



**NEW YORK CITY
CENTRAL LABOR COUNCIL AFL-CIO**

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September 17, 2014

Testimony of the New York City Central Labor Council, AFL-CIO before the Committee on Cultural Affairs, Libraries and International Intergroup Relations Jointly with the Committee on Civil Service and Labor Hearing Regarding Proposed Resolution 207-A in Support of the Justice for Jazz Artists Campaign

Good morning, my name is Alex Gleason and I am the Policy Associate for the New York City Central Labor Council, AFL-CIO (NYC CLC). I'd like to thank you for the opportunity to testify today on this increasingly important topic. I'd also like to commend the sponsors of Resolution 207-A, and the chairs of the Civil Service & Labor Committee and the Committee on Cultural Affairs for convening this hearing.

The NYC CLC represents approximately 1.3 million workers across the city. We represent workers in a broad array of industries: construction workers, transportation workers, teachers, sanitation workers, doctors as well as musicians and artists of all types.

Music is one thing that has helped make New York City the cultural arbiter that it is. Jazz music in particular has a storied history that is deeply woven into the fabric of this city.

Every year countless tourists flock to this city seeking New York City culture and entertainment and packing the jazz clubs. Jazz clubs in New York City are making tens of millions of dollars each year.

While the jazz artists that provide their entertainment are often paid a respectable wage, they have no access to the health and retirement benefits that many New Yorkers do. These musicians are also generally paid as independent contractors, which leaves them on their own when it comes to social security payments and the payment of taxes. If a musician in this situation should fall ill, the result is often financially devastating.

The NYC CLC and our affiliates wholeheartedly support the efforts of the Justice for Jazz Artists campaign to see that these jazz musicians, workers just like the rest of us, are given the opportunity to organize and are afforded the health and retirement benefits that they so justly deserve.

Thank you

Submitted before the Committee on Cultural Affairs, Libraries and International Intergroup Relations jointly with the Committee on Civil Service and Labor on Wednesday, September 17, 2014

How Jazz Musicians Could Benefit from Pension Contributions

Testimony before the New York City Committee on Cultural Affairs, Libraries, International Intergroup Relations and the Committee on Labor and Civil Service

Jimmy Owens, Musician

My name is Jimmy Owens. I have performed with various jazz acts such as Max Roach, Duke Ellington, Charles Mingus, Kenny Barron, Count Basie, Benny Golson, Billy Taylor, Lionel Hampton, Hank Crawford and other well-known artists. I have taught at the New School for Jazz and Contemporary Music since the 1990s, and I helped to organize their faculty and get them a fair contract, and I have been deeply involved in advocacy groups like the Jazz Foundation of America (I currently sit on their board), AFM Local 802 (I have sat on their Executive Board) and Jazz Mobile. I received the A. B. Spellman NEA Jazz Master's Award for Advocacy in 2012.

- Most jazz musicians have no access to any retirement fund; no 401Ks, no IRAs
- Most jazz musicians do not collect unemployment benefits during their careers, and have no access to social security or other state statutory benefits during their careers
- Many, many jazz performers have to face compromising situations at the end of their careers due to a lack of funds. We see this at the Jazz Foundation of America every year.
- Based on the union's estimates, there are over 3,000 musicians who work the six major NYC jazz clubs every year. Most of these musicians make their living from many sources of income including touring, teaching and recording. Most have no retirement savings.
- If the clubs had agreed to this plan five years ago, there would already have been up to \$3 million dollars redirected into a fund for musicians. That money would have gone long way to helping people who have no savings to begin a retirement plan for themselves and their families
- This money not only helps musicians, it helps to keep the music alive
- Final point: Jazz musicians need pensions—they need to enjoy the same benefits received by their brother and sister musicians on Broadway and in the symphonic field. The need is real. I strongly urge you to support Resolution 207-A. Thank you very much.

Keisha St. Joan

**Testimony before the New York City Committee on Cultural Affairs, Libraries, International Intergroup Relations
and the Committee on Labor and Civil Service**

AT THE AGE OF THREE (3), I BECAME AWARE THAT I COULD SING. WHEN I BECAME (5), I KNEW THAT I WOULD BECOME THE WORLDS' GREATEST SINGER.

BY TWELVE (12) I STARTED VOICE LESSONS AND BY FOURTEEN (14), I WAS ACCEPTED INTO THE MANHATTAN SCHOOL OF MUSIC.

