American Federation
of Musicians &
Employers' Pension Fund

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Fund

August 5, 2020

The Honorable Steven Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

RE: American Federation of Musicians and Employers' Pension Fund – MPRA Benefit Suspension Application

Dear Mr. Secretary:

The undersigned are the Co-Chairs of the Board of Trustees of the American Federation of Musicians and Employers' Pension Fund (AFM-EPF, the Plan), which has a pending application for a suspension of benefits pursuant to the Multiemployer Pension Reform Act of 2014 (MPRA). The AFM-EPF supports over 50,000 active workers, retirees and beneficiaries from across the country, and receives contributions from more than 5,500 employers in the film, recording, symphonic, television and theater industries on behalf of their employees. We are writing to urge you to grant the application, notwithstanding the anticipated negative recommendation from Agency Staff, because we strongly believe the Staff analysis was flawed.[1]

In a phone conversation with the Treasury and PBGC, Treasury Staff explained that its recommendation to deny the application is based on its — we believe, mistaken — conclusion that our mortality and new entrant assumptions are not reasonable, and that therefore the level of suspension is not "reasonably estimated to achieve, but not materially exceed, the level that is necessary to avoid insolvency." 26 .U.S.C. §432(e)(9)(D)(iv). This recommendation is wrong, as not only are the assumptions, in fact, reasonable, as set forth on the attached submissions to Staff, but we demonstrated that even using the assumptions Staff would prefer, the proposed reductions would satisfy the MPRA criteria. A denial under these circumstances would be arbitrary and capricious, constitute a serious misapplication of administrative authority, and seriously threaten the Plan's viability.

We note that the Treasury Staff advised us that it found no other cause to deny our application, including our assumptions about future employer contributions and investment returns. Treasury staff also advised it had no issue with our application of the equitable factors in distributing the benefit reductions.

[1] A decision is required on or before August 11, 2020.

Our actuarial firm, Milliman, Inc., one of the most respected actuarial firms in the country, firmly believes that the assumptions it used in estimating the level of suspension needed for the Plan to avoid insolvency assiduously followed Actuarial Standards of Practice, which require actuarial assumptions to be reasonable and appropriate for the purpose of the measurement. As set forth in the attached letter dated June 30, 2020, the actuaries used the mortality assumption expressly deemed reasonable under Appendix B to Treasury Revenue Procedure 2017-43, at pages 32-33. Even if that mortality assumption was not intended to be a safe harbor, the standards of actuarial practice recognize that there is a range of reasonable assumptions that might satisfy a given purpose. As indicated in the initial application and in the attached response to Treasury's inquiries, Milliman provided cogent reasons for its selection of the assumption, leaving no doubt that the assumption, even if not Staff's preferred assumption, was within the range of reasonable and appropriate for the purpose of the measurement.

Similarly, with respect to the new entrant assumption, Treasury Staff concluded that the assumption was unreasonable because it did not take into account the fact that some new entrants would be previously vested participants. However, Milliman explained in its May 29, 2020 letter to PBGC Staff that this was because earned benefits for current and future terminated vested participants are already included in the projections. If Milliman used the Treasury Staff's suggested assumption, it would have inappropriately overstated how soon new entrants are expected to collect benefits. Again, while Staff may have selected a different assumption, Milliman's carefully reasoned determination could not under any construction be viewed outside the range of reasonable or inappropriate for the purpose of the measurement. In any case, this assumption has only an immaterial impact on the projections.

On both counts, it is arbitrary for Staff to substitute its judgment of reasonableness for that of our actuaries. A denial on this basis is particularly problematic because, as noted above, even using Staff's preferred assumptions, the proposed reductions would be sufficient, but not more than necessary, to avoid insolvency, as required by MPRA.

Too much is at stake for this to be the basis of a denial. Over 50,000 musicians across the country rely upon their pension benefits as an important part of their retirement security. These participants are in dire need of your support. Plan insolvency would cause many of these participants to have their benefits reduced to the amount insured by the Pension Benefit Guaranty Corporation (PBGC), well below the level of current benefits enjoyed by the vast majority. Even those benefits will be reduced even further if the PBGC's multiemployer program becomes insolvent, as it is projected to do in 2025. Even the unwarranted delay from having to refile a new application will only serve to extend the current period of distress and uncertainty for our participants, increase the amount of benefit reductions as participants age out of reductions altogether, and allow the Plan to continue its decline in the interim unabated.

We presented a detailed and workable solution to avoid this tragic result. As described above, that solution fully satisfies the MPRA standards. Accordingly, we respectfully submit that you should not follow the Staff recommendation, but, instead, you should approve the application as submitted and put it to the participant vote required by the statute.

We would welcome the opportunity to speak with you or one of your senior officials on this matter at your earliest convenience.

Respectfully submitted,

Christopher J.G. Brockmeyer	Raymond M. Hair, Jr.
Employer Co-Chair, Board of Trustees	Union Co-Chair, Board of Trustees

cc: Danielle Norris, U.S. Dept. of the Treasury