup> century to strengthen them to accommodate the increased tension of steel strings as they took over from gut strings. As was noted in the February 21, 2003 Star-Ledger issue, many of the flaws of the instruments were revealed, for example: about the 1687 Kloster Traunstein, the paper noted "Eventually it was retrofitted with a flatter top...The scroll was replaced as well, deflating its appraisal somewhat"; about the 1736 Stradivari Spencer Dyke, "The scroll, or curved top, is not genuine, which has perpetually deflated its price...", and so on. So while there was no effort to pretend the Collection was flawless, the NJSO also chose not to reveal every flaw in every instrument, nor the multiple opinions about the authenticity of certain instruments, since it was the exceptional musical quality of the Collection as a whole, and the playability of the individual instruments, that were ultimately the most important elements in the decision to acquire the Collection.

## **8. Hindsight**

After having sorted through widely conflicting opinions in order to try to determine the value of a "collectible", and upon learning of the disappearance and subsequent arrest of the Collection's original owner, and additionally having learned ever more about the highly politicized and subjective nature of the world of rare instruments, the Trustee Review Panel feels in retrospect that the Instrument Committee and leadership might have been wiser to have been more forthcoming prior to the conclusion of the deal with its Board of Trustees, and following the consummation of the deal, with its public, about what it knew about the imperfections and

questions of each instrument in the Collection. At the time, these decisions, and in particular the decision to value discretion over disclosure, seemed well founded, were taken in good faith and had no intention to mislead. Public discussion of the details of the acquisition and its financing, at the time it was happening, was felt to be very likely to jeopardize the sensitive negotiations with Dr. Axelrod.

Because the Instrument Committee based its estimates on the lowest opinion figures in almost every case, we believe that the Orchestra paid, even in the most pessimistic evaluation of the Collection, approximately the market value of the instruments. Moreover, in the best case, including the prospect of significant appreciation in value over time, the Collection could be viewed as an excellent investment.

## **9. Current issues**

Dietmar Machold has not withdrawn his opinion as to the value of this Collection at \$48.99 million, and in fact, in a detailed letter to Mark Mueller of *The Star-Ledger*, unpublished as of this date, has described some of the reasons why he believes others have unfairly challenged his opinions.<sup>14</sup> Based on the other opinions received by the Orchestra, we on the Trustee Review Panel believe that Machold's assessment is overvalued.

With regard to Dr. Axelrod's personal legal issues, the NJSO has been fully co-operative with the IRS, FBI, and the Senate Finance Committee, and will continue to be so, with the confident knowledge that this transaction was entered into in good faith and was handled throughout with complete integrity. To maintain this full disclosure, the Trustee Review Panel has sent a copy of this report to the IRS, FBI, and Senate Finance Committee.

The NJSO's cover letter to the Senate Finance Committee<sup>15</sup> more fully speaks to the tax treatment issues relating specifically to the seller/donor and is not relevant to the subject of this document. But it should be pointed out that an IRS Form 8283 (Noncash Charitable Contributions) from the Orchestra has not been provided to the Axelrods. The only written receipt given to the Axelrods acknowledged the final purchase price on February 14, 2003 of \$18 million, in exchange for their "donation". It did not, nor was it required to, state an amount of any valuation of the instruments and it did not acknowledge any "gift" or any amount of a "gift" to the NJSO from the Axelrods. This wise decision has clearly enabled the Orchestra to protect itself from any suspicion of criminal involvement.

On December 8, 2004, Dr. Axelrod pleaded guilty to a federal tax fraud count regarding his diversion of a former employee's income into foreign bank accounts in 1997. According to press reports<sup>16</sup>, Dr. Axelrod did not take a tax deduction on the sale of the Golden Age Collection to the NJSO because, as a fugitive, he had filed no tax return. It was also reported that under his plea agreement, Dr. Axelrod has agreed not to seek a deduction related to the sale of the Collection to the NJSO. As a result, federal prosecutors will not seek criminal charges against Dr. Axelrod in connection with the sale.

The Orchestra has been unwilling to go public with anyone other than the authorities because the acquisition of the Golden Age Collection, while in some respects a public transaction, was in many ways a private transaction with private guarantors, only one of who has publicly identified

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<sup>14</sup> Letter from Dietmar Machold to Mark Mueller, August 6, 2004, reprinted as Appendix C

<sup>15</sup> The letter is contained in Appendix B

<sup>16</sup> *The Star-Ledger*, December 9, 2004

himself. The NJSO was also placed in a position of defending itself from frequent accusations from the media that the Orchestra was naïve and duped by Dr. Axelrod, that all the instruments were “fake”, that they would all be seized by the IRS, that the Orchestra had misled our insurance company and our lenders, that the State of New Jersey had paid for half of the cost of the Collection, and that Dr. Axelrod had been indicted for falsifying his tax returns relating to his transaction with the NJSO. We found no support for any of these allegations.

It should be noted that, while we acknowledge problems with the public perception of its process around the acquisition of the Golden Age Collection, the path to a clear-cut evaluation of collectible objects is fraught with peril for any organization. This is especially true for a symphony orchestra, whose daily business, unlike that of a museum, does not normally bring it into contact with the world of antique objects and their values. That said, we should use this opportunity to take a long view of this experience and what it might mean not only for NJSO but also for any not-for-profit arts organization dependent on the largesse of benefactors for its existence.

Take, for example, the practice of musical instrument appraisers charging a percentage of the appraised value of the instrument as a fee. At 6% for Certificates of Authenticity on a valuation of \$18 million this would have amounted to over \$1 million. This discourages the buyer from appraising a high-priced object, and is in fact the reason NJSO could not afford to hire an appraiser to undertake a full and exhaustive appraisal and analysis of each instrument in the Golden Age Collection, hiring experts who gave informal opinions instead. It also obviously encourages the appraiser to inflate the object’s value, and this problem is not confined to musical instrument appraisals. Another universal dilemma is the unreliability and contradictory nature of the opinions themselves.

To be told that an instrument is worth either \$2,900,000 or \$400,000 or \$1,000,000 or \$1,500,000, as was the case with the 1696 Stradivari ex “Prince Gursky” cello, is indeed a difficult collection of data to sort through. Add to that a knowledge of the accusations and contentions among appraisers of old instruments and it becomes unlikely that any truly objective and absolute statement of authenticity and precise value can ever be reached.

## **10. Conclusions**

As emphasized earlier, the true value of the instruments for the NJSO lies in the attitude of the Orchestra’s musicians. The psychological boon to the NJSO’s musicians of being able to play a great instrument cannot be underrated. We believe that, between the heightened morale of the musicians and the indisputable beauty of the sound of the Golden Age Collection, this was an investment the Orchestra will always be proud to have made.

“The voices of the musicians have seldom been heard since the symphony acquired the instruments in February 2003, one of the more extraordinary events in recent orchestral history. They have been drowned out by controversy about the collection’s worth and authenticity, and by the original owner’s legal problems.”<sup>17</sup>

We have included in Appendix A comments from NJSO musicians for each instrument in the Collection. Since the majority of instruments rotate among the members of a string section at the beginning of each year, the comments may be from a musician who played the instrument last season (2003-2004) or this current season (2004-2005).

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<sup>17</sup> Daniel J. Wakin, *The New York Times*, December 11, 2004

Reviewers have praised the string sound of the NJSO playing on the Golden Age Collection. Here is a sampling of their comments:

“Do the New Jersey Symphony's strings resound more, with a new warmth, richness and depth than they did before? Do these valuable instruments give extra resonance to the players' performances and enhance the way one hears them? You bet they do.”<sup>18</sup>

“One sage observer of the American orchestral scene remarked to me that in 100 years no one will remember the fiscal strain of the Strads purchase -- but everyone will be able enjoy the special strains of these instruments any time they hear the NJSO. It's true that money spent on an orchestra's aural qualities -- whether instruments or hall -- is almost always a smart investment. For all intents and purposes, the sound of the orchestra is the orchestra.”<sup>19</sup>

“Now, with the players well on the way to mastering these fine instruments, [the string sound] is firmly and completely textured, sufficiently textured to fit the demands of many styles. The NJSO's string sound is, in a word, remarkable.”<sup>20</sup>

“But whatever the collection may be worth beyond the smoke and mirrors of expert appraisals, no one questions that these are marvelous instruments and a boon to the orchestra. And though the ultimate corporate sound obviously depends, too, on the varying abilities of the individual players, it must be said that on this night the strings sounded warm and rich.”<sup>21</sup>

“What excellent repertoire to hear how the orchestra's strings now sound, more than a year after its players started using the new collection. And it must be said: They sound grand.”<sup>22</sup>

Notwithstanding the tortuous turns and pitfalls of this process, we of the Trustee Review Panel are fully convinced that, in the end, the Orchestra has in fact paid a fair price for a spectacular and unique collection of musical instruments. It should be very apparent that the cash value of the Golden Age Collection cannot be known conclusively. The fact remains, however, that the NJSO did not pay \$48.99 million for the instruments, nor \$25 million, nor even, in the end, \$18 million. The NJSO stuck with a conservative estimate of the instruments' value, and we stand by its decision to purchase the Collection at that price. Even with 20/20 hindsight, those of us on the Trustee Review Panel agree that we would have voted for the transaction.

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<sup>18</sup> Anne Midgette, *The New York Times*, September 12, 2003

<sup>19</sup> Bradley Bambarger, *The Star-Ledger*, September 14, 2003

<sup>20</sup> Henry Wyatt, *Classical New Jersey Society Journal*, April 15, 2004

<sup>21</sup> James R. Oestreich, *The New York Times*, September 11, 2004

<sup>22</sup> Willa J. Conrad, *The Star-Ledger*, October 9, 2004

## **Appendix A: Summary Of Opinions About The Golden Age Collection**

The following summary includes:

- Excerpts from The Star-Ledger article of August 1, 2004 (*SL*)
- Machold Rare Violins appraisals (*MRV*)
- Earlier appraisals from other dealers, if any (*PA*)
- Informal verbal opinions from appraisers consulted by the NJSO during the acquisition process, as recorded by a member of the Instrument Committee. (*EXPERT X, BEARE, CRANE*). The sum of Expert X's low values resulted in a tally of \$16,980,000.