AT SEVENTEEN (17), I STARTED PROFESSIONALLY SINGING WITH THE "HARLEM OPERA GROUP" LEAD BY CHARLES WARD, AND MY ROLES WERE LEADING LADY, MARGUERITA, IN "FAUST", MICAELLA, IN "LA BOHEME" AND MIMI, IN "LA BOHEME."

I FINALLY BECAME ACQUAINTED WITH JAZZ FOR THE FIRST TIME WHEN I WAS SIXTEEN (16), BUT OF COURSE, I COULDN'T CHANGE MY CAREER IN MID-WAY, UNTIL I MOVED TO PHILADELPHIA AND REALLY BECAME INTERESTED BECAUSE OF A JAZZ CLUB AROUND THE CORNER FROM WHERE I LIVED.

IN 1958, AT THE AGE OF NINETEEN AND A HALF, I WAS HIRED BY CHARLIE WOODSON, LEADER OF A JAZZ GROUP, WHICH HE RENAMED, 'THREE GUYS AND A DOLL.' OF COURSE, I HAD TO KEEP TELLING THE AUDIENCE THAT I WAS THE DOLL. MY PAY WAS \$50 A NIGHT.

IT IS NOW 2014, AND JAZZ MUSICIANS ARE STILL BEING PAID \$50 A NIGHT, AND I UNDERSTAND THAT SOMEWHERE IN THE VILLAGE, THERE ARE PLACES PAYING \$5 AND A MEAL, PER HOUR.

I ALSO WANT TO STATE THAT AT SEVENTEEN AND A HALF, I STARTED ANOTHER CAREER WITH THE FEDERAL GOVERNMENT WITH THE DEPARTMENT OF THE ARMY AND AT THIRTY-FIVE I RESIGNED FROM "DRUG ENFORCEMENT ADMINISTRATION", DEPT. OF DEFENSE TO PURSUE MY CAREER IN MUSIC. I KNEW THAT I WAS GOING TO NEED MONEY TO CARE FOR MY DAUGHTER, JEWEL AND MYSELF SO I ASKED THEM TO GIVE ME THE MONEY I HAD ACCRUED OVER THE NINETEEN YEARS OF MY LABOR WITH THEM. THEY GAVE ME EXACTLY \$1,900. IN 2004, THE CHIEF OF THE BROOKLYN BOARD OF ELECTIONS, CALLED WASHINGTON, AND ASKED IF I COULD BUY BACK MY TIME, SO THAT I WOULD BE ABLE TO RECEIVE A PENSION FROM THE FEDERAL GOVERNMENT, AND SHE AND I WAS TOLD, NO.

SO, HERE I AM AT SEVENTY FIVE WITH NO PENSION.

I KNOW THAT IF I HAD REMAINED IN THE CLASSICAL FIELD, I WOULD HAVE A PENSION NOW. THE BLACK MUSICIAN WHO HAS MOVED INTO THE CLASSICAL FIELD CAN RECEIVE A PENSION. WHY CAN'T THERE BE A SURETY THAT THE DIFFERENT NATIONALITIES OF PEOPLE WHO HAS CLAIMED THE ART OF JAZZ ALSO BE SECURED IN RECEIVING A PENSION AS THEY GET OLDER?

BECAUSE JAZZ IS CONSIDERED "THE NATIONAL TREASURE OF AMERICA," THERE SHOULD BE A GREATER CONCERN FOR EACH MUSICIAN WHO HAS PAID A DEAR PRICE TO LEARN HIS OR HER CRAFT. WE SHOULD BE CONSIDERED AS HIGHLY AS DOCTORS WHO HEALS THE SOUL, MIND AND BODY OF EACH INDIVIDUAL WHO CROWD THE JAZZ CLUBS WHETHER IN THE UNITED STATES, EUROPE, ASIA, AND NOW, EVEN INCLUDING INDIA. WE SHOULD DEMAND THEIR JUST REWARDS OF RECEIVING A PENSION IN THEIR OLDER AGE, AND STOP THE CRUELTY OF ADDING STRESS WHICH CAUSES THEM TO DIE EARLY.

