

## **Exploitation or Economic Gains from Risk Taking? Herman Lubinsky and the Postwar Music Industry**

There's no doubt everybody hated Herman Lubinsky. If he messed with you, you were messed. At the same time, some of those people — many of them Newark's top singers and musicians — would never have been exposed to records if he didn't do what he did. Except for Lubinsky, all the hot little numbers, like Buddy Johnson's 'Cherry' would have been lost. The man may have been hated, but he saved a lot of our history — for us and for future generations.  
--Tiny Price, journalist, *The Newark Herald News*<sup>1</sup>

Much has been written about the relationship black performers had with Jews in the music industry. Many Jewish managers and venue operators fell into occasional dubious practices but the most contentious figures were the Jewish owners of the independent record companies that sprang up in the 1940s. These companies often started as shoestring, family operations, but the most successful of them became major players in the burgeoning music industry. While most of these owners initially emphasized jazz recordings, many developed their clientele in more lucrative genres as the national audience shifted to blues, gospel, and rock 'n' roll.

Modern critics contend that it was the unequal power between the companies and their artists that created a fertile ground for exploitation. These assertions seem credible regarding the major record companies but become less so in terms of the small, independent labels. When record sales fell in the early 1930s to 6 percent of their 1927 sales, many of the earliest independents failed especially those that serviced a black

clientele.<sup>2</sup> Even when major figures like Irving Mills formed record companies, success was not guaranteed. In the postwar period, over one thousand new start-ups competed for the talents to record under their wing.<sup>3</sup> While much has been written about the few that were successful, typically these small companies failed.

When Jerry Wexler, part owner of the very successful Atlantic Records, reminisced about Atlantic's competitors in the early 1950s, he listed some of these labels and the grizzled infighters who owned them: Exclusive (Leon and Otis Rene), Modern (the Biharis), Imperial (Lew Chudd) Specialty (Art Rupe), Old Town (Hymie Weiss), Herald/Ember (Al Silver), Chess (Leonard Chess), and other such memorable logos. Wexler concluded, "I am reminded of the tribes of the Sinai desert -- the Hittites, the Moabites, the Midianites, the Amorites. Gone, perished, vanished from the face of the earth. Only one survived -- the Hebrews."<sup>4</sup>

The cost of survival? Record companies used revenues gained from their successful artists to pay for their failures. Company owners balanced their books in whatever ways they could. The recording sessions, advances, and unsold records that accumulated expenses with no subsequent revenue were banked by "underpaying" those who were successful. In this way, companies owners could make their record companies profitable.<sup>5</sup> But independents had

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<sup>1</sup> [http://en.wikipedia.org/wiki/Savoy\\_Records](http://en.wikipedia.org/wiki/Savoy_Records), accessed April 4, 2011.

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<sup>2</sup> H.F. Mooney, "Popular Music since the 1920s" in William Hammel (ed.) *The Popular Arts in America* (Harcourt Brace Jovanovich, 1972) 253.

<sup>3</sup> Rick Kennedy and Randy McNutt, *Little Labels – Big Sound* (Indiana University Press).

<sup>4</sup> Jerry Wexler and David Ritz, *Rhythm and the Blues* (Alfred A. Knopf, 1993), 183.

<sup>5</sup> It may be helpful to note that this rationale is used by modern day drug companies, who sell their wares at far above the actual cost of production. Drug companies claim that they must recoup their expenses, much of which accumulate from failed lines of research. But while the successful drugs

another formidable obstacle to profitability: the difficulty of directly marketing their records. In the first postwar decade, independents relied completely on record distributors who often undermined profitability. Bob Krasnow, whose own dealings with distributors forced him to sell Blue Thump, an independent label he founded, considered them one short step above criminals. He described them thus: “They weren’t what I would call criminals, but let’s put it this way – I wouldn’t like either of [my two daughters] to ever marry an independent distributor.”<sup>6</sup>

Similarly, Lee Magid recounted why he shutdown his fledgling record company, “I started Dawn Records and recorded a chick, Helen Thompson, who came from Georgia. She had a Ruth Brown quality and sold pretty well. But everybody was giving me funny counts, and I didn’t see a fast enough return for me.”<sup>7</sup>

Such distributor behavior caused Fred Mendelsohn’s company’s demise. He recounted,

At one point [Regal] put out a kiddie line of seven-inch records but at 78 speed. We sold them by the hundreds of thousands, but somehow we were losing money. Then the government came in and wanted to tax us on the jackets plus the records. Jules Braun, one of the partners, was a lawyer and he decided that we were going to fight – and that led to the dissolution of Regal Records.<sup>8</sup>

Against this backdrop, we might consider Jewish owners along a continuum

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cannot complain they are unfairly rewarded, successful musicians certainly can and did.

