

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES, AND  
INTERNATIONAL INTERGROUP RELATIONS JOINTLY WITH THE  
COMMITTEE ON CIVIL SERVICE AND LABOR

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September 17, 2014

Start: 10:12 a.m.

Recess: 11:55 a.m.

HELD AT: Committee Room - City Hall

B E F O R E:

JAMES G. VAN BRAMER  
Chairperson

I. Daneek Miller  
Chairperson

COUNCIL MEMBERS:

ANDY L. KING  
COSTA G. CONSTANTINIDES  
ELIZABETH S. CROWLEY  
HELEN K. ROSENTHAL  
JULISSA FERRERAS  
LAURIE A. CUMBO  
PETER A. KOO  
STEPHEN T. LEVIN  
DANIEL DROMM  
ROBERT E. CORNEGY, JR.

2 [gavel]

3 CHAIRPERSON VAN BRAMER: Good morning

4 everyone. And welcome to... [gavel] this joint  
5 hearing of the Committee on Cultural Affairs,  
6 Libraries, International Intergroup Relations and  
7 the Committee on Civil Service and Labor. My name  
8 is Jimmy Van Bramer and I'm proud to be the chair  
9 of the Cultural Affairs Committee. And thrilled to  
10 be joined here this morning by our amazing chair,  
11 my colleague and friend Council Member Daneek  
12 Miller who is chair on the Committee on Civil  
13 Service and Labor. I want to recognize Council  
14 Member Peter Koo also from Queens who has joined us  
15 here. And I know many other council members  
16 including Corey Johnson who's a co-prime sponsor of  
17 this resolution will be here today. First a little  
18 housekeeping if you would allow. We are joined  
19 today by our new counsel to the Committee on  
20 Cultural Affairs. This is her very first hearing in  
21 her career as the Council. So please join me in  
22 welcoming Amita Kelowna [sp?] who is here to my  
23 left for her first hearing as a counsel. Today the  
24 committees are going to hear testimony and discuss  
25 resolution 207. A resolution in support of the  
Justice for Jazz Artist Campaign which seeks

2 through collective bargaining to improve the lives  
3 of musicians working in New York City's jazz clubs  
4 by addressing workplace issues including providing  
5 retirement security. And as the son of union  
6 parents who are themselves the recipients of  
7 pensions I can say that I believe very much in  
8 pensions for workers. New York City is the  
9 preeminent international destination to experience  
10 culture in the arts. New York City's cultural  
11 sector plays a vital role in supporting the city's  
12 economy. However like many New Yorkers artists of  
13 all disciplines are faced with a myriad of economic  
14 challenges including the lack of affordable  
15 housing, workspace, and healthcare. New York City  
16 has also long been an international jazz mecha to  
17 which music lovers from around the world travel in  
18 order to experience legendary venues such as the  
19 Blue Note, Birdland, the Jazz Standard, Nerium, and  
20 Dizzy's Club Coca-Cola as well as the Village Van  
21 Guard. And just speaking with Chair here, Daneek  
22 Miller he is known to haunt some of those places as  
23 well. While musicians who play on Broadway and in  
24 Symphony Orchestras are protected by union  
25 contracts the skilled jazz musicians who work in

3 major New York City venues have no guarantee of  
4 fair payment, receive no pension, health  
5 contributions, or state statutory benefits like  
6 worker's comp, unemployment, or disability  
7 insurance and often retire in poverty. In night  
8 clubs all over the city musicians are expected to  
9 work for whatever ends up in the tip jar at the end  
10 of the night and many are not guaranteed pay at  
11 all. The Justice for Jazz Artist Campaign launched  
12 by the associated musicians of greater New York,  
13 local 802 of the American Federation of Musicians  
14 advocates for basic economic security for musicians  
15 who are not adequately compensated for their work.  
16 Justice for Jazz Artists seeks fair pay, adequate  
17 pension contributions, protection of recording  
18 rights, and a process for addressing grievances.  
19 Justice for Jazz Artists also proposes establishing  
20 a minimum wage for all musicians who work in  
21 business establishments such as night clubs and  
22 restaurants. Today's hearing is of utmost  
23 importance because all workers, including jazz  
24 musicians should not be denied their rights as  
25 employees or artists. Their hard work contributes,  
contributes to enriching lives of New Yorkers and

2 stimulating our city's economy. I'd also like to  
3 thank Tanya Cyrus [sp?], our policy analyst and  
4 again Amita Kelowna my counsel for their work  
5 preparing this hearing. I'd now like to turn it  
6 over to council member and our co-chair for this  
7 hearing Daneek Miller who is chair of the Committee  
8 on Civil Service and Labor for his opening  
9 statement.

10 CHAIRPERSON MILLER: Good morning. And  
11 thank you Chairman Van Bramer for sponsoring this  
12 important resolution. As chair of Civil Service and  
13 Labor I'm very happy to be a part of this hearing  
14 today. During my 10 year at council thus far this  
15 committee has served as a powerful tool to shed  
16 light on sections of workforce that are often  
17 overlooked. Some of the hardest working people in  
18 the city of New York work for low wages, sometimes  
19 below minimum wage pay receiving little to no  
20 benefits under bad working conditions. We've  
21 learned as much from airport workers, car wash  
22 workers, and even the non-fiction television  
23 writers. Their job titles may be different but  
24 their suffering of them and their families and the,  
25 the suffering that they have endured are very much

2 similar. Today's proposed resolution 207A seeks to  
3 shine light on similarly situated groups, New York  
4 City musicians who practice jazz, a unique American  
5 past time. Report struggling with low wages, having  
6 few benefits, and lacking the.. of security. Unlike  
7 their counterparts in symphony orchestras or  
8 theatre industry these workers have you, these  
9 workers have unions which are able to collectively  
10 bargain with their employers for living wages,  
11 benefits, and good working conditions. As Council  
12 Member Van Bramer said this hearing is regarding  
13 resolution in support of these jazz musicians, that  
14 they can receive salary, benefits equal to that of  
15 unionized workers working to, in other parts of the  
16 industries. Before we begin I'd like to acknowledge  
17 that we've been joined by Council Member Rosenthal  
18 and a prime sponsor of this Legislation Council  
19 Member Johnson. I'd also like to recognize and  
20 thank the council chair, I'm sorry the council, the  
21 council's counsel, the committee's counsel Matt  
22 Carlin [sp?]. And we have a new policy analyst  
23 Goffer [sp?] is always, is always in the corner  
24 somewhere and working on his numbers. Thank you so

25

2 much. So with that I, I, I thank you chair for  
3 hosting this hearing and I, we're ready to begin.

4 CHAIRPERSON VAN BRAMER: So we want to  
5 call up the first panel. I do want to acknowledge  
6 that Council Member Johnson who along with myself  
7 is a, a prime co-sponsor of this resolution and who  
8 I know believes and cares passionately about this  
9 issue. So I want to recognize Council Member  
10 Johnson's contributions to this effort. We'd like  
11 to hear the first panel. And I want to say we're  
12 thrilled today by the fact that we're joined by  
13 some terrific and legendary jazz musicians in their  
14 own right. And we're going to hear from some of  
15 those folks today. That's a big treat for us. And  
16 local 802 has been a driving force behind this so  
17 we're going to call up the first panel. There are  
18 going to be three or four panels. John O'Conner  
19 from Local 802, Jimmy Cobb [sp?] if you will join  
20 us as well, and Keisha St. Joan [sp?], if the first  
21 three members would join us at the panel here that  
22 would be great. John whenever you're ready to start  
23 then we'll go to your right.

24 JOHN O'CONNER: Oh excuse me. Good  
25 morning my name is John O'Conner. I'm the recording

3 vice president of Local 802, the New York City's  
4 Musicians Union. The skilled jazz musicians who  
5 work in some of New York's major clubs do not see  
6 the same retirement security and other benefits as  
7 musicians who play on Broadway and symphony  
8 orchestras and who work under union contract. Every  
9 year we see jazz musicians who have dedicated their  
10 lives to their art fall into poverty. Yet a few  
11 hundred dollars a month in penchant income can make  
12 a world of difference to musicians who are in need  
13 in their later years. Why are penchant benefits  
14 from the night clubs so important. These are the  
15 venues in which jazz musicians most regularly play.  
16 If the nightclubs paid penchant benefits on a  
17 regular basis musicians who worked regularly in  
18 these night clubs could become vested in the  
19 penchant fund in as few as 38 months guaranteeing  
20 these musicians when they require a monthly  
21 penchant check for the rest of their lives. This  
22 would be especially significant because musicians  
23 often play cash stakes, a situation that results in  
24 very little social security. In 2007 with the  
25 support of the night clubs... work with elected  
officials to pass legislation at the state level



2 eliminating the entertainment tax from the  
3 nightclubs. However since that time not one club in  
4 spite of numerous attempts to communicate by phone  
5 and mail chose to respond to the union's request to  
6 talk seriously about penchants. The clubs say they  
7 are not the employers of musicians. But it is  
8 undeniable that the night clubs are the regular  
9 work place for jazz musicians just as Broadway is a  
10 workplace for... musicians and the New York fill is a  
11 workplace for their musicians. The fact is the  
12 night clubs are where these musicians work and  
13 where fans spend millions of dollars to hear jazz  
14 musicians play. And according to our analysis  
15 pension contributions based on a fair minimum scale  
16 wage will have little effect on major clubs bottom  
17 line. The fact that musicians who have provided us  
18 with one of the world's great art forms have been  
19 deprived of a major benefit that musicians working  
20 in other fields take for granted is nothing short  
21 of a travesty. While we must acknowledge the  
22 important role that clubs have made in advancing  
23 the art of jazz. We must also recognize that it is  
24 the responsibility of those who profit from these  
25 musicians to help correct the injustice. The union

2 is eager to work with any night club that is  
3 willing to do the right thing. We appealed to the  
4 city council to pass resolution 27A to help these  
5 deserving musicians correct this longstanding  
6 injustice. Thank you for calling this hearing and  
7 allowing me to testify today on this issue of great  
8 importance to jazz musicians in the city.