**Testimony before the New York City Committee on Cultural Affairs,
Libraries, International Intergroup Relations and the Committee on Labor
and Civil Service**

Bob Cranshaw

Hi I'm Bob Cranshaw, I'm a jazz bass player and teacher and an Executive Board member of Local 802. I have been active on the jazz scene in the United States and around the world for well over 50 years. I have been the bass player in the band of Sonny Rollins since 1959. I have appeared with many, many fine musicians and singers over the years, most notably Ella Fitzgerald, Sarah Vaughan, Peggy Lee, Dizzy Gillespie, Charles Aznavour, Quincy Jones and others. I was the house bass player for over 25 years for Sesame Street. I also worked on the TV shows The Electric Company, the David Frost Show, and I was in the original Saturday Night Live Band beginning in 1975. I am also a member of the Board of Directors of the Jazz Foundation of America.

I have for years been advocating with the Musicians' Union, particularly on the subject of pensions. I have seen countless musicians in crisis. People who were highly respected, incredibly talented people but who failed to prepare for their retirement due to a lack of benefits available to them. And that is still the case today.

For 25 years, the Jazz Foundation of America has been dedicated to providing emergency assistance to elderly jazz and blues musicians in times of crisis. We now assist in over 5,000 cases a year, nationally.

We work with musicians nationwide, but roughly half of all of the estimated 700 musicians we assist every year reside in the New York area.

Many jazz musicians I have seen lack adequate savings when they reach retirement age, and with modest only a modest income from social security and, more often than not, no pension whatsoever.

A pension plan for those musicians who are working is essential. We also need to come together as a city and realize it is in the best interest of all of us to support and sustain jazz music and jazz musicians. For our children and their children. Poverty is a real problem among jazz musicians. I urge you to support Resolution 207-A.

Testimony of John O'Connor, Recording Vice President of Associated Musicians of Greater New York, American Federation of Musicians, Local 802 before the New York City Council Committee on Cultural Affairs, Libraries and International Intergroup Relations and the Committee on Labor and Civil Service regarding resolution 207A.

Good morning, my name is John O'Connor. I'm the Recording Vice President of Local 802, The New York City musicians' union.

The skilled jazz musicians who work in some of New York's major clubs do not see the same retirement security and other benefits as musicians who play on Broadway and symphony orchestras, and who work under union contracts.

Every year we see jazz musicians who have dedicated their lives to their art fall into poverty. Yet a few hundred dollars a month in pension income could make a world of difference to musicians who are in need in their later years.

Why are pension benefits from the nightclubs so important? These are the venues in which jazz musicians most regularly play. If nightclubs paid pension benefits on a regular basis, musicians who worked regularly in these nightclubs could become vested in the pension fund in as few as 38 months, guaranteeing these musicians when they retire a monthly pension check for the rest of their lives. This would be especially significant because musicians often play cash dates, a situation that results in very little social security.

In 2007, with the support of the nightclubs, the union worked with elected officials to pass legislation at the state level, eliminating the entertainment tax from the nightclubs. However, since that time, not one club, in spite of numerous attempts to communicate by phone and mail, chose to respond to the union's request to talk seriously about the issue of pensions.

The clubs say they are not the employers of musicians. But it is undeniable that the nightclubs are the regular workplace for jazz musicians, just as Broadway is the workplace for pit musicians and the New York Philharmonic is the workplace for their musicians. The fact is the nightclubs are where these musicians work and where fans spend millions of dollars to hear jazz musicians play. And according to our analyses, pension contributions based on a fair minimum scale wage will have little effect on a major club's bottom line.

The fact that musicians who have provided us with one of the world's great art forms have been deprived of a major benefit that musicians working in other fields take for granted is nothing short of a travesty. While we must acknowledge the important role the clubs have made in advancing the art of jazz, we must also recognize that it is the responsibility of those who profit from these musicians to help correct the injustice. The union is eager to work with any nightclub that is willing to do the right thing. We appeal to the City Council to pass Resolution 207A to help these deserving musicians correct this longstanding injustice.

Thank you for calling this hearing and allowing me to testify today on this issue of great importance to jazz musicians in this city.

Clubs and their Intransigence on this Issue

Testimony before the New York City Committee on Cultural Affairs, Libraries, International Intergroup Relations and the Committee on Labor and Civil Service

Gene Perla

Hi I'm Gene Perla, I'm a jazz bassist, sound designer and composer. I also teach the Business of Music at the New School for Jazz and Contemporary Music. Over the years I have performed with scores of prominent musicians all over the world. It's a long list but it includes Woody Herman , Thad Jones/Mel Lewis, Sarah Vaughan, Miles Davis, Nina Simone, Elvin Jones and Sonny Rollins.

