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Sent: Thursday, August 8, 2019 4:57 PM
To: ATR-LitIII-Information (ATR) <ATR.LitIII.Information@ATR.USDOJ.gov>
Subject: Public comment on Publishing / Rights Consent Degrees

I am writing as the founder and Executive Director of The Center for International Performance and Exhibition dba HotHouse, a non-profit cultural center in Chicago. I was solicited to comment by other professionals in the field and I can say with gusto that I am very pleased to share my story and see that this is an issue coming before your department. I was harassed for years by both ASCAP and BMI and to a lesser degree SESAC. The lawyers who work to sign up contracts called my home and office repeatedly for years. In the last instance, one women by the name of Jessica Sheflett (sp?) who worked for ASCAP or BMI called my house and threatened me multiple times every day.

In our case (when we were booking live music 1987-2006) we mostly presented what is known as creative improvised music - a sub genre of jazz. The artists come together and create spontaneous performances using a practice that involves a high degree of virtuosity. Sometime sheet music is employed, sometime a notation system, but in many instances the music is created out of a shared intuitive understanding of the other people involved in the performance. This music is not published, is original, time sensitive and not subject to license. The performance of it does not violate any publishing rights. In other instances, we produced performances by "world music" artists. People who live in countries not covered by any of the publishing houses- places like Cuba or from the small towns in Mali.

Yet, after patiently explaining our exemption to these representatives of these firms, we were not left alone- instead we were hounded and repeatedly verbally abused in addition to subject to all sorts of intimidation tactics. On one occasion, BMI sued HotHouse. Not for violating any identifiable rights but simply because at a low point we caved in and signed a contract. The law was contract law and had nothing to do with our practice.

It probably makes some sense somewhere that mega businesses that pipe in music to their chain stores or stadiums should pay fees to the musicians they are playing. This is a totally different animal than extracting tariffs from small performing arts centers that are already handsomely rewarding the artists they are working with. In the end, I would say the behavior of ASCAP /BMI reps was akin to mafioso gangsters shaking down businesses for a cut. It is reprehensible and I urge you to end this practice and their entitlements to prey on the industry.

Thank you

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Marguerite Horberg
Founder and Executive Director
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