9 CHAIRPERSON VAN BRAMER: thank you. Ms.  
10 St. Joan?

11 KEISHA ST. JOAN: Good morning. At the  
12 age of three I became aware that I could sing. By  
13 the time I was five I knew what I was going to sing  
14 and that was opera. And by the age of 12 I started  
15 my vocal lessons. And I was accepted into the  
16 Manhattan School of Music. At 17 I started  
17 professionally singing with the Harlem Opera Group  
18 led by Charles Wood. And my rolls were Leading Lady  
19 Margarita in Faust, Micaela [sp?] in Labarane  
20 [sp?], and Mimi [sp?], I'm sorry Micaela in, in  
21 Common in Mimi in Labarane. I finally became  
22 acquainted with Jazz for the first time when I was  
23 16 but of course I couldn't change my career in  
24 midway. So I moved to Philadelphia and really  
25 became interested because of a jazz club that was

3 around the corner from my home. So in 1958 at the  
4 age of 19 and a half I was hired by Charlie Witson  
5 [sp?], leader of a jazz group which he renamed  
6 three guys and a doll. Of course I had to keep  
7 telling the audience that I was the doll. And so I  
8 was being paid 50 dollars a night in 1959. So now  
9 here it is in 2014 and jazz musicians are still  
10 being paid 50 dollars a night. And I understand  
11 that somewhere in the village people are being paid  
12 five dollars an hour with a meal and I have to add  
13 this, they must tip the waiter. So now I also want  
14 to state that at 17 and a half I started another  
15 career with the federal government, with the  
16 Department of the Army and at 35 years old I  
17 resigned from Drug Enforcement Administration  
18 Department of Defense to pursue my career in music.  
19 I knew that I was going to need money to care for  
20 my daughter Jewel and myself. So I asked them to  
21 give me the money I had accrued for the 19 years of  
22 my labor with the federal government. They gave me  
23 exactly 19 hundred dollars for the 19 years that I  
24 worked. So in 2004 I became the assistant to the  
25 Brooklyn Board of Elections, chief of the Brooklyn  
Board of Elections' Diane Rudiano [sp?]. She called

3 to Washington and she asked if I could buy my time  
4 back and would I be able to receive a pension at  
5 65. They denied me. So here I am now at 75 years  
6 old with no pension. And so I keep promising that  
7 I'm closer to leaving here than I am to staying  
8 here now. And if we, if we don't get our pensions I  
9 promise to come back and haunt every one... So I know  
10 that if I had remained in the classical field I  
11 would have a pension by now. And also I, I think  
12 that because the black musician who has moved into  
13 the classical field can receive a pension why can't  
14 there be assuery [sic] that the different  
15 nationalities of people who has claimed the art of  
16 jazz also be secured in receiving a pension as they  
17 get older. Because jazz is considered the national  
18 treasure of America. There should be a greater  
19 concern for each musician who has paid a dear price  
20 to learn his or her own craft. We should be  
21 considered as highly as doctors who heals the soul,  
22 the mind, the body of each individual, who crowd  
23 the jazz clubs whether in the United States,  
24 Europe, Asia, and now even including India. We  
25 should demand the just rewards of receiving a  
pension in their older age and stop the cruelty of

3 adding stress which causes them to die early. And I  
4 ask you please, please to support the resolution  
5 207A. And I thank you so much.

6 CHAIRPERSON VAN BRAMER: Thank you very  
7 much Ms. St. Joan. And while we take the  
8 perspective haunting seriously I'm sure you'll be  
9 with us for a very long time and we indeed agree  
10 with everything you just said and so eloquently.  
11 And so thank you so much. And now Mr. Cobb a, yes,  
12 before we hear from the living legend himself I  
13 want to recognize we've been joined by Council  
14 Member Danny Dromm from Queens and Council Member  
15 Laurie Cumbo from Brooklyn. So now it's a distinct  
16 and privilege to have Mr. Jimmy Cobb testify.

17 JIMMY COBB: Okay. Hello I'm Jimmy Cobb  
18 and I'm here to support... intending to do because I  
19 agree with the whole situation. And I came to New  
20 York in about 1950 and I've been here this long. I,  
21 I've probably been in the union 50 years 60 years  
22 or something like that and I've been through  
23 everything that people go through as a jazz  
24 musician like you know, like everything's, like you  
25 work in the club and have... little pass... of clubs.  
I've been through that. And I've been through a

3 whole lot of other things. I've been through Mr.  
4 Rome coming on, I don't know if anybody knows Mr.  
5 Rome. Mr. Rome was a, was a delegate.. just walk  
6 around and see if anybody had their union cards. If  
7 you didn't he would.. and, and you couldn't play no  
8 more until you got, you know you got paid in the  
9 union. But I went through all of that. See I'm here  
10 to.. whatever is, is going to happen with this, I  
11 would, I would really like to see happen because  
12 it's, it's overdue. And I decided to play when I  
13 was like 14 years old or something in Washington  
14 D.C. And I stayed there until I was 21 years old.  
15 When I was 21 years old I came here. You know I've  
16 been here ever sense. So I'm, I had been adhering  
17 to all the laws that you know happens with the  
18 union and all that. So I'm kind of hoping that it  
19 gets better. Thank you.

20 CHAIRPERSON VAN BRAMER: Thank you very  
21 much to all of you for your testimony. I want to  
22 recognize we've been joined by Council Member  
23 Cornegy from Brooklyn. And if members of the  
24 committees have questions feel free to let us know  
25 and we will take them. But I want to ask you John  
what are the discussions, negotiations like with

2 some of the owners of this club since the state law  
3 passed and you said in your testimony that none of  
4 them had really come to the table and offered the  
5 benefits that they should have. So maybe you can  
6 update us on some of those discussions,  
7 negotiation?

8 JOHN O'CONNOR: Well we've attempted  
9 several ways of reaching out to the clubs to try to  
10 get response from them. We've sent registered  
11 letters. We've sent letters without the registered  
12 return. We've made phone calls. We have talked to,  
13 informally on the streets because we have  
14 demonstrated in, in front of some of the clubs that  
15 there's never been, and we have always said to the  
16 representatives of the clubs that we've seen that  
17 we just want to sit down and be able to have a  
18 discussion to see if we could find our way through  
19 this. Again the, the owners of the club have never  
20 spoken directly to us. Three of the night clubs did  
21 meet with Jerry Nadler [sp?] who spoke on our  
22 behalf. And that was the Dizzy's Coca-Cola which is  
23 affiliated with jazz at Lincoln Center, the Blue  
24 Note, the Vansuzen [sp?] family at the Blue Note  
25 and the Jazz Standard which is owned by Danny

2 Meyer. And we, again none of these clubs agreed.  
3 They told Mr. Nadler that they would not speak to  
4 the union on these issues. So that was our you know  
5 last sort of conversation because we are, again we  
6 haven't spoken directly to them. And we can only  
7 speculate as to why that is. Again we understand  
8 that the clubs say they're not the employers and  
9 we, we feel that the only real way to get these  
10 pension contributions made have to be done at the  
11 place where the money is received from the patrons  
12 that it, that there's no other clear way of making  
13 this happen. And we're, you know we're happy to, if  
14 we can have those discussions with the clubs we're  
15 happy to work with them to find the best way to do  
16 that.

17 CHAIRPERSON VAN BRAMER: Thank you. And  
18 in terms of the economics of this you know I for  
19 one believe very much that this is about justice  
20 for the jazz musicians and artists. But some would  
21 argue that this could be too costly for the club.  
22 So I was wondering if you could speak to that  
23 issue. Chair Miller and I were talking before and  
24 from the experience of being at some of these clubs  
25 they're doing very well, packed houses, charging a



2 premium for the privilege of seeing the talent. So  
3 maybe you can talk a little bit about the economics  
4 of this and, and what you think makes it work.

5 JOHN O'CONNOR: Well we've crunched the  
6 numbers on this. We've gone to almost every one of  
7 the six clubs that we've looked at and you know  
8 most nights when they have celebrity artists come,  
9 jazz artists you know they have almost full houses  
10 if not you know overflowing houses. So we know that  
11 the, the clubs are full. They're charging hefty  
12 admission prices. We, again we're not, we're not in  
13 discussion with the clubs so we can't say what  
14 this, this would cost because that would be a  
15 matter of negotiations. So we take, we've, but  
16 we've taken a number so we can spin out a scenario  
17 and.. the, the number that we use just for our own  
18 ways of doing some calculations is a 200 dollar  
19 minimum scale wage which would be, and then a ten  
20 percent or 11 percent pension based on the 200  
21 dollar scale wage would mean about 22 dollars per  
22 musician who plays in the club. And the, you know  
23 what, what we'd like to say is that's to give one  
24 contribution for a musician would be less than the  
25 price of two drinks in one of those clubs. So we

3 really see this as very... kind of financings. We  
4 also have talked to audiences. Audiences say they  
5 would be glad to spend, you know spend more money  
6 at the door to make sure that musicians are paid  
7 fairly. So you know clubs raising their prices a  
8 few bucks would not impact the audiences. So we  
9 don't really see a clear economic argument against  
10 this.