- During the last seven years, Justice for Jazz Artists and AFM, Local 802, have reached out to club owners with formal offers of negotiation, in the form of registered letters, on at least seven disparate occasions. Local 802 and Justice for Jazz Musicians have also delivered petitions to jazz clubs, including a petition with over 2,000 signatures of support delivered in September, 2009 to the Blue Note. That petition has since swelled to over 7,000 signatures. Additionally, Justice for Jazz Artists and 802 have placed dozens of phone calls to the clubs over a period of seven years, requesting communication on these issues. Neither the letters, phone calls nor the petitions have resulted in anything substantive in the form of a response from any club, and in the case of the majority of the clubs those calls and letters and petitions have been summarily ignored.
- Musicians and Justice for Jazz Artists supporters have peacefully demonstrated, sometimes at the risk of arrest, in front of the major jazz venues on more than two dozen occasions since September 2009.
- In the fall of 2013, musicians Ron Carter, Christian McBride, Jason Moran, Joe Lovano, Bob Cranshaw, Jimmy Owens and Bill Frisell signed a letter that was mailed to several clubs, asking for an off the record sit down to discuss the issue underlying Justice for Jazz Artists' demands.
- On at least two occasions, once in the fall 2009 and more recently in the spring of 2013, musicians were threatened with loss of work by club owners for participating in Justice for Jazz Artists demonstrations. The fear of reprisals by club owners has kept many musicians who would otherwise support this effort from publicly stating their support.
- To date only club has formally responded to Justice for Jazz Artists, and those talks broke down when the club refused to acknowledge the employer contribution model in place at the pension fund, proposing instead that its patrons voluntarily and randomly contribute to the fund in the form of a suggested donation.
- The reason we are here today seeking a Resolution from the City Council, is because the clubs have left us with no recourse but to take our argument to the public and to our elected officials. I urge each and every one of you to support Resolution 207-A, in order to create a retirement security for the jazz musicians who work these clubs, and to ensure the future of this music. Thank you.

Poverty of Older Jazz Musicians

Testimony before the New York City Committee on Cultural Affairs, Libraries, International Intergroup Relations and the Committee on Labor and Civil Service

Bertha Hope

- My name is Bertha Hope. I am a jazz pianist and educator. I've worked as a leader of my own trio and as a side musician here in New York for many years with such leaders as Jimmy Cobb, Walter Booker, Eddie Henderson, and my late husband, Elmo Hope.
- Over the last decade, we have seen the loss of a number of our jazz luminaries, many of whom lived to ripe old age, though not all in good health or with good care. Musicians such as Hank Jones, Benny Powell, Dr. Billy Taylor, Frank Wess, and Carline Ray, all lived with dignity into their 80s and 90s—and all were collecting a union pension at time of their death.
- However, the vast majority of jazz musicians, even those who have led active careers, and are considered to be in-demand players, have been forced, by the nature of their occupation and its uncertain status in our society, to live a much less secure existence as they have grown older. There are several musicians in this room, who, although they may be too proud to admit it, have very little in the way of resources now that they are at or past retirement age. This means they are either forced to accept charity, or to attempt to continue to work, something that most people in other professions would simply not be asked to do. Unfortunately, for the vast majority of musicians now at retirement age or older, it may be too late for a union pension to do them much good.
- There are musicians that many who are here today have known and played with, who were *not* so lucky to live to retirement age, or to have adequate resources at the end of their lives—at the very least, their final illnesses could have been mitigated or at least treated more humanely had they had access to basic benefits that we all take for granted, such as health insurance or a decent retirement income.
- One such musician was the Brooklyn born drummer Wade Barnes, who was known to hundreds of musicians and thousands of fans in Brooklyn and other NYC boroughs, and to the children of New Orleans, where he often traveled with his big band to do educational workshops. In the winter and early spring of 2012 Wade was suffering from late stage diabetes when, due to his extremely weakened condition, he suffered a massive heart attack while staying at the home of a friend. Wade, who was highly educated and something of a jazz purist, was an extremely proud person. He had no pension or health insurance when he lost his living space in 2012, and was reduced to sleeping in the back rooms of jazz clubs and on friends' couches. He could not afford his diabetes medication, and often went without treatment rather than sit in an emergency room for 6-8 hours waiting to be seen by a doctor. Throughout this period of decline he continued to work incessantly—dedicated as he was to his craft. Wade was a strong advocate for Justice for Jazz Artists. Had there been resources available to him, ones that were tied to all the work he did during his lifetime, he might be here with us today.
- These situations were and are avoidable. Let's find a way to work with the clubs to redirect some of the money brought in admission fees to a union pension fund. It's not that difficult a thing to imagine and it may be even less difficult to implement.