<sup>6</sup> Quoted in Dorothy Wade and Justine Picardie, *Music Man: Ahmet Ertegun, Atlantic Records and the Triumph of Rock ‘n’ Roll* (W.W. Norton, 1990) 67.

<sup>7</sup> Arnold Shaw, *Honkers and Shouters*, 360.

<sup>8</sup> Shaw, 355.

from best to worst in terms of exploitation of their artists. One group comprised genuine jazz fans whose musical interests evolved into careers associated with jazz, and who eventually established record companies. This group included Milt Gabler (Commodore), Jerry Wexler (Atlantic), Norman Granz (Verve) and Bobby Weinstock (Prestige). The record companies they formed have been subject to some criticism for underpaying the black artists they recorded. However, because of their genuine appreciation for the music they produced and their respect for the black culture from which it arose, these men by and large have escaped the harshest criticisms.

A second seemingly more exploitative group was comprised of owners who, before starting their companies, had little appreciation or interest in the music they expected to record. These men moved into the music industry from other businesses, which had only tangential relationships to music or recording. It was their entrepreneurial instincts that led them to believe they could have some success producing and selling records. Though initially these entrepreneurs focused singularly on profitability, some gained a deep appreciation for the music and the artists they recorded. This group included the Chess brothers and Syd Nathan.

Among the worst group of record company owners were those who never gained an appreciation for the music or artists they recorded and were perceived to be responsible for the worst abuses black artists received during the immediate postwar era. In the following discussion, we will examine and assess the testimonies and anecdotal evidence concerning the business practices of the most-oft identified member of this group: Herman Lubinsky of Savoy Records.

Herman Lubinsky's first love was electronics and he began selling records out of his radio parts store. This experience led him to establish Savoy Records in 1942 and to record some of the first bebop jazz albums, capturing the early work of artists such as Charlie Parker, Miles Davis, and Dexter Gordon. From there, his company branched out, recording artists such as Varetta Dillard, Big Maybelle, and Nappy Brown. In the early 1960s, he recorded a number of avant-garde jazz artists, giving them important early exposure.

Lubinsky's focus, however, shifted to gospel when payola (the practice of pay-for-play in radio stations) became rampant in the late 1950s. "Lubinsky didn't appreciate that type of operation, and we didn't have it in the gospel field – and still don't," explained Fred Mendelsohn. "There are not that many companies and not that many releases. Jockeys are happy to get new gospel releases."<sup>9</sup> Lubinsky and his company men helped church singers like the Reverend James Cleveland and Dorothy Norwood to become household names in black neighborhoods nationwide. (When Lubinsky died in 1974, still working out of Savoy's original Newark office, Clive Davis at Arista Records acquired the label's catalogue.<sup>10</sup>)

Stories about Lubinsky's avarice are legendary. David Ritz characterized Lubinsky as "the one thief [among record owners] who had no honor."<sup>11</sup> Frank Kofsky claims that Lubinsky had a "scarcely disguised distain for black art" because of "his unwillingness to develop any understanding – appreciation, of course, was entirely out of the question – of the art that

brought him such lucrative returns."<sup>12</sup> His eldest daughter, Lois Grossberg revealed,

He had a reputation as an ogre in the business. . . . You have no idea of the cheapness. He paid his bills, but he was always arguing with the repairmen. He always thought he was getting gypped. Other than a Fleetwood Cadillac and a boat at the Shore, he didn't have any simple pleasures. He never enjoyed his money.<sup>13</sup>