11 CHAIRPERSON VAN BRAMER: Thank you for  
12 addressing that issue. And I want to say to Ms. St.  
13 Joan and Mr. Cobb if what we all know is true that  
14 jazz is America's national treasure then you both  
15 are also national treasures and we value national  
16 treasures. And this is what this is all about is  
17 making sure that all of the musicians are paid  
18 appropriately, valued, appreciated, and can retire  
19 in dignity which every worker should have that  
20 right. And, and you all have brought so much joy to  
21 so many people for decades and decades. And so are  
22 the others who will testify and the least we can do  
23 is make sure that you retire in dignity and pass  
24 this resolution. I know we have a number of council  
25 members who have questions. I want to pass it to my  
Co-Chair Daneek Miller for his questions as well.

3 CHAIRPERSON MILLER: Okay. Thank you Mr.  
4 Chair. So John I have a few questions for you in,  
5 in terms of the negotiations or lack thereof as  
6 pertains to these six establishments. But I want to  
7 digress and then we'll go back to work. Chair Van  
8 Bramer mentioned the incentives in the 2007  
9 agreement through, with the state of New York  
10 specifically was there any preconditions based on  
11 the, was those incentives based on any  
12 preconditions as it pertained to the musicians and  
13 artists.

14 JOHN O'CONNOR: The attempt to get  
15 legislation passed back in 2006 and 2007 as I  
16 understand it this was previous administration. My  
17 understanding is that they had hoped to have  
18 legislation passed at the state level that would  
19 give tax relief to the night clubs that eliminate  
20 the tax. And they would find some legislative way  
21 of making that, those funds, the tax funds go into  
22 the musician's pension fund on behalf of the  
23 musicians. In the end we found out that that wasn't  
24 possible that the legislation would have... only as  
25 an elimination of the tax so that's, that was the  
outcome. We had a, there were a number of three or

2 four night clubs that did support passing the bill  
3 that would eliminate the tax. Are the, to your  
4 knowledge are the, do any of these establishments  
5 receive any other subsidies?

6 JOHN O'CONNOR: I don't know. Not, I  
7 don't think so.

8 CHAIRPERSON MILLER: Okay so, so this is  
9 basically just based on what we, what you have seen  
10 on the door currently. And aside from any  
11 government or any other agency assistance that in  
12 your opinion they could afford to participate in,  
13 in, in a program which, which compensates in this  
14 case musicians in an appropriate manner.

15 JOHN O'CONNOR: I'm, I'm... [cross-talk]

16 CHAIRPERSON MILLER: So, so it's your  
17 opinion that what they take in without subsidies is  
18 sufficient in, in compensating the musicians in an  
19 appropriate manner.

20 JOHN O'CONNOR: Yes that's what we  
21 believe.

22 CHAIRPERSON MILLER: Okay. So in terms  
23 of the pension piece has there been any actuality  
24 over what, what the cost would be on this, what  
25 what the cost would be on the pensions.

2 JOHN O'CONNOR: Again that would be,  
3 that would really be a result of negotiations..  
4 [cross-talk] So we have only been able to spin out  
5 certain scenarios of what it would cost. And again  
6 it would be, we think not more than 20 dollars per  
7 musician per night which you know if you have a  
8 quintet you can see it's not a lot of money for an  
9 evening where there are you know thousands and  
10 thousand of dollars coming through the door from  
11 admission costs.

12 CHAIRPERSON MILLER: And many of it mine  
13 so. So I, I see that you've done your due diligence  
14 and in terms of actual negotiating, negotiation  
15 sessions you said there've been none or.. [cross-  
16 talk] And have they bargained with 802 in, in, in a  
17 good faith bargaining sessions with 802 in terms of  
18 compensation, benefit package, wage package..  
19 [cross-talk]

20 JOHN O'CONNOR: Not with the night  
21 clubs.

22 CHAIRPERSON MILER: Have you requested  
23 such sessions or hearings to, to exist?

24 JOHN O'CONNOR: Yes, numerous times.

25

3 CHAIRPERSON MILLER: And, and they are  
4 refusing. If you could, if you could provide the  
5 committee with, with those letters of request to  
6 sit down we'd be greatly appreciative.

7 JOHN O'CONNOR: We'd be happy to do  
8 that.

9 CHAIRPERSON MILLER: Okay, thank you so  
10 much. So to the legends and we thank you both for,  
11 for being here this morning. It's an honor and  
12 privilege to have you here. When you play anyone of  
13 these six venues are you... Mr. Cobb you belong to  
14 the union of course are you paid union scaled when  
15 you play any of these venues? When, when you play  
16 one of the six venues that's, that was mentioned in  
17 the earlier testimony are you paid according to  
18 union scale or union contract or you negotiate  
19 something separate or are they... [cross-talk]

20 JIMMY COBB: I don't know. Most of the  
21 time it's negotiable.

22 CHAIRPERSON MILLER: For you?

23 JIMMY COBB: Yeah.

24 CHAIRPERSON MILLER: Any other union to  
25 your knowledge any other card carrying members that

1

2 play these venues are they paid scale or is that  
3 negotiable as well?

4

JIMMY COBB: I don't know if I'm quite  
5 understanding what you're saying. Say that again  
6 please.

7

CHAIRPERSON MILLER: So is there a set  
8 sale, set scale according to the union collective  
9 bargaining agreement or is it, not just in pay in  
10 terms of benefit package or whatever else that you  
11 would receive by performing at any venue that you  
12 do or don't receive by performing at these six  
13 venues here?

14

JIMMY COBB: Well I, I, I kind of hope  
15 that as long as I've... set scales right?

16

CHAIRPERSON MILLER: Yeah, yeah of  
17 course.

18

JIMMY COBB: So I, I negotiate with,  
19 with the club owner when I get there you know so  
20 that's basically how it happens with, for me. But I  
21 imagine there are some people that have, that deal  
22 with the union scale. I... in a minute

23

CHAIRPERSON MILLER: Okay. Is there any,  
24 a portion of the benefit package that they're  
25 responsible for as well... [cross-talk] union. Okay

3 so... that's it thank you, thank you so much for your  
4 testimony.

5 CHAIRPERSON VAN BRAMER: I want to...  
6 [cross-talk]

7 CHAIRPERSON MILLER: Turn it over to  
8 Chair Van Bramer.

9 CHAIRPERSON VAN BRAMER: Recognize we've  
10 been joined by Council Member Steve Levin Brooklyn  
11 and Elizabeth Crowley of Queens. And the, we'll  
12 turn it over to Council Member Johnson for  
13 questions.

14 COUNCIL MEMBER JOHNSON: Thank you Chair  
15 Van Bramer and thank you Chair Miller for holding  
16 this hearing today on this very important topic. I  
17 want to thank the folks that are with us who have  
18 testified; John O'Connor who is vice president of  
19 802, is a constituent, lives at the... on the  
20 Westside Manhattan Plaza which I believe has  
21 allowed many musicians to make their living and  
22 have an adequate and affordable place to live on  
23 the west side. I am proud to be a prime sponsor of  
24 this resolution today. I'm proud that Local 802 is  
25 located in my district. And what I'm not proud of  
is that a good number of these jazz clubs that have



3 refused to negotiate and refuse to compensate the  
4 musicians fairly are located in my district. ...three  
5 of the six I think are located in the district;  
6 Birdland, Village Van Guard, and Dizzy's I think  
7 are all located in my district. Today this  
8 resolution is about saying that if you work  
9 regardless of what the work is and you put in your  
10 time you just, you deserve to be compensated fairly  
11 and adequately. You deserve to be able to retire  
12 with dignity. You deserve to not have to worry  
13 about going bankrupt or needing government support  
14 if you have a health problem. This is about saying  
15 that musicians who live and work in New York City  
16 and perform at these very famed venues deserve to  
17 be treated with dignity and deserve to be  
18 compensated fairly. We just went through Local 802...  
19 just went through really difficult negotiations  
20 with the... and in the end there was some compromise  
21 and negotiation. It wasn't a perfect deal but at  
22 the end of the day they're great musicians and  
23 singers and artists that work at the mat now are  
24 going to have some surety and sense of what their  
25 pay is going to be, what their pension contribution  
is going to be, what their healthcare coverage is

2 going to be, and it should be the same exact way  
3 for jazz musicians. There should be a similar  
4 process of negotiation that should happen. And  
5 folks that are performing in these clubs should not  
6 have to be 75 years old and not have a retirement  
7 package or a pension plan. There are stories I know  
8 of very famed jazz musicians who have become  
9 destitute and who cannot support themselves in any  
10 way after a long and storied career. It is  
11 shameful. And the folks that are running these  
12 clubs have the ability to both pay musicians fairly  
13 and make a pension contribution, as well as sit  
14 down and listen to musicians and let their  
15 experiences... what they need. So today I am proud to  
16 co-sponsor this resolution. I'm proud to stand with  
17 you all to continue this fight moving forward. I  
18 don't have any questions. I think that Chair Van  
19 Bramer and Chair Miller really cover it. But I  
20 wanted to be here this morning to continue to say  
21 that this city council over the past eight and a  
22 half months in my time here has always stood on the  
23 side of working people, working families, and  
24 trying to level the playing field. Every committee,  
25 every vote we've taken has been in that vein. And I

3 know that the support that hopefully will take  
4 place for this resolution will continue... towards  
5 support, supporting working men and women artists  
6 and musicians in New York City and I'm proud to  
7 stand with you and I'm proud to stand with you and  
8 continue that fight. Thank you for being here today  
9 and thank you for... forward to be supportive of this  
10 great effort. Thank you.