It has become apparent that some of these appraisers are now unwilling to stand by the verbal opinions they gave the Orchestra in 2002. The Trustee Review Panel's review of the comments and values recorded at that time convince us that the data in this Appendix is a fair representation of the facts.

- Notes from an NJSO musician playing each instrument last season (2003-2004) or this season (2004-2005). Except for the principal players, the Golden Age Collection rotates among all the string players once a year via a musician-developed lottery. (*MUSICIAN*)

List arranged by instrument type and by maker and year within.

**Stradivari violin ex Sachs (c. 1670)**

- MRV:** MRV insurance appraisal dated June 26, 2002 “bears the label ‘Antonius Stradivarius Cremonensis Faciebat Anno 16\_\_.’ “This violin is a characteristic example of the maker’s Anatis period, and is in a good state of preservation.” Then market value of \$1,900,000 (MRV).
- PA:** Accompanied by a letter of certification from Frederick W. Oster, dated March 26, 2002. “A characteristic example of this maker’s early work ... this violin is nearly identical to another by this maker, known as the ex-Back dated 1669. The back appears to have the same wood selection as that of the Aranyo Stradivari of 1667.” Letter also mentions certificate of Chardon & Fils, of Paris, December 19, 1922.
- EXPERT X:** Expert X questioned the scroll and condition of the back. Expert X valued at \$500,000. (*\$500,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane questioned the scroll and top. Also notes back damage due to insects. Crane valued at between \$500,000 and \$750,000.
- MUSICIAN:** “The 1670 ex-Sachs is a beautiful example of an early Strad with a very full and elegant sound. I was greatly privileged to have had the opportunity to play on it.” (Conway Kuo)

**Stradivari violin ex Parera (1679)**

- MRV:** MRV insurance appraisal dated June 26, 2002. Certificate of Authenticity, dated April 28, 1998, notes the instrument “bears the label ‘Antonius Stradivarius Cremonensis Faciebat Anno 1679.’ “It is original an all of its essential parts like table, back, ribs and scroll.” “This instrument is a fine example of this period of Stradivari’s work and is in a very good state of preservation.” Then market value of \$3,000,000 (MRV).
- PA:** Accompanied by letters of certification from William E. Hill & Sons (December 12, 1941) and Kenneth Warren & Son Ltd (February 14, 1979).
- EXPERT X:** Expert X valued at \$1,500,000, but believes there is appreciation potential. (*\$1,500,000 used in \$16,980,000 tally*).
- BEARE:** Beare thought the Parera “looks to be good” at \$1,500,000.
- CRANE:** Crane commented that the top was “bizarre” and that it was a composite. Needs more time to examine.
- MUSICIAN:** “It has a powerful sound and is extremely sensitive to what I want the instrument to do. This instrument enables me become much more confident player.” (Ming Yang)

**Stradivari violin ex de Ahna (1683)**

- MRV:** MRV insurance appraisal dated April 17, 2002. Certificate of Authenticity, dated April 24, 1998, notes the instrument “bears the label ‘Antonius Stradivarius Cremonensis Faciebat Anno 1683.’ “It is original an all its essential parts like table, back, ribs and scroll.” “This instrument is an excellent example of this period of Stradivari’s work and is in a very good state of preservation.” Then market value of \$2,400,000 (MRV).
- PA:** Accompanied by letter of certification from Hamma & Co. (Stuttgart), dated March 27, 1962.
- EXPERT X:** Expert X questioned the scroll. Expert X valued at \$1,000,000. Appreciation potential. (*\$1,000,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane questioned the scroll. Crane valued at \$1,100,000 to \$1,600,000.
- MUSICIAN:** “I carry a sound in my head which I have spent my life striving to produce. When I heard the de Ahna, I recognized the sound as a mother recognizes her child. Impossible sweetness. I play it for all violinists, everywhere.” (Francine Storck, Principal Second Violin)

### Stradivarius violin ex Gagliano (1685)

- SL:** *Beyond those questionable strings, three Stradivari instruments in the NJSO collection are composites, meaning important parts have been replaced, according to the Appraisers' review.*
- To be considered a complete instrument, a violin must have its original top, bottom, ribs, which are a violin's sides, and scroll, the decorative carving above the tuning pegs. Those parts have been replaced on many old violins over the centuries out of necessity, choice and greed.*
- A badly cracked top or bottom, for instance, would inhibit the vibrations that give a violin its voice. A poorly made top -- even master luthiers had bad days -- might be replaced by one of a different thickness and fit, improving sound. And an unscrupulous dealer might decide to take a whole Stradivari and split it into two or three Stradivari composites to maximize his profits, a common practice in the 19th century.*
- The three composite Stradivari violins in the New Jersey collection, the Appraisers say, are the 1685 ex-Gagliano, the 1687 ex-Kloster Traunstein and the 1701 ex-Ferraresi.*
- They are valued in the symphony's appraisal at \$1.2 million, \$1.6 million and \$2 million, respectively. But the Appraisers who spoke to The Star-Ledger say Stradivari composites rarely sell for more than \$500,000.*
- "Until Herbert Axelrod came along, I never heard of Stradivarius composites being called million-dollar fiddles," Rosengard said.*
- MRV:** MRV insurance appraisal dated June 26, 2002. Accompanied by a Certificate of Peter Biddulph dated June 15, 2000 that it was made by "Antonio Stradivari, Cremona, ca. 1685 with the exception of the front ... The scroll is a later replacement.... The front, by Alessandro Gagliano of Naples, ca. 1700, ...." Then market value of \$1,200,000 (MRV).
- PA:** None
- EXPERT X:** Expert X said "top is not Strad" and valued at \$300,000 to \$500,000. (*\$300,000 used in \$16,980,000 tally*).
- BEARE:** Beare valued at \$300,000 and said "Top is no good. Huge back crack."
- CRANE:** Crane did not see.
- MUSICIAN:** "Having tried and performed on several great violins in the past (including Guarnerius del Gesù, Stradivarius, Guadagnini, Gagliano, Maggini), I'm even more pleasantly astounded by the qualities of the 1685 Stradivarius. It is a beautiful violin of great responsiveness and richness of sound, with darker tones than most other Stradivari. For me, playing this instrument has added a new dimension and joy to music making, regardless of venue and circumstance. I feel extremely fortunate and thankful for this unique and most valuable experience." (Adriana Rosin)
- Notes:** 2002 Axelrod collection book states top not original.

### Stradivarius violin ex Kloster Traunstein (1687)

- SL:** *Beyond those questionable strings, three Stradivari instruments in the NJSO collection are composites, meaning important parts have been replaced, according to the Appraisers' review.*
- To be considered a complete instrument, a violin must have its original top, bottom, ribs, which are a violin's sides, and scroll, the decorative carving above the tuning pegs. Those parts have been replaced on many old violins over the centuries out of necessity, choice and greed.*
- A badly cracked top or bottom, for instance, would inhibit the vibrations that give a violin its voice. A poorly made top – even master luthiers had bad days -- might be replaced by one of a different thickness and fit, improving sound. And an unscrupulous dealer might decide to take a whole Stradivari and split it into two or three Stradivari composites to maximize his profits, a common practice in the 19th century.*
- The three composite Stradivari violins in the New Jersey collection, the Appraisers say, are the 1685 ex-Gagliano, the 1687 ex-Kloster Traunstein and the 1701 ex-Ferraresi.*
- They are valued in the symphony's appraisal at \$1.2 million, \$1.6 million and \$2 million, respectively. But the Appraisers who spoke to The Star-Ledger say Stradivari composites rarely sell for more than \$500,000.*
- "Until Herbert Axelrod came along, I never heard of Stradivarius composites being called million-dollar fiddles," Rosengard said.*
- MRV:** MRV insurance appraisal dated June 26, 2002 and Certificate of Authenticity dated June 24, 2002 (“This violin is genuine in all of its parts with the exception of the scroll and top which are of later origin .... This violin is a very fine example of the maker’s work.”) Then market value of \$1,600,000 (MRV).
- PA:** None.
- EXPERT X:** Expert X said “top and scroll are not Strad” and valued at \$500,000. (*\$500,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane said “top and scroll are not Strad. Back and ribs okay.” He did not value.
- MUSICIAN:** “This instrument has such an amazing sound that is bright but not overly so. I have only dreamed of playing such a quality instrument. After playing this magnificent instrument, I have a hard time going back to my own instrument.” (Alexandra Gorokhovsky)
- Notes:** 2002 Axelrod collection book states top & scroll not original.