Barbara Kukla highlighted his mistreatment of a local Newark (NJ) group, The Dictators. Lubinsky's first recording venture was to release four of their tunes, in 1942, without giving them any money, even for the recording sessions. Though they eventually earned "a few dollars," not surprisingly, the experience more than soured the group on Lubinsky. When interviewed decades later, Al Henderson, the group's lead singer, said, "There ain't nobody who has ever had a kind word to say about him. The S.O.B. was the worst thief in the world. He made millions on us [black musicians] and he wouldn't pay you nothin'."<sup>14</sup> More generally, Kukla stated, "Lubinsky generally had the musicians he recorded in some kind of bind. When they needed money, he was right there with a few bucks."<sup>15</sup>

Lubinsky had little understanding of the music Savoy produced and excelled as a wheeler-dealer, not a creative recordman. Either by accident or intuition, he employed a series of highly talented Jewish arrangers

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<sup>9</sup> Shaw, 356

<sup>10</sup> Barbara Kukla, *Swing City: Newark Nightlife, 1925-50* (Temple University Press) 153.

<sup>11</sup> David Ritz, *Faith in Time: The Life of Jimmy Scott* (DeCapo, 2002).

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<sup>12</sup> Frank Kofsky, *Black Music, White Business* (Pathfinder, 1998) 42, 43.

<sup>13</sup> Quoted in Kukla, 154. Shaw (351) notes that Lubinsky had a bachelor's apartment in New York City where he was "acting the man-about-town."

<sup>14</sup> Kukla, 155.

<sup>15</sup> Kukla, 155.

and recording (A&R) men: Teddy Reig, Fred Mendelsohn, Ralph Bass, and Lee Magid. And he was astute enough to rely on their judgments concerning recording decisions, particularly so when Teddy Reig went to Detroit to record Paul Williams. Adapting a Charlie Parker tune, "Now's the Time," Williams recorded the "Hucklebuck." For his own reasons, Lubinsky disliked the recording and only allowed its distribution at the insistence of Reig. "Hucklebuck" went on to become one of Savoy's best selling records, and Steve Krinsky noted, "It sold half a million copies by some estimates, and although Lubinsky complained, the money came pouring in."<sup>16</sup>

Generally, these A&R men believed that Savoy was no different than its competitors in its financial treatment of black artists. Fred Mendelsohn claimed,

Herman was a very tough, hard individual, difficult to work for and often an intolerable man. But he was honest. None of the musicians really were robbed. They all signed contracts and got five percent royalties. The fact was the money for the session had to be recouped before they got royalties, not just at Savoy, at every company.<sup>17</sup>

Similarly, Lubinsky's son, Dick Lubinsky, testified,

My old man's gotten a lot of bad rap as not being good to artists or for being tough. . . . A lot of artists will say the old white independents screwed them. But my father never took a penny of royalties from those people, and the women who worked for him for 45 years taking care of

that, Helen Gottesman, she wouldn't take a nickel.<sup>18</sup>

Another A&R man, Lee Magid, who left Savoy because of the minimal salary he received, suggested that in the highly competitive music world of the 1950s, where survival was uncertain, the independents had to fight for every dollar they could. He claimed, "Lubinsky is one of those old, hardcore guys like Syd Nathan of another era. But he keeps a tight rein. And that's the way it's supposed to be. I don't care. Maybe he ain't right with this and maybe he ain't right with that, but then who is? Unless you're dealing with your top companies."<sup>19</sup>

Arnold Shaw had business dealings with Lubinsky when he joined Edward B. Marks Music Corporation, charged with finding and developing hit songs. Assessing Lubinsky, Shaw concluded, "Having fought his way to eminence in a very tough field, Lubinsky was never an easy spender. But record producer John Hammond remembers him as a man who was helpful to many jazz musicians; apparently, Herman guarded his generosity. He was a hearty, energetic and dedicated man, and I liked him."<sup>20</sup>

These favorable assessments, of course, obscures the kind of thievery by omission that looms over such "deals." Artists offered exploitive contracts were not in the position to know what a fair deal was nor to make demands for better deals. Kalka surmised,

From the artists' perspective, Lubinsky was a wily, unethical shark out for bucks, a man who could locate a vulnerable point, then go for the jugular. But times were hard,

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<sup>16</sup> Steve Krinsky, "Do the Hucklebuck." HF MU Online. <http://www.wfmu.org/LCD/26/huck1.html>

<sup>17</sup> Kukla, 157.