11 CHAIRPERSON VAN BRAMER: thank you very  
12 much Council Member Johnson for your continued  
13 leadership on the, this effort. And Council Member  
14 Rosenthal would you like to ask... it is actually.  
15 Perfect timing Council Member Rosenthal.

16 COUNCIL MEMBER ROSENTHAL: Thank you for  
17 bringing the issue to the council's attention and  
18 chairs thank you so much for your leadership. I'm  
19 bringing this resolution in front of us. In the  
20 interest of exploring the ideas that you pursued  
21 with Congressman Nadler and working with the state  
22 and I'm wondering if, I'm very interested by this,  
23 I'm so glad you're here, I'm so glad you're here  
24 trying to right a wrong. I'm wondering if you spoke  
25 with the businesses that you mentioned and with the  
state about other ideas and if you got a sense if

2 they might be flexible to other things. I like the  
3 idea of tax credits to the businesses that  
4 participate in a pension program. I'm wondering if  
5 maybe they would consider contributions to personal  
6 IRAs. If any other ideas we'll explore and you know  
7 if we could be helpful in pushing for other ideas  
8 to be explored.

9 JOHN O'CONNER: Well again the  
10 nightclubs refused to talk to us about anything.  
11 They don't talk to us and will not return our phone  
12 calls. They will not, they do not acknowledge our  
13 mail so no alternatives have been talked about  
14 because there's been no discussion. I would like to  
15 point out in response to your, you know the idea of  
16 setting up IRAs and so on that it's important to  
17 understand that the AFMEPF which is the music.. the  
18 pension fund that is connected with the musician's  
19 union is a robust pension fund even after all the  
20 trouble that pension funds have been in that it is  
21 a secure fund that's been around since 1959. And  
22 it's, it's a tool that we can use, it's a variable  
23 tool, and it's a very good tool. And the, the  
24 problem is that we just need to link it from.. it  
25 has to be employer contributions to make it work.

2 And so the problem is we just need to link it. And  
3 once it's linked you're going to have a fund unlike  
4 IRAs or a, a 401K you're going to have a fund that  
5 guarantees... it, it's a guaranteed benefit which  
6 means that once somebody starts collecting that  
7 pension it's guaranteed for the rest of their life,  
8 it doesn't run out.

9 COUNCIL MEMBER ROSENTHAL: Thank...  
10 [cross-talk] it was my lack of understanding of  
11 that... [cross-talk]

12 JOHN O'CONNOR: Mm-hmm.

13 COUNCIL MEMBER ROSENTHAL: And so the  
14 state is saying, when you explained the ideas of  
15 the tax rebates to employers that would contribute  
16 to the pension fund that's just not technically  
17 possible or... [cross-talk]

18 JOHN O'CONNOR: My understanding, this  
19 was a, was passed under the Pataki Administration  
20 and my understanding, there really is no written  
21 record of this, but my understanding is that it  
22 was, that the bill was passed only to eliminate the  
23 tax because it was not, the opinion was that that  
24 it was not legally possible to...

25 COUNCIL MEMBER ROSENTHAL: Link it.

3 JOHN O'CONNOR: ...to link it to the  
4 pension fund because they have to be employer  
5 contributions. Now, so this was a, it wasn't a tax  
6 abatement, it was, it was tax relief. There wasn't  
7 sales tax, there were sales tax on admissions. So  
8 audiences, customers no longer have to pay that  
9 sales tax. And in one case as we understand it  
10 there's one night club that included the sales tax  
11 in their admission price. And when the relief came  
12 they still continued to charge that price. So they  
13 are the one club that it actually made financial  
14 gains from the tax, from that tax waiver. All the  
15 other clubs the tax was put on the bill at the end  
16 of the evening so the customer paid the tax.

17 COUNCIL MEMBER ROSENTHAL: Right, and  
18 not necessarily part of the admission... [cross-talk]

19 JOHN O'CONNOR: Right.

20 COUNCIL MEMBER ROSENTHAL: ...piece.

21 JOHN O' CONNOR: Right.

22 COUNCIL MEMBER ROSENTHAL: Is it, have  
23 we explored... apologize we could talk about this  
24 offline but the possibility of it as de minimis as  
25 this is there being just a city component where we  
would you know ramp up enforcement to make sure

3 that the taxes were being paid on the admission  
4 price. And then you know with oversight require  
5 that it's such a de minimis amount of money so it's  
6 painful to talk about but require that the city  
7 component of the tax be directed by the employer to  
8 the pension fund with the incentive... I mean if it's  
9 a, with enforcement requirements, so that you know  
10 it's not a matter of bringing the stores to the  
11 table, it's an enforcement issue of the tax, the  
12 city you know sales tax component. It just might be  
13 worth exploring. I'd be happy to think about this  
14 more. I'm glad you're here talking about it.

14 JOHN O'CONNOR: Right. Well I can't, you  
15 know I can't speak as to what is legally possible.  
16 I understand that the, the elimination of the tax  
17 was a state matter and not a city matter but that's  
18 not my expertise. I think any attempt by the city  
19 council to try to do anything would help shed light  
20 on the issue and that, that's what's important to  
21 this, this cause is to have, and we really  
22 appreciate this hearing, we appreciate the sponsors  
23 of this bill, considering it because it does shed  
24 light on this really important issue. It's a, it's

25

2 such an example of an injustice that really we  
3 don't think would take much to correct.

4 COUNCIL MEMBER ROSENTHAL: Yeah we have  
5 more support. Thank you to the chairs.

6 CHAIRPERSON VAN BRAMER: Thank you very  
7 much Council Member Rosenthal. Thoughtful and  
8 important contributions as always. I want to say a  
9 couple of things John. The fact that the clubs will  
10 not even talk is absolutely unacceptable. That's  
11 outrageous because there are no jazz clubs without  
12 jazz musicians and artists and the legends that are  
13 here today in this room. And we've demonstrated in  
14 this city that businesses can both make money and  
15 treat their workers well, pay them well, and make  
16 sure they retire in dignity, that works. That  
17 happens. And that needs to happen here. So I just  
18 want to say those, those things. Obviously you have  
19 quite a lot of support here. We have a three more  
20 Council Members for this panel and then I want  
21 everyone to know we have a number of other legends  
22 in the room who are going to be testifying as well.  
23 So we want to allow them as well. But first we'll  
24 hear from Council Member Cumbo, Council Member  
25 Cornegy, and Council Member Levin.



2 COUNCIL MEMBER CUMBO: Good afternoon.

3 Thank you so much for coming. Thank you to our  
4 chairs. I'm just very excited that you all have  
5 taken the leadership in terms of bringing this to  
6 the forefront, to all of us. But I've worked.. for a  
7 number of years and one of the things that I notice  
8 is that anytime something is being done people will  
9 say alright we've got to, we got to go buy the  
10 liquor, we've got to go buy the food, we've got to  
11 go get the caterer, let's see if we can get a  
12 photographer to do it for free, and let's see if we  
13 can get a musician to volunteer. And that, and that  
14 seems to be somewhat of a dynamic that I see  
15 happens often. What I wanted to know was are there  
16 any clubs in New York City currently that have  
17 gotten this right, that are doing it in a way that  
18 all musicians would say this is the club that we  
19 want to perform in because with this club we're  
20 taken care of well and or are there any cities  
21 either in the United States or abroad or countries  
22 where people feel we want to perform in X, Y, and Z  
23 place or we know that the musicians in this city or  
24 country they do very well as musicians living and  
25 or thriving in that city?

3 JOHN O'CONNOR: Well that's a... And... at  
4 this... I don't know... to answer to the second part of  
5 the question as you know there are European  
6 countries that support the arts much better than  
7 our country unfortunately. And there are safety  
8 nets in European countries, the sort that musicians  
9 don't have to worry say about health care in other  
10 countries. And that's maybe tangential to this, to  
11 this issue but... And now I'm forgetting the first  
12 part of your question. Oh right the clubs. Yeah,  
13 no... None of... right... none of the jazz clubs have,  
14 there have been over the years my understanding is  
15 that night clubs have made agreements with the  
16 union but they have not been long lived. There was  
17 one nightclub that we entered in negotiations with  
18 recently, it's not a jazz club, it's more like a  
19 cabaret club called 54 below which is on 54<sup>th</sup>  
20 Street. And we were able, able to enter in  
21 negotiations with that nightclub because 90 percent  
22 of the musicians that worked in that nightclub were  
23 musicians that all so played Broadway and they're  
24 union musicians. So we had frankly speaking we had  
25 to leverage to get them to sit down and talk with  
us. And we did work out an agreement. And this is,

2 we think this is an important agreement because it  
3 is a nightclub even though it's not a jazz club we  
4 think it is an important part of the path to  
5 getting to the idea of having nightclubs sit down  
6 and come to terms with us as far as collective  
7 bargaining... in the nightclubs. The nightclubs  
8 historically have not been in collective bargaining  
9 relationship with a union. We think that's  
10 something that needs to change. You know 30 or 40  
11 years ago the, this was a different city. This is a  
12 city that had lots, more live music than we have  
13 now. And we had a lot more union membership and,  
14 and the culture of music was much more harmoginized  
15 [sic] in the sense that people played a certain  
16 kind of dance music so everybody's playing the same  
17 kind of music. And the union was able to, it was a  
18 what we'd call a protective association. Musicians  
19 joined and, and they upheld the rules of musicians  
20 had to not play for less than a certain amount of  
21 money in clubs. And so there, there was that  
22 interdisciplinary thing that was going on in the  
23 nightclub so people always got paid because we had  
24 a, a strong union, lots of music. But times have  
25 changed and so now we have nightclubs in New York

2 City that don't pay anything. And we've heard of  
3 night clubs actually where you have to pay to have  
4 an opportunity to play your art. So times have  
5 changed in a way that we feel that collective  
6 bargaining is the solution.

