Complaint against AFM Local 802 for False Advertising and gross violations of the Business Judgment Rule of case law doctrine encompassing each of the triads of their fiduciary duty — good faith, loyalty, and due care.

The **business judgment rule** is a case law-derived doctrine in corporations law that courts defer to the business judgment of corporate executives. It is rooted in the principle that the "directors of a corporation... are clothed with [the] presumption, which the law accords to them, of being [motivated] in their conduct by a bona fide regard for the interests of the corporation whose affairs the stockholders have committed to their charge".[1] The rule exists in some form in most common law countries, including the United States. To challenge the actions of a corporation's board of directors, a plaintiff assumes "the burden of providing evidence that directors, in reaching their challenged decision, breached any one of the triads of their fiduciary duty — good faith, loyalty, or due care".

Put simply, a director owes a duty to exercise good business judgment and to use ordinary care and prudence in the operation of the business. They must discharge their actions in good faith and in the best interest of the corporation, exercising the care an ordinary person would use under similar circumstances. Directors' decisions are typically protected under the business judgment rule, unless they breach one of these duties or unless the decision constitutes waste. A breach of fiduciary duty will typically remove a director's decision from business judgment protection and require that the director show entire fairness.

AFM Local 802 should be denied business judgment protection for the following reasons detailing how they have clearly breached the triads of their fiduciary duty — good faith, loyalty, and due care.

1. A pension plan in crisis. Since the inception of the Jazz for Peace™ Benefit Concert Series Grant Program in 2003 the AFM pension has been in a continuous demise taking it all the way down to the current announcement on January 25, 2019 informing us that we are now on brink of inevitable and radical cuts that will effect the Pension amounts of every Local 802 Member along with AFM members nationwide and internationally. However, Jazz for Peace™ events going as far back as 2006 have been known to raise as much as $250,000.00 in a single evening for organizations and causes that had less than a fraction of Local 802's knowledge of how to make the most out of a World Class Cultural Event using the Art Form of Jazz as the main entertainment and cultural attraction. By denying a good faith presentation of this program followed by the question & answer period that combined offers the bare minimum needed to understand this program well enough to even begin the process to fully identify its potential and set the process for funding approval in motion, AFM Local 802 did not act in good faith and "in the best interest of the corporation" in this case being Local 802 and the AFM as a whole. Yet year after year after year as the pension crisis grew ever more dire the Union increased its pleas in its member outreach publications to the point of literally begging for "New and Fresh Ideas" from Members and offering an "open door policy" to review such while in private doing completely the opposite. And in addition to the dire pension news, an article on Page 4 of the February 2019 edition of Local 802 publication Allegro has the current 802 President (Adam Krauthamer) admitting that "the prior administration left us with a budget deficit of over $600,000.00 for calendar year 2018 alone".

2. Steady Year over Year declines in Membership dating all the way back to 2002. In addition to it's proven record of helping outstanding causes, organizations and artist projects, Jazz for Peace™ offers free Grant Administration services in order to assist all Local 802 & AFM Members who wish to have the opportunity to qualify, thereby bringing added value for current members to continue their yearly dues as well as a bonafide selling point to an entire younger generation of musicians who see no value in joining our union. It is for this and many other reasons that a reply from a Local 802 Employee that the opportunity "Sounds too good to be true", as told to Jazz for Peace in this email (see Exhibit 1 Page 2) sent by the Local on October 10, 2013, without ever scheduling any sort of in person meeting or presentation in order to meet the minimum requirements necessary for understanding and implementation, simply does NOT qualify Local 802 for Business Judgement Rule Protection from justice in this matter.

3. Less and Less work under contract. Less work under Union contract means less performance monies going to the pension fund, less incentive for current members to renew, less opportunities to consider for new members to join, less membership money being paid to the union, etc. The combination of which setting off a domino effect of negative results in every aspect of Union function from influence to bargaining power. Yet the Jazz for Peace proposal was the only such opportunity presented to the union that creates completely new Union contract performance opportunities without competing with or replacing already existing ones. In light of the problems facing our Union with regards to this deficiency, there is simply no possible justification of fiduciary duty which includes good faith, loyalty, or due care that could possibly ignore, undermine or prevent such legitimate opportunities to provide MORE work under contract as this proposal has offered for so many years.

4. This complaint which includes well documented communications spanning over a decade in combination of all three points above convincingly reveals the decisions of directors in some instances given by them UNDER OATH who have not performed their duties (1) in good faith; (2) with the care that an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the directors reasonably believe to be in the best interests of the corporation. This meticulous archive when combined with all of the reasons outlined above thoroughly disqualifies AFM Local 802 from Business Judgement Rule Protection.

SUMMARY: While it is indeed true that Jazz for Peace is not the first to notice this blatant disregard by AFM for the laws which govern fiduciary duties and obligations, the evidence I refer to in this document shows that no reasonable business could take the actions that this business took. Business judgment cases are very difficult because there are thousands of ways to exercise such judgment and even though they may not be the best way, as long as they are reasonable the court will not find against the business. However, in this extraordinary instance, AFM Local 802 intentionally went down this path and in doing so each of these actions contributed to in the worst case the demise and in the least worst instances had a clearly negative impact on their own business. None of the decisions they made regarding this matter would be reasonable in the business world and the detailed information above is proof that no reasonable business person would have done so.