**Stradivarius violin ex Guyot (1688)**

- MRV:** MRV insurance appraisal dated June 26, 2002 (“A fine violin by Antonio Stradivari, c, 1688 as labeled ‘Antonius Stradivarius Cremonensis Faciebat Anno 170\_ and is know as the ex-Guyot’”) and a Certificate of Authenticity dated June 24, 2002 (This instrument is a characteristic example of the maker’s work and is in a good state of preservation.” Then market value of \$1,600,000 (MRV).
- PA:** Accompanied by a Certificate of The Rudolph Wurlitzer Co. to Mr. F.J. Callier dated November 17, 1939 certifying that it as made “in our opinion by Antonio Stradivari in Cremona about 1700, with the exception of the varnish and peg box.” It was also accompanied by a Certificate to Machold from Frederick W. Oster dated June 3, 2002 that it is “a characteristic example of this maker’s work in a good state of preservation.... This violin is very similar to the ‘Mercury’ Stradivari of 1688.”
- EXPERT X:** Expert X questioned the back and noted a big repair on the scroll. Expert X valued at \$200,000 to \$600,000. (*\$200,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane has big questions on this instrument.
- MUSICIAN:** “The Guyot has a rich, mellow sound and that it was a joy to play.” (Mary Kay Robinson)

**Stradivarius violin ex Elmar Oliveira (1692)**

- MRV:** MRV insurance appraisal dated June 26, 2002 (“A fine violin by Antonio Stradivari, c, 1692 Ex “Oliveira”) and a Certificat D’authenticite of Etienne Vatelot dated February 22, 1984 translated as “I, Etienne Vatelot, Luthier-Appraiser of Paris, certify that the violin brought in for my examination by Mr. Elmar Oliveira and bearing the label “Antonius Stradivarius of Cremona” in the year 1692 is an authentic Stradivarius instrument.” Then market value of \$2,000,000 (MRV).
- PA:** Also includes a certificate from Charles Enel dated August 12, 1950 translated as “I, Charles Enel, Luthier of Paris, certify that this instrument brought in for my examination by its owner Miss Marie-Claude Theuveny of Paris is a violin from the Cremonese school of the 17<sup>th</sup> century made by Antonius Stradivarius. Instrument bears the certificate of fabrication from the year 1692. The sides of the instrument confirm the year of construction.”
- EXPERT X:** Expert X said the instrument was known to him prior to the examination. He valued at \$500,000 to \$1,200,000. Appreciation potential. (*\$500,000 used in \$16,980,000 tally*).
- BEARE:** Beare valued at \$1-1.3M and commented probably good.
- CRANE:** Crane does not believe it is Strad.
- MUSICIAN:** “This is an instrument that 'plays itself' especially when you perform the music of JS Bach. It's as if the memories of all the great music that has resonated through this instrument are all waiting for the lucky performer to just gently coax them back into existence.” (Darryl Kubian)

### Stradivarius violin ex Ferraresi (1701)

- SL:** *Beyond those questionable strings, three Stradivari instruments in the NJSO collection are composites, meaning important parts have been replaced, according to the Appraisers' review.*
- To be considered a complete instrument, a violin must have its original top, bottom, ribs, which are a violin's sides, and scroll, the decorative carving above the tuning pegs. Those parts have been replaced on many old violins over the centuries out of necessity, choice and greed.*
- A badly cracked top or bottom, for instance, would inhibit the vibrations that give a violin its voice. A poorly made top – even master luthiers had bad days -- might be replaced by one of a different thickness and fit, improving sound. And an unscrupulous dealer might decide to take a whole Stradivari and split it into two or three Stradivari composites to maximize his profits, a common practice in the 19th century.*
- The three composite Stradivari violins in the New Jersey collection, the Appraisers say, are the 1685 ex-Gagliano, the 1687 ex-Kloster Traunstein and the 1701 ex-Ferraresi.*
- They are valued in the symphony's appraisal at \$1.2 million, \$1.6 million and \$2 million, respectively. But the Appraisers who spoke to The Star-Ledger say Stradivari composites rarely sell for more than \$500,000.*
- "Until Herbert Axelrod came along, I never heard of Stradivarius composites being called million-dollar fiddles," Rosengard said.*
- MRV:** MRV insurance appraisal dated June 26, 2002 and Certificate of Authenticity dated June 26, 2002 ("This violin is original and belonging together in all of its essential parts like table, back, ribs and scroll.") Then market value of \$2,000,000 (MRV).
- PA:** Accompanied by a letter to Frau Hytrek from J. & A. Beare Ltd. writing "to confirm that we have examined your violin and that the back of it is, in our opinion, the genuine work of the celebrated Antonio Stradivari of Cremona, whose label it bears dated 1701....The sides match well and may be original to the back although we cannot be absolutely sure. The scroll is a copy of Stradivari made almost 100 years ago, and the table is of mid-18<sup>th</sup> Century origin, almost certain Italian and slightly altered to make a very good match for the back...." Also accompanied by three German writings with purported translations: *Verband Schweizerischer Geigenbaumeister Association Des Maitre Luthier Suisses* (May 23, 1967) Analysis of age of wood, varnish and mode of construction concluded that the violin was original in all its parts; and *Universitat, Hamburg letter* (October 30, 1998) This analysis confirmed that the sides and back were made with the same wood originating in the Alps between 1678 and 1567 and the top was dated between 1684 and 1562 [sic]. Then market value of \$2,000,000 (MRV). Also accompanied by Bohm certificate of 25 February 1964: "The violin labeled "Antonius Stradivarius Cremonensis faciebat anno 1701?" is in all essential parts the authentic work of Stradivarius, this great Italian master. It is in good condition."

*EXPERT X:* Expert X commented that the scroll was probably not a Stradivarius and that the instrument was in his view a composite. He valued at \$400,000 to \$500,000 (*\$400,000 used in \$16,980,000 tally*).

*BEARE:* Beare did not see.

*CRANE:* Crane did not value and commented the “all parts are questionable. Best part is back. Needs more time to examine.”

*MUSICIAN:* “The violin that I have been using this season has been a joy to play. The dimensions of the instrument are well suited to my physique and enable me to perform with greater dexterity and accuracy. The quality of the tone is even and lush. It is truly a golden liquid sound and gives me a feeling of joy and serenity.”  
(Debra Biderman)

*Notes:* 2002 Axelrod collection book states Beare said top not original.

**Stradivari violin ex Andrejeus (1708)**

- MRV:** MRV insurance appraisal dated June 26, 2002. Certificate of Authenticity, dated February 24, 1998, notes the instrument “is an outstanding example of this master’s work and is in excellent state of preservation.” “It is original an all its essential parts like table, back, ribs and scroll.” Then market value of \$3,500,000 (MRV).
- PA:** Accompanied by letter of certification from Sandra Wagstaff Violins Ltd. – “the varnish superb” “property of the same Fench family from 1826 to 1930, hence its exceptional condition. The tone is magnificent.” Also Certificates of Authenticity from John & Arthur Beare of London (December 11, 1989) and Albert Caressa of Paris (June 19, 1930).
- EXPERT X:** Expert X valued at \$3,000,000 to \$3,200,000, but believes there is appreciation potential. (*\$3,000,000 used in \$16,980,000 tally*).
- BEARE:** Beare noted “One of the most pure. \$3,300,000 is good.”
- CRANE:** Crane did not see.
- MUSICIAN:** “The 1708 Stradivari ex ‘Andrejeus’ produces a luscious sound with depth and quality. When I play on this instrument, I can trust the violin to respond to my wishes. It gives me a great sense of confidence as a violinist. It’s a privilege to be able to play on such a beautiful instrument.” (Judy Lin Wu)

**Stradivari violin (1710)**

- MRV:** MRV insurance appraisal dated June 26, 2002. Then market value of \$2,500,000 (MRV).
- PA:** Accompanied by letters of certification from William E. Hill & Sons of London, dated February 25, 1949) and from Philipp Hammig of Berlin, dated April 28, 1942.
- EXPERT X:** Expert X had previously seen this instrument and felt the scroll was replaced. He valued at \$1,500,000 to \$1,700,000, but believes there is appreciation potential. (*\$1,500,000 used in \$16,980,000 tally*).
- BEARE:** Beare noted some worm damage, but thought it appeared to be good at \$1,250,000.
- CRANE:** Crane did not see.
- MUSICIAN:** "To be awarded (thru history and fate) the privilege of playing on this priceless instrument is an honor beyond words. This 1710 Strad not only makes beautiful music... It brings forth the very best of human civilization." (Albin Ifsich)

### Stradivarius violin ex Prince Ludwig Ferdinand (1713)

- MRV:** MRV insurance appraisal dated June 26, 2002 (“A fine violin by Antonio Stradivari, Cremona 1913 ‘Prinz Ludwig Ferdinand’)
- Certificate of Authenticity dated June 24, 2002 (‘bears the label ‘Antonius Stradivarius Cremonensis Faciebat Anno 1713 and is known as the ‘Prince Louis Ferdinand of Bavaria’. This instrument is original in all of its parts.... This violin is a good example of this celebrated maker’s work. Then market value of \$1,900,000 (MRV).
- PA:** Herbert Axelrod’s self-published book from 2002 describes how the violin was re-assembled by Machold the elder from two instruments described in the following certificates:
- German certificate from Hamma & Co, Stuttgart, September 12, 1961: “We guarantee that this violin labeled “Antonius Stradiuarius – Cremona 1713” is a genuine work of this master. The instrument is original in all of its parts, except for the top. The top is of a later date, probably crafted by Ranftler of Munich. The varnish has been retouched. There have repairs done to the instrument but the sound is outstanding.”
- French certificate from Chardon & Fils – January 8, 1929: “We certify that the violin which M. Daniel Herrman has provided to us for examination, is an instrument of which the top is by Antoine Stradivarius of Cremona. This piece must have been made by the master to replace the top of a violin from the Amati family, as one can see from the general design. As to the construction and f holes, which are superb, they confirm the instrument’s manufacture in that great era (“belle époque”). The back, the scrolls and the head were made in 1851 by Anton Sitt, from Prague, an excellent luthier contemporary with J.B. Vuillaume of Paris, whose work has certain similarities with that Parisian luthier.”
- EXPERT X:** Expert X questioned the scroll and top. Appraised at \$300,000 to \$400,000. (*\$300,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane not sure what it is; called it a wreck.
- MUSICIAN:** “The instrument has had a lot of restoration - but the work is amazing. It's extremely easy to play and has enabled me to find "my sound". It's made me a better player - a profound effect. With my own instrument I couldn't always get the sound I wanted from a familiar work like a Brahms symphony. Now I can. I feel like an artist who has suddenly been given a larger pallet of colors with a wider spectrum and depth.” (Brennan Sweet, Associate Concertmaster)