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<sup>18</sup> Bill Carpenter, Mavis Staples, and Edwin Hawkins, *Uncloudy Days: the Gospel Music Encyclopedia* (Backbeat Books, 2005) 259.

<sup>19</sup> Shaw, 363.

<sup>20</sup> Shaw, 351.

opportunities limited, and money tight, so they tended to set aside their fears and suspicions, succumbing to what often amounted to their only chance to record their music.<sup>21</sup>

Consistent with this thesis, Savoy took advantage of Charlie Parker by not paying him for songs that were recorded in 1945, including “Koko.” Subsequent behavior by Parker, however, brings this thesis into question. He was at the height of his popularity in the late 1940s and still had a number of dealings with Savoy. According to Miles Davis, there seemed to be no hard feelings between Parker and Lubinsky.<sup>22</sup> In December 1947, Reig approached Parker to do another album on Savoy. According to Davis, “Billy Shaw, who had a lot of influence over Bird and was, I think, a co-manager, told Bird that he had to stop recording for small labels like Dial and stick with a big label, like Savoy.”<sup>23</sup> Although no indication that Parker was treated fairly by Savoy, Miles’s story suggests that Savoy’s behavior, in dealing with Parker, was *not* so egregious that it could sign only *desperate* black artists and certainly brings into question claims that Lubinsky was among the *worst* exploiters.

### Savoy and Little Esther

Known as “Little Esther,” Esther Mae Jones’s story further illustrates the complexity and competitiveness of the independent record company environment in the postwar years. In 1949, Lubinsky visited Los Angeles where he immediately signed the thirteen-year old Esther Mae Jones, who had stopped the show cold at an amateur night performance. Her first Savoy

recording produced a classic tune called “Double Crossin’ Blues.” The side was an immediate hit and a new star was unleashed onto the listening public. By the end of 1950, Little Esther had six record releases, all good sellers, one a true classic, and a host of awards and in-person appearances that made her a nationally known performer.<sup>24</sup>

Controversy arose almost immediately after the new year began. On January 5, 1951, the Superior Court of California appointed Esther’s mother as her legal guardian and upheld a new contract for her to record for King Records. That May, Esther Mae Jones sued Savoy Records for back earnings. In November, Jones decided to leave King Records, signing on with Mercury Records. King then sued and the courts ruled that her contract with Mercury Records was invalid. And in May 1952, Little Esther settled her suit (out of court) against Savoy Records on the issue of back owed royalties.

By 1954, her stardom began to fade as her recordings were no longer bestsellers. But Little Esther’s career was resurrected after she re-signed with Savoy in 1956. The first new Savoy recording sold especially well in the Midwest where it hit the top-ten seller in Chicago and Gary, Indiana. Little Esther continued to record for Savoy for another two years, but, unfortunately, this would be the last most people would see of her for a number of years. During those years, her records sold almost not at all, nor were they played on the radio, and the personal appearances dwindled. In reaction or perhaps previous to this slump she battled drug addiction. Luckily, Esther was able to turn her life around and by the mid 1960s resumed her professional career that extended into the 1980s.

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<sup>21</sup> Kukla, 155-156.

<sup>22</sup> [Cite.]

<sup>23</sup> Miles Davis with Quincy Troupe, *Miles: The Autobiography* (Simon & Schuster, 1989) 106.

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<sup>24</sup> J.C. Marion, “The Story of Little Esther,” (2000) <http://home.earthlink.net/~jaymar41/Lesther.html>

Little Esther's career struggles highlight a few reasons why it is so difficult to judge fairness between independent record companies and their black artists. Of course, it goes without saying that Lubinsky's initiative and efforts propelled Little Esther quickly into stardom. But her ability to move among competing record companies also demonstrates an instance that record companies had a limited ability to control (and/or exploit) black artists, at least those who were successful. In addition, it suggests that successful artists could believe that they had been cheated only realizing later that they may have been wrong.

