### **APPENDIX**

# **Questions Directly Answered**

# **PART II – Chapter 1 – The Artist:**

By nature of the art form's challenges, is the artist entitled to special privilege or license? 25 What are the artist's responsibilities to the business side? 26
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How much does the artist really need to know about the business? 26
Is it possible to work as both artist and businessperson? 26
Is it a good idea for an artist to gain power from the business side for later use in an artistic 27 career?
How does an artist determine his/her value in dollars? 27
Doesn't a high quality of artistry count for something? 28
Does high artistic quality guarantee success? 29
Is it possible to remain true to one's original ideals, or is compromise necessary? 29
Can the refusal to compromise actually be damaging to one's art? 31
How much can the artist compromise before it becomes selling out? 31
Is it ever too early in one's career to record as a leader? 32
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Isn't something always better than nothing? 33
Is every jazz artist a leader? 33
What is the leader's responsibility to sidemen? 34
Is there an attitude that the jazz artist must adopt to be taken seriously? 34
PART II – Chapter 2 – The Manager:
What is management? 37
What's the difference between a manager and an agent? 38
Why does one become a manager? 39
What are the requirements for a good manager? 40
How important is it for a manager to have strong relationships with record companies? 45
What if a manager has all or most of the recommended qualities, but does not have any 46
industry connections?
Must management relationships be specifically defined and contracted? 46
Should the artist enter into an exclusive agreement with the manager? 47 What should be the duration of a management agreement? 49
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Who really calls the shots? 50
How can a mutual decision be attained when the artist and manager disagree? 52
How much must the artist disclose to the manager? 52
Is a manager really necessary? 53
What are reasonable expectations in a management/artist relationship? 53
How far does trust go? 54
How much input should the manager have on the music? 55
What are the conflicts in business vs. friendship? 55
What are the pros and cons of the mate as manager? 56
What should be avoided in a management relationship? 58

# **PART II – Chapter 3 – The Agent (including Fees)**

What are signs that a relationship is in trouble? What happens after a relationship is terminated? How can one measure an agent's reliability? 69

What are an agent's responsibilities? 70

How do the agent's responsibilities to the client sit in relation to the responsibilities 70 to the agency?

What are the artist or manager's responsibilities to the agent? 71

Is it preferable to be with a small or a large agency? 71

Is agency exclusivity necessary? 72

Is it necessary to have a contract with an agent? 74

Are an agent's relationships with labels a major factor? 74

Who makes the decisions? 75

What kind of lead-time is best for touring? 75

What are the agent's responsibilities to an artist who provides direct leads? 76

How much value is there in the low or non-paying engagement for the purpose 77 of "exposure"?

Who handles the coordination of touring? 78

Who handles the publicity? 79

What if the manager also books engagements? 80

What if the artist also books engagements? 80

If there's no manager, who handles the touring responsibilities related to management? 80

How much truth or disclosure is required in the artist/agent relationship? 81

Does an agent have a right of claim on a venue or promoter if they secured the artist's 81 first booking with that entity?

Must an agent advertise, do mailings, or attend booking conferences? 82

What happens after a relationship is terminated? 83

What are standard percentages for representation? 85

How are percentages determined? 86

Who pays for mistakes? 86

What expenses are reasonable to reimburse? 87

How do binders and deposits work? 88

Who receives the deposit, the agent or the artist? 89

Is it an agent's responsibility to get the best deal for the artist regardless of the ramifications?

### **PART II – Chapter 4 – The Attorney**

What types of attorneys might an artist need? 92

What legal matters do not require attorneys? 94

Do labels prefer to deal with attorneys on contracts? 94

Is there an advantage to having an attorney who has good relationships with record labels? 95

What are reasonable fees? 95

Do any attorneys work for flat fees or percentages? 95

Are there sources of free or inexpensive legal services? 96

Can an attorney be totally trusted? 96

### PART II – Chapter 5 – Other Important Members of the Team

What are the responsibilities of a road manager? 98

What are the various types of recording sessions? 100

Is a producer really necessary? 101

## PART III - Chapter 1 - The Record Business

Are all record companies essentially dishonest? 129
What are the qualifications necessary to be an executive? 129
With record executives, does no always mean no, or yes always mean yes? 130
Is the quality of a record deal dependent upon the negotiating skills of the manager, 130 lawyer or artist?

## PART III – Chapter 2 – Performance (All questions appear in D. Related Questions)

What are the presenter's responsibilities to the artist? 203 What are the artist's responsibilities to the presenter? 203

What are reasonable demands for backstage courtesy, services and rider requirements? 204 Do presenters prefer to deal directly with the artist instead of the representative? 205 Should the musician consent to permit the presenter to record the performance for 206 archival or speculative purposes?

Is it worthwhile to take a lower guarantee vs. a percentage of the door? 207
How important is self-promotion from the stage, and is doing it demeaning? 208
What can a promoter expect from an artist's record company? 209
Is it possible to get underwriting or assistance from airlines, hotels, equipment 210
companies, etc. in exchange for promotion?