**Stradivari violin ex Spencer Dyke (1736)**

- MRV:** MRV insurance appraisal dated June 26, 2002. Then market value of \$2,600,000 (MRV).
- PA:** Accompanied by letters of certification from John and Arthur Beare of London (dated October 21, 1913) and Jacques Francais (dated October 16, 1986 – noting that the instrument is genuine in all its parts, with the exception of the scroll.” Also includes 1914 bill of sale from J. & A. Beare to Spencer Dyke, Esq. and a copy of the letter Dyke sent to his brother announcing his purchase.
- EXPERT X:** Expert X questioned the scroll and top. Expert X valued at \$600,000 to \$1,500,000. Appreciation potential. (*\$600,000 used in \$16,980,000 tally*).
- BEARE:** Beare said the scroll was not original and questioned the top. Beare valued at \$500,000 to \$1,300,000.
- CRANE:** Crane questioned the scroll. Crane valued at up to \$2,800,000.
- MUSICIAN:** “The Spencer Dyke Strad is my ideal instrument. It is clear, beautiful, and totally even in tone and temperament throughout its range. I am thrilled now, but know that it will be a sad day when I have to exchange it for another.” (Naomi Youngstein)

**Stradivarius cello ex Prince Gursky (1696)**

- MRV:** MRV insurance appraisal dated June 17, 1998 (“A fine cello by Antonio Stradivari, Cremona 1696 The ‘Ex-Prince Gursky’”)  
MRV Certificate of Authenticity dated June 19, 1998: (bears the label ‘Antonio Stradivarius Cremonensis Faciebat Anno 1696’.... It is original in all of its essential parts like table, back, ribs, and scroll. This instrument is a characteristic example of the maker’s work and is in a good state of preservation.” Then market value of \$3,000,000 (MRV).
- PA:** Accompanied by an undated Certificate of Emil Hermann to Robert Bass as “a characteristic specimen of this period and a sister instrument to the famous Lord Aylesford cello of 1696” and a certificate from Otto Mockel, 1928: “This cello labeled “Antonius Stradivarius Cremonensis Faciebat Anno 1710” is a work of Stradivarius’s so called golden period. It shows all of the typical characteristics of Stradivarius’s work. The original varnish has the characteristic red slightly mixed with light brown which is typical for his work after 1700. The cello shows perfect measurements and is built in the long shape. The instrument still has its original varnish except for a few spots where it has been repaired and retouched. All repairs have been done by Appraisers.
- EXPERT X:** Expert X questioned whether the scroll and ribs belonged. He valued at \$1,000,000 to \$1,500,000. (*\$1,000,000 used in \$16,980,000 tally*).
- BEARE:** Beare valued at \$400,000 and stated unsure what is Stradivarius.
- CRANE:** Crane questioned the scroll and noted a massive top patch.
- MUSICIAN:** “Playing on this Strad is the string players ultimate dream! I feel so inspired, gratified and fortunate for this opportunity.” (Myung Wooh)

### del Gesù violin ex Serdet (1716)

**SL:** *The final instrument questioned by The Star-Ledger's Appraisers is among the highest appraised in the symphony's collection. Valued by the NJSO at \$3.3 million, it is a 1716 violin by Giuseppe Guarneri del Gesù. The phrase "del Gesù," which means "of Jesus," came to be associated with the luthier because of the initials he etched into his labels: IHS, or Iesus Hominum Salvator. Translated from the Latin, it means "Jesus, savior of mankind."*

*Bein calls the instrument, known as the "ex-Serdet," a "great fiddle" that has been played by some of the finest soloists for decades. But he firmly believes the violin was made by del Gesù's father, also named Giuseppe. Beare and the other Appraisers contacted by The Star-Ledger agree.*

*The distinction is a big one. Violins crafted by the older Guarneri, well regarded in his own right, traditionally sell for no more than \$800,000. Bein suggests the ex-Serdet, as one of the maker's best works, could reach \$1.2 million. By contrast, the finest del Gesùs -- about 140 are thought to remain -- fetch from \$2.5 million to \$6 million.*

*Perhaps as well as any stringed instrument, the ex-Serdet illustrates the sometimes elastic nature of Appraiser opinion and authentication.*

*The violin bears the label of the older Guarneri and was sold as such until the mid-1960s, when a New York violin dealer, Rembert Wurlitzer, believed he saw in the instrument's creation the hand of the teenage del Gesù, who had not yet left his father's Cremona shop to establish his own. Wurlitzer promptly sold it as the son's work.*

*The decision never sat well with Beare, who worked for Wurlitzer at the time. Later, at the behest of the violin's new owner, the American-Israel Cultural Foundation, Beare appraised it as the work of del Gesù's father, and it was sold that way to noted violinist Miriam Fried.*

*In the early 1980s, Fried sold it to another New York violin dealer, Jacques Francais, who recertified it as a del Gesù. Axelrod bought it from Francais in 1985.*

*"It's a bit of a letdown that it's back as a del Gesù," Beare said. "It shouldn't be called that."*

**MRV:** MRV insurance appraisal dated May 17, 2002 ("A fine violin by Giuseppe Guarnerius del Gesù"). Then market value of \$3,300,000 (MRV).

**PA:** Accompanied by a letter and Certification of Rembert Wulitzer, Inc. to the America-Israel Cultural Foundation, Inc. of New York City dated November 1, 1965 stating that it was made, in their opinion, "in the shop of Joseph Guarneri as indicated by its original label dated 1715 and shows the collaboration of his son Joseph del Gesù...This instrument is from the Henry Hottinger collection [and] is known as the 'Serdet' and is representative of the best and most robust type from this maker's shop." It is also accompanied by a Certification of Rembert Wulitzer, Inc. to Henry Hottinger dated October 19, 1962 stating that it was made, in their opinion, "in the shop of Joseph Guarneri as indicated by its

original label dated 1715 and shows the collaboration of his son Joseph del Gesù." It is also accompanied by a letter and Certificate of Jacques Francais dated May 2, 1985 stating that it is "actually the work of Giuseppe Del Gesù made in the shop of his father Joseph, filius Andreas, and is genuine of this make in all its parts...This instrument is made on the pattern of the father, Joseph Guarnerius, and clearly shows the hand of Giuseppe Guarnerius, and is in an excellent state of preservation....[and is] an early representative specimen of the work of del Gesù."

**EXPERT X:** Expert X commented "Is it del Gesù or Joseph?" and valued at \$800,000 to \$1,700,000. Appreciation potential. (*\$800,000 used in \$16,980,000 tally*).

**BEARE:** Beare did not see.

**CRANE:** Crane valued at \$425,000 to \$1,750,000 and commented "Father vs. son." Crane noted a lot of top damage. He believes there is a back crack but the scroll is probably ok.

**MUSICIAN:** "This is definitely one of the finest violins I have ever played. It is an early example of "del Gesù" and has a dark reddish-brown varnish. The tone is rich and full of overtones from its highest register all the way to the lowest string. While this violin responds immediately to the lightest of bow strokes it also has that untapped reserve of sound that emerges when you play into the string. A real powerhouse." (Rebekah Johnson, Assistant Principal Second Violin)

**del Gesù violin ex Henryk Kaston (1732)**

- MRV:** MRV insurance appraisal dated June 26, 2002 (“A fine violin by Guarneri del Gesù, Cremona 1732 ‘Henryk Kaston’) and a Certificate of Authenticity dated July 14, 1998 (“and bears a label dated Cremona, 1732...It is original in all of its essential parts like table, back, ribs, and scroll....This instrument is a characteristic example of this maker’s work and is in a good state of preservation.”) Then market value of \$3,800,000 (MRV).
- PA:** Accompanied by a Certificate of Rembert Wurlitzer, Inc. dated May 3, 1973 to Mr. Kaston stating that it was made, in their opinion, “by Joseph Guarnerius del Gesù and bears a label dated Cremona, 1732.” It is also accompanied by a Certificate dated December 11, 1976 to Mr. Kaston of Jacques Francais stating that “it is genuine of this maker in all its parts and ... [t]his is a characteristic example of this maker’s work.” [December 27, 1979 letter from Machold (in German)]
- EXPERT X:** Expert X commented “is it real?” and valued at \$200,000 to \$1,500,000 (*\$200,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane did not value and stated that “best thing is back. Top and scroll are not del Gesù”.
- MUSICIAN:** “The warmth, clarity and responsiveness of this violin are so extraordinary that the performer’s experience goes beyond pleasure to enhanced confidence. The ‘Henryk Kaston,’ in all respects, is probably the finest violin that I have ever had the privilege to play.” (John Connelly)

**del Gesù violin ex Stanley Goodman (1737)**

- MRV:** MRV insurance appraisal dated June 26, 2002. Certificate of Authenticity, dated April 8, 1995, notes the instrument “is original in its essential parts like table, back, ribs and scroll.” Then market value of \$3,800,000 (MRV).
- PA:** Accompanied by letters of certification from W.E. Hill & Sons of London (September 15, 1972), as well as letters of correspondence between Stanley Goodman and Charles Beare and Goodman and the Archbishop of Luanda.
- EXPERT X:** Expert X noted a piece of wood coming through the top. Expert X valued at \$2,500,000 to \$3,000,000. (*\$2,500,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane did not see.
- MUSICIAN:** “Somehow, with this instrument, I have permission to play the way I do and enjoy it. I can’t explain it. It’s like I’m no longer compensating for a lesser instrument, so it has to do with personal confidence and commitment to my own ideas” (Eric Wyrick, Concertmaster, as quoted in *The Star Ledger*)

**Gragnani violin (1771)**

- SL:** *There was less agreement on a fifth instrument that raised suspicions: a 1771 Antonio Gragnani violin valued at \$190,000. Reuning said the instrument's top and sound holes did not at all resemble the work of Gragnani, whom he called among the more consistent Italian luthiers of his time.*
- Kass said the instrument bore a resemblance to the work of Gragnani's lesser-known son, Onorato, and suggested the label may have been switched to increase its value. To Beare, the violin could be a legitimate early work of Gragnani, but he said he could not make a concrete determination without inspecting the instrument.*
- MRV:** MRV insurance appraisal dated June 26, 2002 and Certificate of Authenticity dated June 26, 2002 ("The violin is original and belonging together in all its essential parts like table, back, ribs and scroll.") Then market value of \$190,000 (MRV).
- PA:** None
- EXPERT X:** Expert X said it had been heavily restored. He valued at \$80,000. (*\$80,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane did not see.
- MUSICIAN:** "It's in beautiful condition and sounds very close to any of Strad instruments I had tried. The Gragnani is a lot easier to play than my violin -- to create a sound, you just play it and the instrument responds. When a conductor wants a shimmering or soft sound, it's easy to create. I could not do that easily on my own instrument. All our string players are more confident. The instruments are constantly evolving as we play them. It is very short-sighted to focus only on the dollar value of these instruments." (Ming Yang)