7 COUNCIL MEMBER CUMBO: Let me ask you a  
8 question to that point. So how does it work in  
9 let's say any of these club whether it's the blue  
10 note or, or whatever? Is it that you as the new,  
11 are you called let's say like by the Blue Note and  
12 they say hey we want to know if you want to perform  
13 next month, Friday, October 10<sup>th</sup> and you say yes  
14 and you negotiate like that? Or is it one of those  
15 things where a club like that will say we want to  
16 put you our roster for the next two to five years.  
17 We're going to sign a contract, you'll play maybe  
18 every, six times a year on these specific dates and  
19 we create a contract? Or is it usually a one off  
20 situation where when they think of it they'll say  
21 hey let's bring in X, Y, and Z musician and it  
22 happens that way? Because you know everything from  
23 these jazz festivals you know from Newport to  
24 others and the clubs. To me, on the, from the  
25 outside looking in it seems like they're one off

2 situations where people... but it would seem in terms  
3 of what we're trying to do to negotiate the ability  
4 to have a contract out of a pension would seem that  
5 there would be more strength in it by having long  
6 term contracts where people would perform for  
7 longer periods of time... [cross-talk]

8 JOHN O'CONNOR: Well in most cases I  
9 mean it's the market. This is, you know used to be  
10 that a jazz band would play weeks in a club. And  
11 now the standard is usually a week, actually less  
12 than a week, it might be four nights, five nights a  
13 week, and that they, it's one week.

14 COUNCIL MEMBER CUMBO: Mm.

15 JOHN O'CONNOR: For the most part. You  
16 might have someone who comes in the city might do  
17 two weeks on a rare occasion. There are regular  
18 musicians that play in some of these nightclubs as  
19 a sort of house big band. I know the Village  
20 Vanguard, and someone's going to speak to that  
21 later, the, the Birdland has a number of regular  
22 bands that play there. Of course the rages for the  
23 big bands are considerably less than you know  
24 quintet... [cross-talk]

25 COUNCIL MEMBER CUMBO: Mm-hmm.

3 JOHN O'CONNOR: ...act. But it's really,  
4 this business is based on what the market can bear  
5 in these times and I think the market does not bear  
6 much more than someone playing for a week at a  
7 time. And they are one offs as far as I understand.  
8 So we're, our concept is put a contract in place  
9 that's very simple which means that everybody,  
10 every time somebody does come and play in this  
11 nightclub they can expect at least a minimum scale  
12 wage at this amount of money and a pension  
13 contribution that will go under their social  
14 security number into the pension fund so that those  
15 musicians who play regularly in these bands, and a  
16 lot of musicians play, for different bands and  
17 different leaders. And they, they are really the,  
18 you know the workhorses really so to speak in the,  
19 the, the first call musicians for these bands would  
20 doing this regular work automatically get a pension  
21 at the, you know when they turn 65.

22 COUNCIL MEMBER CUMBO: My final question  
23 is how is what you're doing, because I'm trying to  
24 get an education at the same time on this, how is  
25 what you're doing in alignment or with keeping with  
actors in terms of having a SAG card or something

3 like that or, or, or the ability to have that. How  
4 does, how is what you're doing similar to that or  
5 different?

6 JOHN O'CONNOR: Well I think what we're  
7 doing is different not just from actors but in you  
8 know in... [cross-talk]

9 COUNCIL MEMBER CUMBO: Not in terms of  
10 art form but in terms of the, the economics or the,  
11 the benefits rather.

12 JOHN O'CONNOR: Yeah I think we're just  
13 trying to break out of the idea that the only way  
14 that you are going to have security through the  
15 pension is working in one orchestra that has a job  
16 all year around at the same place.

17 COUNCIL MEMBER CUMBO: Right.

18 JOHN O'CONNOR: These are musicians who  
19 don't have that sort of employment.

20 COUNCIL MEMBER CUMBO: Right.

21 JOHN O'CONNOR: And that's what we're,  
22 that we're trying to break out of the idea and  
23 saying it's possible to do it for those kind of  
24 musicians who work for different employers every  
25 week.

COUNCIL MEMBER CUMBO: Right.

3 JOHN O'CONNOR: But every employer of a  
4 certain stature is bound by the same rules so they  
5 all contribute equally a modest amount for the  
6 security of musicians when they retire.

7 COUNCIL MEMBER CUMBO: Understood. Thank  
8 you very much and thank you for your testimony.  
9 It's an honor to be in your presence thank you.

10 JOHN O'CONNOR: Thank you.

11 CHAIRPERSON VAN BRAMER: Thank you very  
12 much and the final questions for this panel and I  
13 know that Mr. Cranshaw among others have to get  
14 going but we really want to hear from you Mr.  
15 Cranshaw so if you can hold on for a few more  
16 minutes. We want to give Council Member Cornegy the  
17 opportunity to ask some questions of this panel.

18 COUNCIL MEMBER CORNEGY: Thank you  
19 chairs Van Bramer and also Miller for this  
20 important hearing. And I will, I will be brief. I  
21 just would like to say that I am very proud to be a  
22 co-prime on this resolution. I've had the pleasure  
23 of living in Israel, Turkey, France, Spain, and  
24 Columbia. And as some Americans go through those  
25 countries and gauge the tolerance through McDonalds  
I gauged it through jazz clubs that were there. So



2 I king of found my way home through jazz in other  
3 countries. What it did was it gave me an, an  
4 opportunity to see the way that the world view of  
5 jazz is and we have to do better. Some of those  
6 countries I've stayed in demonstrated a commitment  
7 to the art form through the clubs and their support  
8 and also through government support. And I just  
9 think that it's so far, we're so far off that I had  
10 to go there and witness. And so I began to have  
11 friends who, who've gone abroad and who have left  
12 the country and have lives abroad based on the  
13 commitment of those other countries. So I think  
14 that we just have to do better and I'm proud to be  
15 able to be a co-prime on this.

16 CHAIRPERSON VAN BRAMER: Amen. Thank you  
17 so much Council Member Cornegy. With that I want to  
18 thank this panel for opening up this important  
19 hearing. Thank you to local 802, Mr. Cobb, and Ms.  
20 St. Joan thank you so much for being here. Now  
21 we'll call the next panel; Bob Cranshaw who some  
22 folks know is a legend and has played with Sonny  
23 Rollins among others, Jimmy Owens if Jimmy Owens  
24 with us, is there a lot of jazz musicians named  
25 Jimmy which is alright with me, and, and Gene

2 Perla, if Gene Perla is here would join the panel.  
3 And Mr. Cranshaw you go first and if you need to  
4 skedaddle after your testimony feel free to do so  
5 we'll take your testimony and follow-up with  
6 questions, thank you so much. Go ahead Mr.  
7 Cranshaw.

8 BOB CRANSHAW: Hi I'm Bob Cranshaw. I've  
9 been a bass player, I'm a jazz bass player and a  
10 teacher and an executive board member of Local 802.  
11 I've been active on the scene in the United States  
12 and around the world for over 60 years. I've been  
13 the bass player in the band for Sonny Rollins since  
14 1959. I'm 81 by the way so I've been there a long  
15 time. I have appeared with many artists over the  
16 years, singles Ella Fitzgerald, Sara Vaughn, Peggy  
17 Lee, Liza Minnelli, Dizzy Gillespie, Charles  
18 Aznavour, Quincy Jones, and others. I was the house  
19 bassist player for over 36 years... down here 25, 36  
20 years for Sesame Street so I've been in everybody's  
21 home. Whether you wanted me or not I was there.  
22 Okay. I've also worked on TV shows the Electric  
23 Company, 3-2-1 Contact... I was the original bassist  
24 for, with the live band for Saturday Night Live. I  
25 left after Belushi died but I was there from the

2 very beginning. I also am a member and board member  
3 and, for the Jazz Foundation of America. I have  
4 been advocating with the musicians union  
5 particularly on the subject of pensions. I have  
6 seen countless musicians in crisis, people who are  
7 highly respected, incredibly talented people, but  
8 who failed to prepare for their retirement due to,  
9 due to the lack of benefits available to them. By  
10 the way I'm one of the musicians who made it  
11 through with all of, with the union behind me. I'm  
12 one of the musicians who made it. The system worked  
13 for me. And part of that was because of the work  
14 I've done outside of playing jazz. If I got a  
15 pension from monies paid in jazz I would probably  
16 getting 18 hundred, I would eight, 18 thousand  
17 dollars a, almost a month from my pension had  
18 monies gone in for me with the jazz. All of the  
19 studio things that I've done over the years is  
20 many, I got paid so I was taken care of. But I'm  
21 one of the few. And my fight is because I was one  
22 who was fortunate. Now I got to help the others  
23 coming up. All of the guys who were my age and have  
24 nothing. I'm, I look around the people that I grew  
25 up with very few of them have anything. So I'm in

2 the fight because I got to help my friends and the  
3 brothers who didn't have the opportunity to do. I  
4 won't read the rest, you all can read. But I want  
5 to thank you for listening to us. I really  
6 appreciate you all having us here today. So please  
7 help us do what we need to do. And I thank you. I'm  
8 going to leave you but I'm, I'm in everybody's  
9 home. Remember every time your kids, Sesame Street  
10 you know some of the guys.