Who signs a contract first, the artist or the presenter? And how is that party protected? 210 What if a promoter refuses to sign or return a contract; or send a required deposit? 211 Does the artist have any real recourse when a contracted engagement is cancelled? 216 Is there ever a justified reason for the artist to arbitrarily cancel a contracted engagement? 219 Is there ever a justified reason for the promoter to arbitrarily cancel a 220 contracted engagement?

Is there ever a valid reason to renegotiate a signed contract? 221
Is any special consideration due to the presenter or clubowner who gives an artist 222 his or her "start"?

#### PART IV – Chapter 1 – The 501(c)(3) Corporation

## A. Understanding the 501(c)(3) Corporation

What does non-profit mean? 257

What is a non-profit corporation? 257

How does it differ from a regular profit-making corporation? 257

What are the qualifications for non-profit status? 258

Who owns a non-profit corporation? 258

Can someone invest in a non-profit corporation? 259

Can a non-profit make money? 259

What are the artist's advantages in operating within a 501(c)(3)? 260

What are the disadvantages? 266

Must a non-profit restrict itself to one, or limited purposes? 267

Is there a required balance for education vs. performance? 267

Must the organization allow members? 267

Can an individual be non-profit? 267

How complex is it to operate a non-profit? 268

Does the non-profit require staff, employees, etc.? 268

Who's really in charge? 268

Must a non-profit limit its activities to the state in which it's incorporated?

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## B. Setting Up the 501(c)(3)

What is the general process? 269

Must an attorney be involved? 270

Will any attorney be able to handle the incorporation? 270

How much does it cost? 270

How long does it take? 271

When can the organization officially begin to conduct business? 271

What exactly is a conduit? 272

When does the organization become "officially" non-profit? 272

How long does exempt status last? 272

Can a non-profit switch to for-profit? 272

Can a for-profit entity switch to non-profit? 273

How is the name chosen? 273

Should it be a membership or non-membership organization? 274

What are the Articles of Incorporation? 274

What are the By-Laws? 274

Can the Articles and By-Laws be changed, and how? 274

How many people are required for the Board of Directors? 275

What are the formal requirements for a board member? 275

#### C. The Board of Directors

What are the responsibilities of board members? 275

How are board members chosen? 276

What makes a good board member? 277

What makes a bad board member? 277

Can a board member personally benefit from serving on a board? 277

Is there a limit to the size of a board? 278

Is it better to have a large board or a small one? 278

Is there an "ideal" board structure? 279

Are all decisions made by simple majority rule? 279

Must the board approve every activity? 280

Are board members personally liable for the organization's actions? 280

Are there limits to how long someone can serve on a board? 281

Can a board member be paid for services? 281

Should the primary artist be on the board? 281

What is an advisory board? 281

What are board committees? 282

Must committees be exclusively comprised of board members? 282

Does the Board of Directors really control the organization? 282

Who controls the Board of Directors? 283

What are effective methods of controlling a board? 284

#### **D.** Funding

What is unearned income? 287

What is earned income? 287

What is unrelated business income? 288

Is there a required proportion of earned to unearned income? 288

Are there specific regulations on how a non-profit spends its money? 288

Are there pre-set ratios or equations that dictate what fees or salaries can be paid? 289

Are there types of income that are *not* permissible for a non-profit? 289

How important is the size of the organization's annual budget? 289

Are there limits on what can be received or given? 291

Must a 501(c)(3) apply for grants? 291

How can an organization identify potential funders? 291

Must grant money only be spent on specific costs as dictated by the grant or funder? 292

How complex is the process of reporting to funders? 293

Must a non-profit organization hire a formal fundraiser? 293

What exactly does a director of development do? 293

Are there differences between development director, fundraiser and grantwriter? 294

Can fundraisers work for a percentage of the money they raise? 294

#### E. The Artist's Role

Does an artist really *need* to be affiliated with a non-profit organization? 295

Why isn't a fiscal conduit or "umbrella" organization just as good? 295

What is the formal relationship of the artist to the organization? 296

What are the artist's responsibilities to the organization? 296

What are the direct advantages to the artist? 297

How does an artist or ensemble formally affiliate with the NFP? 299

Does the affiliated artist/ensemble become a non-profit entity? 300

Must all of the affiliated artist/ensemble's activities be conducted through the NFP? 300

Are there any activities that shouldn't take place through the organization? 30

Who owns the artistic output? 302

#### F. Meetings, Filings and Other Formalities

How often is a board required to meet? 302

Is there a specific format that board meetings must follow? 302

Must the organization have officers? 303

What types of official records must be kept? 305

How detailed and comprehensive do the official records need to be? 306

What are the filing requirements for a non-profit organization? 307

When must the organization file for the first time? 308