**Guadagnini violin (1742)**

- MRV:** MRV insurance appraisal dated January 23, 2002. Then market value of \$300,000 (MRV).
- PA:** Accompanied by letter of certification from Rembert Wurlitzer (dated January 28, 1960). “ ... by Joannes Baptista Gudagnini and bears the original label dated Piacenza 1742 ... interesting example of the early period [of] the maker’s work, showing much of the influence of his father Lorenzo.”
- EXPERT X:** Expert X valued at \$350,000, but believes the instrument has appreciation potential. (*\$350,000 used in \$16,980,000 tally*).
- BEARE:** Beare noted that it is an early J.B. Guadagnini. Beare thinks it looks to be good at \$150,000.
- CRANE:** Crane did not see.
- MUSICIAN:** “The 1742 Guadagnini is the first great instrument I ever played for more than 5 minutes. Its lovely, dark tone had the power to soothe and heal- I played it for a World Trade Center widow who said that it was so moving and helpful to her to hear such beauty.” (Naomi Youngstein)

**Guadagnini violin (1754)**

**SL:** *The five Appraisers were unanimous on another violin, a 1754 G.B. Guadagnini valued at \$300,000.*

*"It's not a Guad at all," said Rosengard, who spent 12 years researching and writing a book on the Guadagnini violin-making family. "That would sell for a fraction -- not a rhetorical fraction, a real fraction -- of a Guad."*

*Bein called the violin's top "wildly wrong" and "categorically not possible," adding: "It's like I'm telling you it's a Volkswagen, and it's a Chevrolet."*

**MRV:** Insurance appraisal December 6, 2000. No Certificate of Authenticity. Then market value of \$350,000 (MRV).

**PA:** Accompanied by a certificate of Jacques Francois dated December 12, 1986 stating that it is "genuine of this maker in all of its parts, with the exception of the varnish ... This violin is a characteristic example of the maker's work, in a good state of preservation, with the exception of the varnish. Ex-Harold Berkeley."

**EXPERT X:** Expert X questioned whether or not Lorenzo Guadagnini was a violin maker. He valued at \$10,000. (*\$10,000 used in \$16,980,000 tally*).

**BEARE:** Beare did not believe it to be a Guadagnini

**CRANE:** Crane did not see.

**MUSICIAN:** "These instruments are all so different from what we individually were playing. This decision to purchase the Collection was not a mistake. It was one of the best decisions made by any organization at any time." (Kelly Hall-Tompkins)

### Montagnana violin (c. 1740)

- SL:** *Domenico Montagnana, who made instruments in 18th-century Venice, is known to have consistently used three violin shapes and two forms of sound hole.*
- Which is why Philip Kass couldn't quite believe what he was seeing when he looked at a photo of the 1740 Montagnana the New Jersey Symphony Orchestra bought from Axelrod.*
- "It's obviously not a Montagnana," said Kass, a Pennsylvania-based stringed instrument appraiser and consultant. A former violin dealer with William Moennig & Son, a shop in Philadelphia, Kass has written extensively on authenticity.*
- "It's got the wrong outline," he said. "The wrong f-holes, the wrong fluting, the wrong varnish."*
- The Star-Ledger spoke to five highly regarded Appraisers, all with extensive experience in authenticating and valuing rare stringed instruments, about the New Jersey Symphony Orchestra's collection. In addition to Kass, the group included Beare, whom the orchestra declined to retain before it bought the collection.*
- The others were Bein, whose certificates of authenticity trail only Beare's in establishing a violin's validity; Christopher Reuning, a Boston-based dealer; and Rosengard.*
- In almost all cases, they issued opinions based on photographs either provided by The Star-Ledger or printed in the book Axelrod published in 2002 to showcase his instruments. While stressing that photographs do not give as clear an impression as examining an instrument in person, they said some of the NJSO instruments were obviously misattributed to famous makers.*
- The Appraisers agreed that four of the NJSO instruments are not what they are purported to be.*
- Beare called the Montagnana "fairly impossible," while Rosengard said he had "never seen anything remotely like it." Bein said he believes it is a 19th-century violin made outside Italy. Valued at \$750,000 in the symphony's official appraisal, the instrument probably would sell for \$25,000 or less, Bein said.*
- MRV:** Insurance appraisal dated June 26, 2002 and Certificate of Authenticity dated June 24, 2002. "This violin is a fine example of the maker's work and is in a very good state of preservation." Then market value of \$750,000 (MRV).
- PA:** Accompanied by a certificate in German from Hamma & Co. (Stuttgart) dated April 20, 1952 states that "This certificate states that the violin is an especially excellent work of Domenic Montagnana, Venice, ca. 1740. It is original and matching in all its essential parts like back, top, ribs, scroll and varnish."
- EXPERT X:** Expert X valued at \$200,000 to \$500,000 commenting "top? Back has some cracks." (\$200,000 used in \$16,980,000 tally).

*BEARE:* Beare did not see.

*CRANE:* Crane did not see.

*MUSICIAN:* “(From the instruments that I had to choose from at that time), I loved the Montagnana for its silky, seamless tone which was very eager to sing beautifully in all ranges.” (Kelly Hall-Tompkins)

**Rogeri violin (c. 1702)**

- SL:** *Four of the Appraisers agreed on two other instruments: a 1702 violin attributed to Giovanni Baptista Rogeri, valued at \$400,000, ... Rosengard said ... the Rogeri "looks odd," but he would require a close visual inspection to reach a decision.*
- The Rogeri, according to Bein and Reuning, was likely made in Holland or Belgium.*
- MRV:** Insurance appraisal dated June 26, 2002 and Certificate of Authenticity dated June 26, 2002 ("is genuine in all of its parts, with the exception of the scroll, which was by Mathias Hofman of Holland...this violin is a characteristic example of the maker's work and is in a good state of preservation.") Then market value of \$400,000 (MRV).
- PA:** Accompanied by a certificate of Jacques Francais dated December 11, 1992 stating that it is "genuine of this maker in all of its parts, with the exception of the Scroll, which is by Matthijs Hofmans of Holland ... This violin is a characteristic example of this period of the maker's work, in a good state of preservation."
- EXPERT X:** Expert X did not believe it to be a Rogeri and valued at \$20,000. (*\$20,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane did not see.
- MUSICIAN:** "This Rogeri is extremely comfortable and natural for me to play. From the moment I first picked it up, the instrument seemed like an extension of my own arm." (Alexandra Gorokhovsky)

**Rogeri violin ex Feuermann (c. 1700)**

- MRV:* MRV insurance appraisal dated June 26, 2002 (“A fine violin by Giovanni Baptista Rogeri, Brescia c. 1700 ‘Feuermann’”) and a Certificate of Authenticity dated June 16, 2002 (“bears the label “Io: Bapt. Rogerius Bon: Nicolai Amati de Cremonus alumnus Brixie feit Anno Dmoni, 170\*” [sic]” .... It is original and belonging together in all its essential parts like table, back, ribs, and scroll”. Then market value of \$500,000 (MRV).
- PA:* Accompanied by a May 15, 2002 letter to Axelrod from Machold stating that Machold had purchased it some 15 years earlier and that Francais was familiar with it and it came from the family of cellist Emanuel Feuerman.
- EXPERT X:* Expert X commented “not Rogeri” and valued at \$30,000. (*\$30,000 used in \$16,980,000 tally*).
- BEARE:* Beare did not see.
- CRANE:* Crane did not see.
- MUSICIAN:* “I would be grateful if I could play this magnificent instrument for just one day—so rich are the colors. The range of expression is infinite. I never dreamed I would ever have an opportunity to play one of the great instruments of the world.” (Lisa Matricardi)

**Ruggeri violin (1672)**

- MRV:** MRV insurance appraisal dated July 27, 1999. Certification, dated July 20, 1999, notes “a fine work of the important Italian master Francesco Rugeri, Cremona, c. 1672.” “The violin is original and belonging together in all its essential parts like top, back, ribs and scroll.” Then market value of \$250,000 (MRV).
- PA:** Accompanied by a letter of certification from The Rudolph Wulitzer Co. (dated January 4, 1933)
- EXPERT X:** Expert X valued at \$250,000, but believes this instrument has appreciation potential. (*\$250,000 used in \$16,980,000 tally*).
- BEARE:** Beare noted that it appears to be good. Beare valued at \$125,000
- CRANE:** Crane did not see.
- MUSICIAN:** “I feel extremely fortunate to be playing one of these beautiful sounding relics of history. The superb acoustical qualities, intermingled with the mysteries of the road it has traveled these past three hundred years leave me with a sense of awe.” (Ann Kossakowski)

**Testore violin (c. 1706)**

- MRV:** MRV insurance appraisal dated June 26, 2002 (“A fine violin by Carlo Giuseppe Testore, Milan as labeled ‘Carlo Giuseppe Testore in Contrada Larg di milano Segno dell’Aquila 1706’”) and a Certificate of Authenticity dated June 26, 2002 (“This violin is a characteristic example of this maker’s work and is in a very good state of preservation.” Then market value of \$350,000 (MRV).
- PA:** Accompanied by a Certificate to Machold from Jacques Francais dated December 6, 1994 that it “is genuine of this make in all its parts....This is a typical example of the maker’s work in a very good state of preservation.”
- EXPERT X:** Expert X felt the instrument was not by Carlo Giuseppe Testore. He valued at \$60,000. (*\$60,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane did not see.
- MUSICIAN:** “Though not considered one of finest instruments of the Golden Age Collection, this 1706 violin by Guiseppe Testore has a beautiful warm sound that projects both power and subtle nuances with ease.” (James Tsao)

**Testore violin (1718)**

**MRV:** MRV insurance appraisal dated June 26, 2002. Certificate of Authenticity, dated February 24, 1998, notes the instrument “bears the label Carlo Antonio Testore ... del su Carlo Giuseppe ... da larga al segno dell’ Aquila Milano 1718.” “This violin is a characteristic example of this maker’s work and is in good state of preservation.” “Then market value of \$330,000 (MRV).