11 CHAIRPERSON VAN BRAMER: Thank you so  
12 much Mr. Cranshaw for everything that you've done  
13 and meant to all of us in our childhoods and  
14 beyond. Gene Perla do you want to go next?

15 GENE PERLA: Thank you for giving us the  
16 opportunity to present our case to you today. I'm  
17 going to skip that first paragraph there and just  
18 tell you a little bit about my association with the  
19 musician's union. It started out in 1963 when I was  
20 a student in Boston and I was offered a gig in a  
21 strip club. But it turned out that I had to join  
22 the union in order to do the job. And at that time  
23 there were two musician's union covering the  
24 territory of Boston. Essentially one was white and  
25 the other was black. When I looked into it I saw

2 that the black union was cheaper so that's what I  
3 joined. And as time went on I then moved to New  
4 York City and then became a member of 802 which I  
5 still am. In early 70s I decided to, decided to  
6 start a record company and that led me to another  
7 association with the union as my record company  
8 corporation signed signatory agreements with the  
9 American Federation of Musicians where I had to pay  
10 according to the rules and regulations that was set  
11 up. The third was in, on Broadway. I became  
12 involved in doing Broadway shows including the Lion  
13 King, doing sound design for that and, and The City  
14 of Angels if you might know that show. And then in  
15 the last five years I became a teacher at the new  
16 School for Jazz and Contemporary Music in New York  
17 and the adjunct instructors are members of the  
18 Musicians Union pension fund. And finally a few  
19 years ago my corporation signed a, an agreement  
20 with the Musicians Union where I'm responsible to  
21 take care of pension payments for that program. So..  
22 During the last seven years Justice for Jazz  
23 Artists and AFM Local 802 have reached out to club  
24 owners with formal offers of negotiation in the  
25 form of registered letters on at least seven

2 disparate occasions. Local 802 and Jazz, and  
3 Justice for Jazz Artists it should read, not  
4 musicians, have also delivered petitions to jazz  
5 clubs including a petition where there were 2,000  
6 signatures of support delivered in September 2009  
7 to the Blue Note. That petition has since swelled  
8 to over 7,000 signatures. Additionally Justice for  
9 Jazz Artists and 802 have placed dozens of phone  
10 calls to the clubs over a period of seven years  
11 requesting communication on these issues. Neither  
12 the letters, phone calls, nor the petitions have  
13 resulted in anything substantive in the form of a  
14 response from any club and in the case of the  
15 majority of the clubs those calls and letters and  
16 petitions had been similarly ignored. Musicians and  
17 Justice for Jazz Artists supporters has peacefully  
18 demonstrated sometimes at the risk of arrest in  
19 front of the major jazz venues on more than two  
20 dozen occasions since September 2009. In the fall  
21 of 2013 musicians Ron Carter, Christian McBride,  
22 Jason Moran, Joe Lovano, Bob Cranshaw, Mr. Jimmy  
23 Owens, and Bill Frisell signed a letter that was  
24 mailed to several clubs asking for an off the  
25 record sit down to discuss the issue underlying

2 jazz for jazz artists demands. On at least two  
3 occasions, once in the fall of 2009 and more  
4 recently in the spring of 2013 musicians were  
5 threatened with loss of work by club owners for  
6 participating in Justice for Jazz Artists  
7 demonstrations. The fear of reprisals by club  
8 owners has kept many musicians who would otherwise  
9 support this effort from publically stating their  
10 support. To date only, and it should read, one club  
11 has formally responded to Justice for Jazz Artists  
12 and those talks broke down when the club refused to  
13 acknowledge the employer contribution model in  
14 place at the pension fund proposing instead that  
15 its patrons voluntarily and randomly contribute to  
16 the fund in the form of a suggested donation. The  
17 reason we, why, excuse me, the reason we are here  
18 today seeking a resolution from the city council is  
19 because the clubs have left us, left us with no  
20 recourse but to take our argument to the public and  
21 to our elected officials. I urge each and every one  
22 of you to support Resolution 207-A in order to  
23 create a retirement security for the jazz musicians  
24 who work these clubs and to ensure the future of  
25 the music. Finally I just want to say a little

2 thing that I've had a, a wonderful career as a  
3 musician. I continue to be a jazz musician and I  
4 perform regularly. And the only reason I'm able to  
5 do that is because I do all these other things in  
6 my life. If I didn't have these other things I'd be  
7 struggling, I know it, because I've seen so many of  
8 my brothers and sisters come to the end of their  
9 line. They can't handle their instruments anymore  
10 as they used to. And they're in a mess. So I look  
11 for some relief. Thank you.

12 CHAIRPERSON VAN BRAMER: Thank you very  
13 much. Mr. Owens.

14 JIMMY OWENS: Ah yes. Thank you very  
15 much. My name is Jimmy Owens and I'm a jazz artist.  
16 I play trumpet and flugelhorn. I was born and  
17 raised in the Bronx. I'm a product of the public  
18 school system. I learned music in the 7<sup>th</sup> grade. I  
19 went to the High School of Music and Art. And after  
20 graduation I proceeded to work with musicians like  
21 Lionel Hampton, great xylophonist, saxophonist Hank  
22 Crawford, Bassist Charles Mingus, Duke Ellington,  
23 Count Basie, Willie Taylor, Max Roach, Art Blakey.  
24 I worked with the giants of this music. This is my  
25 56 year as being a professional jazz artist. I



2 travel all over the world and I speak to musicians  
3 in other countries who have been jazz artists less  
4 time than me and they have pensions from their  
5 countries. All of those people I knew and I work  
6 with not one of them paid into a pension fund or  
7 was given pension fund dollars from contributions  
8 from places that they worked. So consequently the  
9 pension fund started in 1959, Duke Ellington is  
10 still alive, Count Basie. Their bands were working  
11 300 if not more days a year. And there was no  
12 pension paid to Duke Ellington for any of this work  
13 so consequently those musicians didn't get any  
14 pension. The musicians who work in the clubs in New  
15 York more than 3,000 musicians easily in a year.  
16 Many of them don't or will not have large social  
17 security contributions. They will not have a  
18 pension unless they started one themselves. The  
19 AFofM pension has more than 2,800,000 dollars in it  
20 right now. We find that Jazz artists as they get  
21 into their older age they're called less for work.  
22 At the same time they work less, maybe sometimes  
23 before, because of health. That's why we had to  
24 start the Jazz Foundation of America to help  
25 artists who are in difficulty. Being able, not

2 being able to work the Jazz Foundation has come to  
3 their aid in paying rent, back rent, and mortgages,  
4 buying food. And this is largely because in all of  
5 the years of work they have not been able to accrue  
6 a, an American federation of musicians pension fund  
7 because the places they work don't pay into the  
8 pension fund. As Bob said he's one of the fortunate  
9 ones. I'm one of the fortunate ones also because  
10 I've worked in a lot of different situations where  
11 I've accrued pension contributions. And then in  
12 1995 my accountant told me I should start a  
13 corporation so I could pay into the pension for  
14 myself and my musicians of which that's what I do  
15 and I pay into the pension fund from every job that  
16 I do for myself and my musicians because I know the  
17 places that we're working are not going to be  
18 paying into a pension fund. And I'm speaking about  
19 colleges across the United States. So in 1972 I  
20 pretty much gave up playing in the clubs for a  
21 living and started to do other things that were  
22 more important from the standpoint of the amount of  
23 money I would make as well as being able to control  
24 that money and pay into the pension fund when I  
25 could. I'd like to say that you have a history of

2 helping important things. Many of you probably  
3 don't know that you passed in committee here in  
4 1986 a law that said jazz was a national treasure  
5 to New York. And the reason you did that, I was a  
6 part of that... joined congress... brought in here so  
7 it would be easier to pass that law in Washington  
8 D.C. The City Council stepped up first and did it.  
9 You need to help us now. In some way... of people  
10 I've been playing the trumpet for 60 years. I'm 70  
11 years old. There are numerous people who would  
12 benefit tremendously by something positive  
13 happening in this way. I've been involved with all  
14 of that. I sat down with someone along with Bob  
15 Cranshaw and this particular owner of a jazz club  
16 told us shh, it'd be a cold day in hell before I  
17 work with the Musicians Union on anything. Say  
18 what, you have all of these benefits in your club  
19 to help jazz artists, why won't you do this when we  
20 got the tax repealed, 8.25 at that point now it's  
21 8.75 I think. I went up to Albany. I played in  
22 Albany and they loved the performance and went back  
23 and passed the bill. Governor Pataki was about  
24 ready to sign the bill when he said he could not  
25 legislate where that money would go. Yes I can stop

2 the tax from having to be paid but I can't say what  
3 you have to do with that money. So that is the  
4 problem that we had at first. The bill was  
5 rewritten in such a way and then all of the clubs  
6 that said they would do it reneged on it. So that's  
7 the problems that we're facing. I wanted to end my  
8 words with a few notes of music that mean something  
9 very important to me. This is a spiritual that I  
10 play quite often at many of my friends' funerals.  
11 Nobody knows the trouble I've seen. [jazz music  
12 plays]

13 [applause]

14 JIMMY OWENS: We perform for you under  
15 many many different situations. And you usually  
16 never know the problems we're having. Thank you.