How the Pension Would Work at a NYC Jazz Club

Testimony before the New York City Committee on Cultural Affairs, Libraries, International Intergroup Relations and the Committee on Labor and Civil Service

John Mosca

I'm John Mosca, trombone player, composer, bandleader. I have appeared in numerous ensembles and on many records. For more than thirty years, I have played with the Grammy-nominated Vanguard Jazz Orchestra, formerly the Thad Jones-Mel Lewis Orchestra, and I currently serve as its director. This is my primary workplace in New York City.

- If we use the Village Vanguard as an example of how union pension in a club could work, we can begin with the fact that the Vanguard, along with several other of the clubs on the J4JA list, regularly employs the same musicians on a weekly basis. I lead a big band that has been performing every week at the Village Vanguard. The band has been there every Monday night since 1966. This is our place of business.
- The Vanguard Jazz Orchestra has 16 players. Based on the union's estimate, pension for that band would cost the club about \$400 a week for the whole band, or \$20,000 a year. That's about \$1,200 annually for each musician. That's not a lot, but it is a significant step towards building a pension or augmenting an existing pension.
- The gross annual income for the Village Vanguard, operating at 50% capacity, is roughly \$1.2 million dollars. It is most likely significantly higher than that. They can afford this.
- Other Musicians, who work in small groups, who come to work at the Vanguard for six night runs, Tuesday-Saturday nights, would receive pension contributions every time they appear at the club.
- In order to secure a pension, one needs to vest in the plan. It takes five years to vest. With the J4JA plan in place at a club like the Vanguard, a musician can vest after just 10 week long appearances over five years. The big band musicians, because of their weekly appearances, will definitely vest in the plan. This plan can and will work.
- Final Statement: I would just like to re-iterate that this plan would help a lot of people who work at the Vanguard and other jazz clubs, and that the jazz musicians sorely need it. The clubs are our workspaces, and we should get benefits that other workers get on the job. I strongly urge you to support Resolution 207-A. Thank you.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207A

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jimmy SWENS

Address: 140 FIFTH Avenue #8A

I represent: Local 802

Address: 322 W. 48th St.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207A

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Tom Weeks

Address: 30 Ocean Parkway 6F

I represent: AFM, Local 802

Address: 322 W. 48th NYC 10036

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207A

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jimmy Cobb

Address: 2289 FIFTH Avenue, NYC 8P

I represent: SELF

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207-A

in favor in opposition

Date: 9/17/18

(PLEASE PRINT)

Name: Alexander Gleason

Address: 275 7th Ave, 18th floor

I represent: New York City Central Labor Council, AFL-CIO

Address: 275 7th Ave, 18th floor

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207 A

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: JOHN O'CONNOR

Address: 13 DEAN ST BKN 11201

I represent: AFM LOCAL 802

Address: 322 W 48TH NYC 10036

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. yes Res. No. 207-A

in favor in opposition

Date: Sept 17, 2014

(PLEASE PRINT)

Name: Bob CRANSHAW

Address: 165 WEST END AVE

I represent: LOCAL 802 # MUSICIAN

Address: 322 W. 48TH ST NYC

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207-A

in favor in opposition

Date: 9/17/14

Name: John Masca (PLEASE PRINT)

Address: 310 W. 97th St #6C

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Bertha Hooper (PLEASE PRINT)

Address: 100 West 93 St

I represent: Local 802, AFM

Address: 322 W 48th St NYC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/17/14

Name: Andrew Lamb (PLEASE PRINT)

Address: 115-19 134 St So Zone PK

I represent: Local 802 Sustaining Member

Address: Local 802

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207A
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: GENE PERLA

Address: 134 PARKER AV, EASTON, PA 18042

I represent: JUSTICE FOR JAZZ ARTISTS, LOCAL 802 AEM

Address: NEW YORK CITY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 207A
 in favor in opposition

Date: Sept. 17, 2014

(PLEASE PRINT)

Name: Keisha St. JOAN

Address: 440 St John's Place, Bklyn 11238

I represent: APM Local 802

Address: 322 W. 48th Street

Please complete this card and return to the Sergeant-at-Arms