**PA:** None

**EXPERT X:** Expert X questioned the scroll. Expert X valued at \$80,000 to \$90,000. Appreciation potential. (*\$80,000 used in \$16,980,000 tally*).

**BEARE:** Beare did not see.

**CRANE:** Crane did not see.

**MUSICIAN:** “A trill a minute. But seriously, it’s one of the sweetest instruments I’ve ever played. This is an instrument that rewards the sensitive and patient performer with a seemingly endless well of colors and textures.” (Darryl Kubian)

**Amati viola (1620)**

**MRV:** MRV insurance appraisal dated April 15, 2002. Certificate of Authenticity, dated April 19, 2002, notes the instrument “bears the label Antonio & Hieronimus Fr. Amati Cremonen Andrea F. 1620. It is original in all its essential parts like table, back, ribs and scroll.” “This instrument is a fine example of this maker’s work and is in a good state of preservation.” “Then market value of \$1,800,000 (MRV).

**PA:** None

**EXPERT X:** Expert X valued at \$600,000 to \$900,000. Appreciation potential. (*\$600,000 used in \$16,980,000 tally*).

**BEARE:** Beare noted that it looks to be good and that \$900,000 is close to value.

**CRANE:** Crane noted that value is dependent on provenance. Crane valued at \$900,000 to \$950,000.

**MUSICIAN:** “What makes this magnificent viola so special is not just its physical beauty, the meticulous craftsmanship of its makers, the miraculously pristine condition of something so fragile and almost 400 years old: What makes it so special is its unique sound, a dark and noble voice that speaks to the human heart and resonates in the soul in a way that only great works of art or nature can. Its voice is capable of expressing the whole wide range of human emotion, from the most tender whispers to the strongest outbursts. It is a daily honor and joy to be playing on this Amati viola (the oldest member of the NJSO’s Golden Age Collection), and I have often wondered whether Bach and Mozart, both champions of the viola, had heard this very instrument, were inspired by it, maybe even played on it? Looking at it, a quote by the Reverend Jesse Jackson comes to my mind: ‘We have removed the ceiling above our dreams. There are no more impossible dreams.’” (Frank Foerster, Principal Viola)

**Pressenda viola (1831)**

- MRV:* MRV insurance appraisal dated April 15, 2002. Certificate of Authenticity, dated August 8, 1990, notes that “this is one of the very rarely made violas by this master and is an excellent state of preservation.” Then market value of \$680,000 (MRV).
- PA:* Accompanied by letter of certification from Max Möller & Zoon of Amsterdam
- EXPERT X:* Scroll needs work. Expert X valued at \$200,000. Appreciation potential. (*\$200,000 used in \$16,980,000 tally*).
- BEARE:* Beare thought it was good, but with some repairs. Beare valued at \$200,000 to \$250,000 but thought that one would be lucky to get \$250,000.
- CRANE:* Crane did not see.
- MUSICIAN:* “Its even, velvety tone makes it a joy to play. It is awesome to think that the Brahms and Dvořák quartets I’ve performed on this instrument may have been played on it during these composers’ lifetimes.” (Lucy Corwin)

**Balestrieri cello (1742)**

- SL:** ... and a 1742 Tomasso Balestrieri cello, valued at \$950,000. Rosengard said he was not familiar enough with the details of Balestrieri's work to comment.  
*Bein and Beare say they have seen the cello in their shops, and both called it an English instrument.*
- MRV:** MRV insurance appraisal dated June 26, 2002 and Certificate of Authenticity dated June 24, 2002 ("bears the label ... this violoncello is a characteristic example of the maker's work and is in a good state of preservation.") Then market value of \$950,000 (MRV).
- PA:** Accompanied by a certificate in German from Hamma & Co. (Stuttgart) dated May 2, 1988 purported to state that "This certificate states that the cello is a very fine work of this master made in Mantua. It is original and matching in all its essential parts like back, top, ribs, scroll and varnish."
- EXPERT X:** Expert X questioned whether it was Italian and valued at \$50,000 to \$60,000 (*\$50,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see photographs.
- CRANE:** Crane believed it more from Florence rather than Mantua. "Obscure." No value given.
- MUSICIAN:** "The cello attributed to Thomas Balestrieri is one of the finest cellos I have ever played. It has all of the qualities that a player looks for in a great instrument: power, clarity, distinctive quality, evenness from string to string and unusual ease. When I've performed exposed music on this instrument, audience members have consistently commented very favorably about this instrument."  
(Jonathan Spitz, Principal Cello)

**Gofriller cello (1690)**

- MRV:** MRV insurance appraisal dated June 26, 2002 (“A fine cello by Matteo Gofriller, Venice c. 1690”) and a Certificate of Authenticity dated June 24, 2002 (bears the label ‘Nicholas Amatus Cremonen, I Hierony. FIL. AC. Antonji nepos fecit 16\_\_’.... This violoncello is a fine example of the maker’s work.” Then market value of \$1,400,000 (MRV).
- PA:** Accompanied by a Certificate of J. & A. Beare to Monsieur B. Sabatier of Paris dated December 6, 1983 certifying “the violoncello is a fine old Italian instrument, in our judgement the work of Matteo Gofriller of Venice, c. 1690 ...This cello, characteristic of the early period of the maker’s work and originally of larger size ....” [German letter to Frau Kliegel from Till Kulla dated February 23, 1990]
- EXPERT X:** Expert X commented “composite? Back looks good” and valued at \$50,000 to \$200,000. (*\$50,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see. But Beare had provided a certificate of authenticity in 1983.
- CRANE:** Crane did not value but said “seems like cut down small bass...top older than ribs and back...possibly Flemish.”
- MUSICIAN:** “This instrument is total joy and inspiration to perform on. It has truly reinvigorated my playing.” (Carole Whitney, Assistant Principal Cello)

**Grancino cello (1656)**

- MRV:** Certificate of Authenticity dated June 24, 2002 'bears the label 'GiovanniGrancino in Contrada Largha di Milano al segno della Cornoa 1656. This violincello is a characteristic example of the maker's work and is in a good state of preservation.' Then market value of \$640,000 (MRV).
- PA:** None
- EXPERT X:** Expert X questioned if it is a composite. Expert X valued at \$200,000 to \$250,000. (*\$200,000 used in \$16,980,000 tally*).
- BEARE:** Beare did not see.
- CRANE:** Crane did not see.
- MUSICIAN:** "What makes the 1656 Grancino cello so exciting to play is its deep, rich tone and the ease with which it is produced. Equally thrilling is the fact that other musicians have been playing this instrument for 350 years before me and I feel a connection to the past that I otherwise would not have experienced."  
(Gretchen Gonzales)

**Appendix B: Letter to Senate Finance Committee**

***VIA FAX AND OVERNIGHT MAIL  
(UPS #103 1857)***

July 13, 2004

The Honorable Charles E. Grassley  
United States Senate  
Committee on Finance  
135 Hart Senate Building  
Washington, DC 20510

The Honorable Max Baucus  
United States Senate  
Committee on Finance  
511 Hart Senate Building  
Washington, DC 20510

Re: ***New Jersey Symphony Orchestra***

Dear Senators Grassley and Baucus:

Thank you for your June 23, 2004 letter requesting all material in our possession or control regarding the purchase of rare string instruments by the New Jersey Symphony Orchestra (NJSO) from Herbert R. Axelrod, including a copy of the IRS Form 8283, if any, and particularly material regarding valuation for a purchase and for insurance purposes. Kindly accept this cover letter which provides some background regarding our transaction with Dr. Axelrod, together with the enclosed bates-stamped copies of all material which you requested and which is in our possession or control.

May I begin by stating that the NJSO intends to be fully cooperative with your review, as we were in responding to the *Subpoena to Testify Before Grand Jury* dated April 30, 2004 (a copy, together with the cover letter of our response to IRS Special Agent Scott Hammond, is enclosed at NJSYMPH 000001). The Subpoena sought the same information that you currently request. On May 5, 2004, our Board Member and *pro bono* attorney Scott Kobler, of McCarter & English, LLP, met with Special Agent Hammond and FBI Special Agent Tom Hand. Mr. Kobler provided Messrs. Hammond and Hand with a copy of the enclosed materials and spent nearly two hours providing them with a narrative history of the transaction and an explanation of the large volume of written material, particularly those items which are not fully meaningful if not given a context.

In light of the media's interest in this and related stories, we have made every attempt to treat the enclosed materials with the highest degree of discretion. We have done so not to be difficult or evasive but because they contain what might be considered private information regarding the identities and terms of the guarantors of the NJSO's debt, the identities and nature of the NJSO's

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The Honorable Max Baucus  
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procedures surrounding the valuation of the instruments (in one case being the subject of a confidentiality agreement) and the actual physical locations of these valuable instruments. This information is not redacted in what we have provided to you. We kindly ask that this information be dealt with discretely, to the extent that you can discharge your obligations consistent with our request. Respectfully, we do not believe that this particular information is germane to your investigation but, of course, we are releasing all of our material to you.