17 CHAIRPERSON VAN BRAMER: Thank you.  
18 First of all I just want to say thank you both of  
19 you for your advocacy and Mr. Owens thank you for  
20 reminding us why we're all here and, and for making  
21 me a, once again... very very lucky to chair this  
22 committee every once in a while we get to do some  
23 extraordinary things. That was one of them. So  
24 thank you for that.

25

3 JIMMY OWENS: And did you say that Jimmy  
4 Cobb and myself have been given the highest award  
5 that you can have given it by the United States  
6 government. We are both, National endowment for the  
7 Arts jazz masters.

8 CHAIRPERSON VAN BRAMER: Thank you so  
9 much for, for that testimony and for that real  
10 special treat and tribute. I want to recognize  
11 Costa Constantinides, Council Member Constantinides  
12 is also a sponsor of this resolution. And I do want  
13 to assure both of you that just as the council did  
14 in 1986 and, and you're correct none of us were  
15 here there's a little thing called... that doesn't  
16 let that happen anymore. But we, we are stepping up  
17 here as well and, and I pledge to both of you that  
18 we will continue in this effort. So thank you very  
19 very much. We have one last panel. There are four  
20 panelists I believe. And if all four would come up  
21 as we have four seats there, John Mosca, Alexander  
22 Gleason, Todd Weeks, and Andrew Lamb if all four of  
23 you would join us for the final panel of this  
24 hearing and... Why don't you kick us off there on the  
25 far end and we'll go down the line. Okay first let  
me correct the record. One of the speakers listed

3 was incorrectly. We have Ms. Bertha Hope who will  
4 be joining this panel. So I want to thank Ms. Hope  
5 for joining us and we'll start this panel now.

6 ALEX GLEASON: Good morning. My name is  
7 Alex Gleason and I am the policy associate for the  
8 New York City Central Labor Council, AFLCIO. I'd  
9 like to thank you for the opportunity to testify  
10 today on this increasingly important topic. I'd  
11 also like to commend the sponsors of resolution  
12 207-A and the chairs of the civil service and labor  
13 committee and the committee on cultural affairs for  
14 convening this hearing. The NYCCLC represents  
15 approximately 1.3 million workers across the city.  
16 We represent workers in a broad array of  
17 industries, construction workers, transportation  
18 workers, sanitation workers, doctors, as well as  
19 musicians and artists of all types. Music is one  
20 thing that has helped Make New York City the  
21 cultural, cultural arbiter that it is. Jazz music  
22 in particular has a storied history that is deeply  
23 woven into the fabric of this city. Every year  
24 countless tourists flock to this city seeking New,  
25 New York City culture and entertainment and packing  
the jazz clubs. The jazz clubs in NYC are making

2 millions of dollars each year. While the jazz  
3 artists that provide their entertainment are often  
4 paid a respectable wage they have no access to the  
5 health and retirement benefits that many New  
6 Yorkers do. These musicians are also generally paid  
7 as independent contractors which leaves them on  
8 their own when it comes to social security payments  
9 and payments of taxes. If a musician in this  
10 situation should fall ill the result is often  
11 financially devastating. The NYCCLC and our  
12 affiliates wholeheartedly support the efforts of  
13 the justice for jazz artists campaign to see that  
14 these jazz musicians, workers just like the rest of  
15 us are given the opportunity to organize and are  
16 afforded the health and retirement benefits they so  
17 justly deserve. Thank you.

18                   JOHN MOSCA: Good morning. I'm John  
19 Mosca, trombone player, composer, band leader, I've  
20 played in numerous ensembles and on many records.  
21 For more than 35 years I've plaid with the Grammy  
22 winning Vanguard Jazz Orchestra, formerly the Thad  
23 Jones/Mel Lewis Orchestra. And I currently serve as  
24 its director. This is my primary workplace in New  
25 York City. If we use the Village Vanguard as an

2 example of how union pension in a club could work  
3 we begin with the fact that the Vanguard along with  
4 several other clubs on the Justice for Jazz list  
5 regularly employs the same musicians on a weekly  
6 basis. I lead a big band that has been performing  
7 every Monday night at the Village Vanguard,  
8 performing every Monday night at the Village  
9 Vanguard. We're in our 48<sup>th</sup> year. The band has been  
10 there every Monday night since 1966. This is our  
11 place of business. The Vanguard Jazz Orchestra has  
12 16 players. Based on the Union's estimate pension  
13 for the band would cost the club about 400 dollars  
14 a week for the whole band, or 20 thousand dollars  
15 per year. That's about 12 hundred dollars annually  
16 for each musician. That's not a lot but it is a  
17 significant step towards building a pension or  
18 augmenting an existing pension. The gross annual  
19 income for the Village Vanguard operating at a 50  
20 percent capacity is roughly 1.2 million dollars. It  
21 is most likely significantly higher than that. It's  
22 affordable for the club. Of the musicians who work  
23 in small groups who come to work at the Vanguard  
24 for a six night runs Tuesday, Tuesday through  
25 Sunday would receive pension contributions every



3 time they appear at the club. In order to secure a  
4 pension one needs to invest in the plan. It takes  
5 five years to vest with its Justice for Jazz plan  
6 in place a club like the Vanguard a musician can  
7 vest after just ten week long appearances over five  
8 years. The big band musicians because of their  
9 weekly appearances will definitely vest in the  
10 plan. This plan can and will work. I would just  
11 like to reiterate that this plan would help a lot  
12 of people who work at the Vanguard and other clubs  
13 and that the jazz musicians sorely need it. The  
14 clubs are our workspaces and we should get benefits  
15 that other workers get on the job. I strongly urge  
16 you to support to resolution 207-A. Thank you very  
17 much. I wanted to before I finish respond to a  
18 couple of questions I heard from the Councilwoman  
19 Cumbo before asking about what cities in other  
20 parts of the country or world do for their  
21 musicians. And it, it occurred to me, just had a  
22 conversation yesterday with a friend who left New  
23 York a great jazz trumpet player who left New York  
24 to take a job in Cologne, Germany. Now if we talk  
25 about cultural capitals of the world, or jazz  
capitals of the world Cologne, Germany might not

3 come up right away. But they have a big band that  
4 performs under the auspices of the radio there. And  
5 their base pay is 90 thousand dollars a year with  
6 10 weeks paid vacation and all sorts of the whole  
7 German... health care system. And that's, that's just  
8 one particular job. These, these things have, they  
9 exist all over Europe, Holland especially. And it's  
10 possible to do this. I mean one of the reasons that  
11 the union has proceeded gingerly thus far is  
12 because they, the union and musicians recognize  
13 that in the larger cultural war that we, we are  
14 allies with the jazz clubs. We're both, we're all  
15 trying to do the same thing which is to preserve  
16 and perpetuate this great art form. This right now  
17 is, is a squabble but it's very important to solve  
18 so that we can go forward and have something that  
19 we can leave to the people coming after us. I think  
20 you can see that most of us here today with  
21 deference to the beautiful ladies that we're happy  
22 to be in their company, both, we all have some  
23 mileage on us. And we're at the point now where we  
24 think about what's going to happen after, after...  
25 it's, as we've seen in, at least in my lifetime  
I've seen things become progressively more and more

2 difficult for jazz musicians. This is of course in  
3 partly due to the fact that jazz has declined as a  
4 center of cultural life in America that's a tragedy  
5 we don't need to go into here. But it's also  
6 because of economics and these, these things are  
7 all, all solvable I believe. Thanks, thanks very  
8 much.

9 CHAIRPERSON VAN BRAMER: Thank you so  
10 much. Ms. Bertha please... [cross-talk]

11 BERTHA HOPE: Good afternoon City  
12 Council members and panel. Before I read my  
13 prepared text I would just like to remind people  
14 about how long ago it was when John Conyers and the  
15 Council that... referred to called the music a  
16 national treasure. That was in 1987 before the  
17 100<sup>th</sup> congress of United States of America. So at  
18 the federal level the music has been, has it made  
19 it a national treasure but the treasures have been  
20 left depleted. And I speak to you today as one of  
21 those lucky enough in terms of health, I'm healthy  
22 enough to continue to work and do a few residences  
23 and I have just returned from Ireland and France as  
24 a working musician. And I am 77 years old without a  
25 pension working since I was 12 years old in some

3 capacity as a musician. My name is Bertha Hope. I'm  
4 a jazz pianist and educator. I worked as a leader  
5 of my own trio and quintet and as a side musician  
6 here in New York in the tri-state area for many  
7 years. And have been privileged to have in my band..  
8 jazz master who was just here, Jimmy Cobb along  
9 with Walter Brooklyn Jr. [sp?] who was my second  
10 hand man, Andy Henderson, and my late husband Elmar  
11 Hope [sp?] with whom I collaborated. Last decade we  
12 have seen a loss of a number of our jazz... Many of  
13 whom have lived to a ripe old age other than that  
14 in the best of health or with good care. Musicians  
15 such as Hank Jones [sp?], Billy Powell, Dr. Billy  
16 Taylor, Frank Ress, and... all worked with dignity  
17 into their 80s and 90s and all were collecting a  
18 minimum pension at the time of their death. However  
19 the vast majority of jazz musicians, even those  
20 who... and are considered to be in demand players  
21 have been forced by the nature of their occupation  
22 and by its... certain standards in our society to  
23 live a much less... existence as they've grown older.  
24 There are seven musicians in this room and although  
25 they may not want to admit it have very little in  
the way of resources now that they are past

