March 31, 2020

NYS Department of Labor
Building 12
W.A. Harriman Campus
Albany, NY 12240

To Whom It May Concern:

The Film Musicians Secondary Markets Fund ("The Fund") is a 501(6) nonprofit organization established in 1972 through collectively bargained labor agreements, and mandated to collect and distribute residual payments to musicians pursuant to a Collective Bargaining Agreement negotiated between the American Federation of Musicians, AFL-CIO and the Alliance of Motion Picture & Television Producers. These residual payments represent deferred wage payments for services performed by musicians on theatrical, television or streaming media motion pictures pursuant to that agreement, in previous years for one or more employers, and are made by the Fund on behalf of those employers or current rights holders of the covered motion pictures.

When a theatrical, television or streaming media motion picture is produced pursuant to the collective bargaining agreement, the employer or rights holder of the motion picture incurs an obligation to contribute a percentage of the gross receipts derived from the exploitation of the subject motion picture in secondary markets to the Fund on behalf of the participating musicians. In turn, the Fund distributes residuals annually to the participating musicians who worked on the subject motion picture for such secondary market use. While the Fund is the withholding agent for such employers or rights holders, it is not and has never been the direct employer of the participant.

The residuals paid to a musician by the Fund represent deferred wages to the musician. As such, they constitute W2 income upon which the Fund reports and remits to the relevant state and federal authorities all required employer taxes and withholdings, including Social Security, Medicare and unemployment insurance on the musicians’ residuals, in the Fund’s role as agent of the employers or rights holders for the motion pictures on which the participant musicians were employed.

Very Truly Yours,

Kim Roberts Hedgpeth
Executive Director