Among the many items that are enclosed is the Agreement of Sale signed as of August 12, 2002 among the NJSO, Dr. and Mrs. Axelrod and Axelrod Fine Violins, Inc. (at NJSYMPH 000549) The Agreement provided that “for the purpose of procuring the financing ... (and such other purposes as it shall deem necessary or appropriate to consummate the transactions contemplated by [the] Agreement), NJSO shall be entitled to obtain an appraisal, by an appraiser of its own selection, with respect to the value of each of the Offered Instruments (the ‘NJSO Appraised Value’).” Unlike an outright gift, the Axelrod proposal to the NJSO was a bargain-sale, with a gift representing the element between the appraised value and the purchase price. The Agreement further provided that “NJSO and Axelrod agree to the extent that the aggregate ***NJSO Appraised Value*** of all of the Purchased Instruments shall exceed the Purchase Price, the amount of the excess shall be a gift from Axelrod to NJSO that is intended to be deductible by Axelrod for federal income tax purposes (the ‘Donated Amount’). [Emphasis supplied.]” Our Agreement did not reference Axelrod’s appraised value (other than to require that he produce all written materials in his possession regarding the instruments at closing, redacted, at his insistence, as to his sellers and purchase prices) and, to our knowledge, Axelrod never inquired as to the amount of the NJSO Appraised Value. The Agreement confirms that it was certainly never the intent of the NJSO to base or accept any gift, if one were to be determined, upon Axelrod’s appraised value.

In the Agreement, NJSO represented and warranted to Axelrod that the “NJSO is, and the NJSO Affiliate [now the New Jersey Symphony Orchestra Instrument Conservancy, Inc.] will be, upon its formation, a bona fide charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and has filed (or will file, in the case of the NJSO Affiliate) all of the regulatory documents that are necessary so that the Donated Amount is eligible to be deductible for federal income tax purposes. NJSO shall provide Herbert Axelrod, Evelyn Axelrod and/or Axelrod Fine Violins, Inc. (*at the direction of Axelrod*) with (i) documentation that it would normally be required to provide to each such party for purposes of the obtaining of a deduction including a written receipt or receipts acknowledging receipt of the Donated Amount, which should sufficiently describe the Purchase Instruments so as to identify them clearly, and include the date, conventional language required by the IRS that nothing of value was received by such party in exchange for its gift (all as set forth in IRS Publication 1771) and (ii) an executed IRS Form 8283, Noncash Charitable Contributions. [Emphasis supplied.]”

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The Agreement was signed on August 12, 2002. The NJSO valuations were conducted and completed after this date providing an increasingly clear picture for our Board's representatives to apply in their negotiations with Dr. Axelrod. Before, at, and after closing on February 14, 2003, neither Herbert Axelrod, Evelyn Axelrod nor their attorney, Douglas Calhoun, requested an executed IRS Form 8283 and one was not provided to them. Furthermore, they did not request nor did the NJSO provide them with "documentation that it would normally be required to provide to each such party for purposes of the obtaining of a deduction including a written receipt or receipts acknowledging receipt of the Donated Amount, which should sufficiently describe the Purchase Instruments so as to identify them clearly, and include the date, conventional language required by the IRS *that nothing of value was received by such party in exchange for its gift* (all as set forth in IRS Publication 1771)". [Emphasis supplied.]

What the NJSO did give them was an executed receipt (at NJSYMPH 001455) in exchange for a Bill of Sale. That enclosed receipt lists all of the instruments by their identifying names and states *that something of value was received in exchange for the instruments* (i.e., the NJSO "provided the following goods and/or services in exchange for the ... donation. In exchange for the ... donation, the NJSO has paid Fourteen Million Dollars (\$14,000,000.00) to the donors in cash, and Four Million Dollars (\$4,000,000.00) in the form of promissory notes payable by the NJSO to the donors.") Those notes have since been assigned, restructured or cancelled. The only written receipt given to the Axelrods acknowledged the final purchase price on February 14, 2003 of \$18,000,000, in exchange for their "donation". It did not, nor was it required to, state an amount of any valuation of the instruments and it did not acknowledge any "gift" or any amount of a "gift" to the NJSO from the Axelrods. The Axelrods never requested acknowledgment of any Donated Amount. The NJSO has no knowledge of whether the Axelrods have attempted to obtain a deduction with respect to their 2003 taxes for any perceived amount of a "gift".

After the closing, the Axelrods cancelled \$1,000,000 of the \$4,000,000 (\$500,000 on each of November 16, 2003 and December 18, 2003) in promissory notes and assigned the others in varying amounts to four non-profits. The November 16, 2003 cancellation included an acknowledgement by the NJSO that no goods or services were exchanged in consideration of same. Prior to the cancellation and assignments, Axelrod also forgave interest on the notes. All of the paperwork that we have relating to the forgiving of interest, as well as the cancelled notes, is provided to you (at NJSYMPH 001556). In addition, the Axelrods issued a challenge to the supporters of the NJSO to match amounts raised within a certain period of time. As a result of their challenge, the Axelrods contributed \$1,089,162 in cash to the NJSO.

We have provided you with copies of the appraisals provided to us by Dietmar Machold of Machold Rare Violins which were delivered to us by Dr. Axelrod at the closing on February 14, 2003. We are led to believe that Mr. Machold, aware of events of the past several months, has not withdrawn his appraisal of \$48,900,000<sup>23</sup>.

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<sup>23</sup> This figure, included on the original letter and later corrected, was in error. The correct figure is \$48,990,000.

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The Honorable Max Baucus  
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The NJSO undertook a due diligence process over a period of several months in order to obtain confidence in the quality and price of the collection. We believe that Axelrod's first entreaties to the NJSO occurred about March 2002. We took delivery on loan of about half of the collection by Memorial Day. The remainder came into our possession by loan by about August 2002. In order to remain wholly independent of Machold and Axelrod and concerned about published and unpublished reports regarding the relationships among certain string instrument appraisers and their customers, the NJSO sought out somebody or somebodies who possessed no stake in the outcome and were not to be paid based on a percentage of the instrument's appraised value, a costly and disconcerting incentive. The NJSO commissioned a valuation (not a full appraisal) of all of the instruments which was undertaken in August 2002 by a person knowledgeable about rare string instruments and who had no prior dealings with, and had not solicited the business of, Axelrod. The results of that examination and valuation are provided to you. Large portions of the instrument collection (particularly where we possessed the greatest concern about authenticity and value) were also reviewed by two other persons with the expertise necessary to provide us with additional opinions as to these matters. They conveyed their opinions verbally to NJSO staff and their observations were recorded in a spreadsheet which has been marked and provided to you (and which might require further explanation in order to understand). Each of our valuations was conducted independent of the others. We are confident that you have discovered that the business of authenticating and appraising rare string instruments is rife with politics and subjectivity. We earnestly believe that dissemination of the enclosed information, which we consider to be proprietary, would result in little more than unwarranted dissection of our experts' opinions and uninvited and undeserved damage to our organization.

We did not undertake a full appraisal of the instruments because the cost would have been prohibitive to the NJSO (ranging from five to ten per cent of their appraised value). In addition, our valuations were undertaken in order to confirm or question authenticity and to provide a level of comfort to our Board and lenders that the collection was what it was purported to be. We needed to know what we were buying and whether we were paying a fair price. You can note that the original agreement provided a purchase price of \$24,500,000. (Axelrod's initial offer to the NJSO and presented publicly by him was a sale at one-half of his appraised value of \$50,000,000). The next several months and subsequent negotiations yielded a reduction in that price to \$18,000,000. We stand by this amount as a fair price given the ranges of the valuations reported to us.

Our due diligence process did reveal multiple opinions about the authenticity and value of certain instruments. We remain confident that we went into the final deal knowing that the eventual price we paid was still a good price even in the event of worst-case values and authenticity on all the instruments around which there were multiple opinions expressed. Again, in other words, even if we take the most pessimistic view of the collection's value, we still have a collection

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which, based on the opinions of the experts whose counsel we solicited, is valued consistent with the amount we paid for it (ultimately \$17,000,000, giving effect to the Axelrod cancellations).

Dr. Axelrod also provided us with his insurance information (and we have provided you with our initial (at NJSYMPH 000446) and current policies (at NJSYMPH 001587)) supported by the Machold appraisals. While there may be a countervailing opinion, we understand that formal, comprehensive appraisals are the only basis on which the insurance can be provided. We also understand that the accounting treatment of the value of the instruments for financial statement purposes should be the formal, comprehensive appraised value. We have provided you with two writings from accounting firms advising the NJSO on our “hand-wringing” about the number that we present for financial statement and reporting purposes. The NJSO has acted consistently in accordance with its professionals’ advice regarding the presentation of the appraised value versus the valuation. The net effect of this treatment is somewhat meaningless to a nonprofit and we certainly did not want to underinsure the instruments.

For your convenience, certain of the enclosed documents may be described as follows:

- Documents relating to the \$9,180,000 Bridge Loan between Commerce Bank North and New Jersey Symphony Orchestra have been bates-stamped NJSYMPH 000006 to 000679.
- Documents relating to the \$9,180,000 New Jersey Economic Development Authority Bond (New Jersey Symphony Orchestra Project) Series 2003 have been bates-stamped NJSYMPH 000680 to 001454.
- Valuations and Appraisals relating to the instruments (and related materials) have been bates-stamped NJSYMPH 001602 to 001627 and NJSYMPH 001636 to 001887.

We have also produced a book entitled “Evelyn & Herbert Axelrod Stringed Instrument Collection” for your review. Dr. and Mrs. Axelrod provided us with copies of this book which was evidently published by them regarding a certain portion of their string collection. The NJSO expresses no opinion on the materials published in this book.

The NJSO is a world-class symphonic organization that is an extraordinary resource for the State of New Jersey and one of our country’s leading orchestras. However, like many symphony orchestras (and indeed non-profits in general) we are operating in a challenging economic environment, and our Board of Trustees took an enormous leap of faith in acquiring this great collection of instruments without all the funds in place, recognizing a “once in a lifetime” opportunity which would set the NJSO very positively apart from the organization which it would have been had it not seized the opportunity. Unlike a museum, we are not in the business

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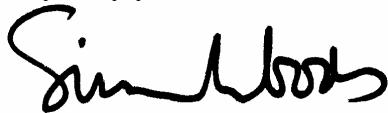
of serially acquiring or receiving gifts of difficult-to-value items and we have not adopted any policies which speak generally to such events. But the NJSO approached this transaction with a high degree of skepticism and due diligence and the material presented to you (*n.b.* – there were approximately 25 attorneys who had some role in these transactions) confirm an acquisition that was solidly thought through and executed.