3 retirement age. This means they are either forced  
4 to accept charity or to attempt to continue to  
5 work, something that most people in other  
6 professions would simply not be asked to do.  
7 Unfortunately for the vast majority of musicians  
8 now at the time of... it may be too late... pension  
9 would not do them much good. There are musicians  
10 that many are, have known and played with and... met  
11 so lucky to live to retirement age or truly had  
12 adequate resources at the end of their lives. At  
13 the very least their final illnesses could have  
14 been mitigated or at least treated more humanely  
15 had they had access to basic benefits that we all  
16 take for granted such as health insurance or a  
17 decent retirement income. One such musician was the  
18 Brooklyn born drummer Wade Barnes who I would like  
19 to say I had the pleasure to work with... wonderful  
20 and dedicated musician he was. He was known to  
21 hundreds of musicians and thousands of fans all  
22 over the tri-state area and all the New York  
23 boroughs. And he was working on a doctorate at the  
24 time of his death. And the children of New Orleans  
25 would be eternally grateful to, what he did for  
them during the hurricane when many musicians were

2 out of work and he traveled with his band there to  
3 do educational workshops and to keep those  
4 musicians working. In the winter and the early  
5 spring of 2012 Wade was suffering from late stage  
6 diabetes when due to his extremely weakened  
7 condition he suffered a massive heart attack while  
8 staying at the home of a friend. Wade was, was  
9 highly educated and something of a jazz purist... an  
10 extremely proud person he had no pension, no health  
11 insurance, and then he lost his living space in  
12 2012 he was reduced to sleeping in the back rooms  
13 of jazz clubs and on friend's couches. He could not  
14 afford his diabetes medication and he often went  
15 without treatment. Rather than sit in an emergency  
16 room for six or eight hours waiting to be seen by a  
17 doctor... of decline he continued to work  
18 incessantly, he was dedicated to his craft. Wade  
19 was a strong advocate for justice for jazz artists.  
20 Have there been resources available to him, ones  
21 that were tied to all the work he did during his  
22 lifetime he may still be with us. These situations...  
23 and are avoidable. I hope we can find a way to work  
24 with the clubs, to redirect some of the money  
25 brought in admission fees to a... pension fund. It's

3 not that difficult of thing to do. It's not  
4 difficult to imagine getting it done and it may be  
5 even less difficult to implement. Thank you for  
6 listening to my remarks. I urge you to support  
7 resolution 20, 207, excuse me 207-A and encourage  
8 you to encourage all of your colleagues in the city  
9 council to support it as well. Thank you.

10 CHAIRPERSON VAN BRAMER: Thank you Ms.  
11 Hope. Thank you so much Mrs. Hope for, for your  
12 testimony and your strong words. Now final member  
13 of the panel Mr. Weeks is... testimony.

14 ANDREW LAMB: Yes. Good afternoon. My  
15 name is Andrew Lamb. I'm, I'm very happy to be  
16 here... composer educator. And I'm a strong strong  
17 advocate for Justice for Jazz Musicians. If there  
18 is not justice taken with these major... what you  
19 have to understand is that the expectation of the  
20 current day jazz musician is going to become much  
21 much much worse in other clubs. There are  
22 places where there're three, four different bands  
23 playing and they split the door at the end of the  
24 night. That's going on in New York City, currently,  
25 nightly. Now if it, that's the kind of thing is  
killing people. So then my friends when the last

2 nine months have passed around what will we tell  
3 the young people, you know stress... if I'm... I can't  
4 survive here. Healthcare is bad. There's no  
5 pension. You know... it's a terrible thing to see  
6 that. If we... who grew up here... music, to every  
7 great musician I possibly could. And the city is  
8 come down to the point now, where a committee has a  
9 reform in the musicians union. Justice for jazz  
10 musicians has... here in protest and give out flyers  
11 and stop people on the street. I've been out there,  
12 marching in the cold, and in the rain. On one  
13 particular evening one particular club owner, stuck  
14 his head out said get the hell off my sidewalk, go...  
15 Did you hear what I said... job. And he's got  
16 musicians in the club, the place is packed down the  
17 block. It's already packed, they're waiting down  
18 the block to get in... This can't be tolerated. The  
19 resolution has to be passed. Anyplace else in the  
20 world that I have been this music is highly  
21 respected. The jazz musician is a highly highly  
22 appreciated artist, every place. The artists are  
23 taken care of... This kind of thing isn't going on...  
24 And we're here in the birth place of the music in  
25 New York City in particular and this kind of thing



3 is going on. It has to stop. And I'm glad to have  
4 an opportunity to speak about it. I'm glad to be  
5 here. I'm glad that the council is here. They take  
6 some type of action about it. And I, I just hope  
7 that there's more and more support and so this can  
8 be taken care of. And we... things back... on a level...  
9 of respect for music, of respect for the artists.  
10 And, and... respect for our true treasure in the  
11 country. So thank you.

12 CHAIRPERSON MILLER: Thank you so much  
13 Mr. Lamb and, and thank you to this panel. And, and  
14 I, I, just want to say as the Chair of Civil  
15 Service and Labor what an honor and privilege it  
16 was to be a part of this hearing in how we so look  
17 forward to working with this organization moving  
18 forward. And... say that... wow. We've probably done  
19 this hearing, this hearing seven or eight times in  
20 the last eight months. The names have changed, the  
21 organizations have changed but the, the lack of  
22 respect for working folks remain the same. And  
23 whether it was fast food workers, it was airport  
24 workers, it was car wash workers, and reality TV.  
25 And, and... one of the questions was asked by Council  
Member Cumbo was there a similarity of what, what

3 was going on and, and that probably was probably  
4 most consistent with this situation was the, the  
5 nonfiction television and those who working in  
6 network television and how they receive different  
7 compensation or one receives no compensation as  
8 opposed to the other one has a pension plan and a  
9 health care plan and the other one doesn't. Why  
10 should workers be treat, treated differently and  
11 they perform in essentially the same service. Why  
12 should the owners of these venues reap all the  
13 rewards and, and the musician and the artist and  
14 the workers not have the quality of life that they  
15 deserve. And beyond that... this, this very rich art  
16 form which I am proud of, very proud of  
17 representing an area of southeast queens that, that  
18 house the village... and... and other great jazz houses  
19 during the 60s and 50s, 60s, and 70s. And, and it  
20 has resonated to the next generation. But as Mr.  
21 Lamb said very well that there is, if, if we don't  
22 address this issue now there is no next generation.  
23 Why would people want to do this. We know that it's  
24 a, a, it's a love of the art form, it's a love for  
25 the music but quite frankly when you see the  
suffering of those who come before you why would

3 you want to subject yourself to that. So we have to  
4 be better. And, and I think what we have  
5 demonstrated is that this council along with this  
6 administration value workers no matter what your  
7 contributions are, what your industry is, we value  
8 workers in general. We've demonstrated that and we  
9 stand firmly behind you and behind this resolution  
10 and moving forward. So with that I'm going to pass  
11 it over to my co-chair Van Bramer. And again I  
12 thank so much for, for, for bringing this to my.. it  
13 didn't take a lot of arm twisting you know but I  
14 would say. And, and here's the very very  
15 unfortunate thing is, is that Committee on Civil  
16 Service and Labor is so so busy. We have hearings  
17 lined up probably into next year over work  
18 exploitation, over wage theft, over unfair  
19 compensation, not to be able to organize.. And these  
20 are some of the, you know we won't name drop but  
21 some of the largest corporations in the world are  
22 failing to treat workers with the dignity and  
23 respect that they deserve. But we'll call them in  
24 and we'll address it as we are doing here. So I, I,  
25 I thank you so much and again we look forward to  
working with you in the future.

3 CHAIRPERSON VAN BRAMER: Thank you very  
4 much. I just want to say thank you to everyone here  
5 and Ms. Hope the story of Wade Barnes is powerful  
6 and dramatic and tragic. And we all are committed  
7 to doing everything we can to make sure that no one  
8 lives out their final days like that. I want to  
9 thank my co-chair Council Member Miller and all of  
10 the staff. And just to close by saying that as I  
11 began I'm very fortunate to be the son of labor  
12 union activist and members. My parents were not  
13 musicians but they made different kinds of music.  
14 And, and they are able to live out their lives in  
15 dignity because they have pensions, because they  
16 were fortunate enough to be members of organized  
17 labor. And we will push forward with this  
18 resolution continuing the legacy of the city  
19 council and the work that it's done on this issue  
20 and we are grateful to local 802 for continuing to  
21 make this very powerful stand on behalf of all jazz  
22 musicians and artists and, and workers. Mr. Jimmy  
23 Owens did just give me two CDs which I promise to  
24 listen to. And, and, and think of the struggle  
25 every time I do listen to it. So with that I want  
to thank everybody for being here today. Thank you

2 for this hearing and we are now adjourned. Thank  
3 you very much.

4 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date September 23, 2014