The NJSO has been an important part of New Jersey's cultural life over 75 years. We are not a behemoth and operate in a very difficult financial environment. We are in the middle of an extensive fund raising campaign to raise the funds to pay off the loans on the instruments, but the fact remains that we have a long way to go to complete this process and thereby ensure that this collection can be heard and enjoyed by many future generations.

The NJSO had no prior knowledge of any other matters relating the Axelrods or their activities (including, without limitation, those which have given rise to any criminal, civil or Congressional proceedings). The Axelrods were long-time, generous supporters of the NJSO and we are grateful for their support. We are saddened by the circumstances in which they find themselves.

Much has been stated about the urgency placed upon us by Dr. Axelrod to consummate this transaction quickly. The materials we have enclosed for you display a complicated, arm's length transaction that took almost one year to fully consummate. Should you require any assistance in reviewing these materials or any further explanation, kindly contact me at 973-624-3713 (x212) or Mr. Kobler at 973-639-2019.

Very truly yours,

A handwritten signature in black ink, appearing to read "Simon Woods". The signature is fluid and cursive, with the first name "Simon" and last name "Woods" clearly distinguishable.

Simon Woods  
President and CEO

Enclosures

cc: Scott A. Kobler, Esq. (w/enclosures)

**Appendix C: Text of Letter from Dietmar Machold to Mark Mueller**

August 6, 2004

Mr. Mark Mueller  
The New Jersey Star Ledger

Dear Mark:

I am writing in response to your article in the New Jersey Star Ledger, Sunday August 1, 2004.

Musicians and other professionals who work in the music business are often artists passionately dedicated to their professions.

Machold Rare Violins is a multinational, multicultural 142 year-old organization. Through our employees and representatives throughout Europe, Asia and the US, we are privileged to have access to information about supply and demand of rare stringed instruments not available to others.

Our unique knowledge base enables us to put the world's finest instruments into the hands of talented players, premier musicians, and foremost collectors. Our firm also serves up-and-coming musicians - understanding their need for fine instruments to advance their careers. It is with this understanding that Machold Rare Violins continues to find innovative ways to match instruments and musicians. This understanding also allows us to form opinions about valuation.

A ten-week analysis of facts as they are collected from miscellaneous sources with clear conflicts of interest only reflects part of the picture. This is especially the case when a situation is dissected into its smaller parts without taking into account the larger picture associated with the assembly of a collection, the gift, and the purchase. Herbert Axelrod has been a generous instrument and cash contributor to New Jersey as well as to other museums and music lovers in the US, in Austria, and Italy. Whatever other problems he may have, New Jersey patrons of the art should recognize his music contribution to this state.

Certain Senators may want to disallow the deduction of charitable contributions to not-for-profit organizations but this does not even seem to be the issue with Mr. Axelrod. The world art community is larger than the transactions that are US tax driven and that take place in the US. Suggested implied changes in US tax policy would only increase the cost to Americans of acquiring world-class instruments and art.

We are pleased that some of our efforts have delivered excellent instruments to very fine musicians in New Jersey. We applaud the excellent musical performances this has generated and continue to celebrate the music this inspires. However, it seems to be necessary to bring up a few facts about the people who feel the urgent need to express their opinion in this case.

The instruments now in the possession of the New Jersey Symphony Orchestra were carefully inspected and reviewed by multiple outside sources. They are all well documented and certified by more than one expert. The musicians and patrons of the New Jersey Symphony should not be bothered by the noise of my competitors out in the market, but rather, some important facts need to be addressed to my critics regarding expertise.

1. In a letter dated December 14, 1998, Bein and Fushi offered a number of instruments for sale to Dr. Axelrod. In this same letter Bein & Fushi congratulate Dr. Axelrod on his fine acquisitions (from Machold Rare Violins) stating that he has put together "an extraordinary collection", and this same extraordinary collection apparently has become trash according to Bein & Fushi's comments regarding the New Jersey Symphony's acquisition of the same collection?
2. Mr. Robert Bein feels comfortable voicing his opinion in this case despite having an unfortunate role in the recent Segelman case. A case in which he and a few other dealers placed a low valuation on a collection of instruments from a dying man's estate then turned around and sold them for values quadruple the amount quoted to the owner.
3. Charles Beare was for 35 years unable to identify a 1741 Guarneri del Gesu as such, instead calling it a John Lott worth \$35,000.00. A Guarneri del Gesu of sound and quality of the aforementioned is worth at least \$5 Million. This was admitted to in a letter last year to the owner of the instrument.
4. These men are the two who created the only cello by Guarneri Del Gesu – in their opinion a cello, which came out of Canada many years ago as an Italian instrument of some sort. First valued at \$40,000.00, then \$1.2 Million, then \$2.7 Million and now it is up for sale at \$3.5 Million... not much for the only del Gesu cello. Interestingly it seems that there is a strong doubt in the market that this cello is for real. There was for a long time, and still now, a Petrus Guarneri of Venice cello up for sale from the same source, which suffers from the same fate. There were and are, for decades, cases when the two above mentioned gentlemen expressed their doubts on numerous violins by Guarneri del Gesu. They called them Joseph Guarneri. fil Andrea. How wonderful, after being able to acquire these instruments, they miraculously became genuine Guarneri del Gesu's again.
5. I was surprised not to see the New Jersey Symphony's 1732 del Gesu ex "Henrick Kaston" come under the duos same doubts. In 1997 the then owner, previously the concertmaster of Dortmund, Germany, showed this 1732 Guarneri to Mr. Robert Bein, who, of course, doubted it strongly. Discussing the instrument over the phone with Mr. Beare in London, Bein & Beare came to the conclusion that it was incorrectly identified as a del Gesu by Rembert Wurlitzer. The owner, clearly upset by this evaluation, called Mr. Beare in London, reminding him that Mr. Beare himself had once blessed the violin back in 1978 as a genuine Guarneri del Gesu "may be a little

earlier than 1732". It was Beare's original valuation that led to the concertmaster's purchase of the instrument.

6. There is again, Mr. Bein, who has the feeling the Smithsonian Quartet is probably worth \$10-\$12 Million. Odd given that Mr. Bein is well aware that more than 10 years ago, the now late Jacques Français, a highly reputed dealer from New York, sold the undecorated Corcoran quartet for \$15 Million to the Nippon Music Foundation. Mr. Bein should be well aware that Mr. Français appraised the Axelrod Smithsonian Quartet for \$50 Million. For Mr. Bein to say the Smithsonian Quartet is worth only \$10-\$12 Million is absurd. In fact the Smithsonian Institute internally quoted a price of \$25 Million in 1997 – without my appraisal. At least Mr. Biddulph of London, in a phone interview with the New Jersey Star Ledger agrees with the \$50 Million figure.
7. The New Jersey Symphony Orchestra is insuring the Axelrod instruments they bought in 2003 for my estimated value of \$48.2 Million. There seems to be much reason for that.
8. For seven years, Beare, Bein & Fushi could only look on as Dr. Axelrod amassed an exquisite collection of rare instruments. Dr. Axelrod, continuously passed them over, perhaps because of the above-mentioned incidents, and perhaps simply put in his own words, he did not trust them!

Clearly this is a competitive industry, just how competitive might be illuminated by a remark of Mr. Bein to another dealer from London regarding Machold Rare Violins recent move into the Fine Arts Building in Chicago... Suffice it to say Bein is none too pleased. Perhaps some dealers should find a way to better represent this industry and our clients by respecting the traditions of the violin trade and conducting themselves with integrity and honor as Machold Rare Violins has done over the past two centuries.

Dietmar H. Machold  
President  
Machold Rare Violins  
New York, Chicago, Seoul, Zurich, Vienna, Bremen

**Appendix D: NJSO Board of Trustees (as of October 9, 2002)**

Mrs. Shirley Aidekman-Kaye

Mr. Albert D. Angel

The Honorable William Edward Baroni, Jr.

Victor J. Bauer, Ph.D.

Mr. Marc E. Berson

Ms. Carole J. Brand

Mr. William B. Cater

Ms. Barbara Bell Coleman

Ms. Carmen Courter

Dr. Anita Falla

Mr. Arthur Fricke

Mr. William S. Furman

Dr. Jean-Jacques Garaud

Mr. William L. Gibson

Mr. Robert H. Grasmere

Mr. Michael P. Gunning

Ms. Sharon A. Harrington

Mr. James J. Hartnett

Mr. Eli Hoffman

Dr. Thomas Hofstaetter

Dr. Francis J. Honn

Mr. Robert L. Jones, Jr

Scott Kobler, Esq.

Mr. Ernest J. Larini

The Honorable Raymond J. Lesniak

Mr. Charles O. Logan, Jr.

Mr. William J. Marino

Gabriella Morris, Esq.

Mrs. Emily Mulford

Mr. Willard D. Nielsen

Katherin Nukk-Freeman, Esq.

Mr. Harry O'Mealia

Dr. Victor Parsonnet

Dr. Algernon A. Phillips, Jr.

Ms. Daria Placitella

Stephen A. Ploscowe, Esq.

Mr. David Pulver

Mrs. Charlotte Tanenbaum

Mr. Robert Waggoner

Dr. Lowell Weiner

Mrs. Sima K. Jelin-Weinstein

Mr. Josh Weston

Mr. Matthew Winkler

Ms. Wendy L. Yarno

Mr. Edward Zinbarg

**Appendix E: Instrument Committee**

Victor J. Bauer, Ph.D.

Mr. Eli Hoffman

Scott Kobler, Esq.

Mr. Harry O'Mealia

Dr. Victor Parsonnet

Mr. Jonathan Spitz

Ms. Susan Stucker

Mr. Lawrence Tamburri

Mr. Josh Weston

Mr. Eric Wyrick

Mr. Edward Zinbarg

**Appendix F: Violin Valuation Committee**

Victor J. Bauer, Ph.D.

Mr. Michael P. Gunning

Mr. Eli Hoffman

Mr. Martin Latman

Mr. Lawrence Tamburri

Mr. Edward Zinbarg

**Appendix G: Timeline of Events**