### **Savoy and Little Jimmy Scott**

The most lasting episode of Lubinsky's questionable treatment of artists concerns his dealings with the jazz singer, Little Jimmy Scott. The story of their business relationship plays a prominent role in the biography of Doc Pomus. Born Jerome Felder, crippled by polio at an early age, Felder decided as a teenager that he was going to be a blues singer. And so in the postwar years he transformed himself into Doc Pomus and began singing in low-end jazz clubs throughout New York City.

Pomus recorded for the Chess brothers and for Lubinsky but none of his records sold. According to his biographer Alex Halberstadt, "Sometimes the labels stiffed Doc even on the tiny advances. At least twice he pulled out a borrowed gun and threatened to kill Lubinsky along with his A&R man Teddy Reig. He also pulled a revolver on Derby's Larry Newton. Doc reminded him about the stickup years later, when Newton became president of Ray Charles's label, ABC."<sup>25</sup> Doc later began a songwriting career with Mort Shulman, composed such classics as "This Magic

Moment" and "Save the Last Dance for Me."

Halberstadt's biography emphasizes Pomus's relationship with Jimmy Scott. They met right after the war and socialized regularly. "Doc knew more about black music – loved it more passionately – than anyone in the world," Jimmy Scott said. "And Doc – from the moment I met him until the day he died – provided all the encouragement I needed."<sup>26</sup> Halberstadt relates, "Worn down by the usurious contract with Savoy and a failed marriage, he eventually found his way back to Cleveland, where he'd grown up and still had a large family."<sup>27</sup>

The relationship picked up twenty years later when Pomus began searching for Scott. Pomus contacted him when Scott was playing in a "dingy club" in Newark. According to Halberstadt,

Jimmy had lived the life of a musical Job since they'd parted. In 1962 it looked like his days of obscurity were over when Ray Charles, a devoted fan, recorded him with an orchestra for his Tangerine label. The sublime "Falling in Love is Beautiful" was certain to finally get Jimmy noticed, but it never made it to the stores [because] Lubinsky claimed he had Scott under contract for years to come and threatened to sue, and Charles pulled the record. Scott came out of retirement in 1969, and again in 1972 when Joel Dorn coaxed him into a studio to record a pair of albums for Atlantic." But Lubinsky squashed them, too, and Doc's favorite singer returned to sorting mail at the Sheraton.<sup>28</sup>

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<sup>25</sup> Alex Halberstadt, *Lonely Avenue: The Unlikely Life and Times of Doc Pomus* (Da Capo Press, 2007) 37.

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<sup>26</sup> David Ritz, *Faith in Time: The Life of Jimmy Scott* (Da Capo, 2002) 51-52.

<sup>27</sup> Halberstadt, 45.

<sup>28</sup> Halberstadt, 212.

Pomus tried to help but Scott was too beaten down to show up for studio work. However, Halberstadt's biography ends Scott's career on a high note. At Pomus's 1991 funeral service, Scott sang George and Ira Gershwin's, "Someone to Watch over Me." Halberstadt writes,

Doc had one last piece of business to take care of. During the service, Sire Records honcho Seymour Stein racked his brain about the tiny old black guy who'd sang the Gershwin ballad. Why hadn't he heard him before? As the crowd filed out of the chapel, he took hold of Jimmy Scott's arm. Shortly after the funeral, Stein signed him to a five-record deal.<sup>29</sup>

Verifying this powerful narrative of Lubinsky's sins against Scott, Joel Dorn called Lubinsky "a hemorrhoid of a human. . . whom even the worst record business golems of the era shunned."<sup>30</sup> According to Dorn,

When I was a disc jockey, [Scott] did an album for Ray Charles' label called "Falling in Love Is Wonderful." In the six years I was on the air, I never had a response to a record like that. We had a phone in the studio and people could call us up while we were on the air. No record elicited a response like that Jimmy Scott record elicited. . . . I got to Atlantic and had a few hits under my belt. I signed Jimmy. . . . I was under the impression, and so were

Atlantic's lawyers, that Jimmy was free and clear of Savoy, so I went and made an album with him. Out of the woodwork comes Savoy and boom! The album's taken off the market in like three weeks after it's released.<sup>31</sup>

As much as Dorn's story might resonate on an emotional level, it remains incomplete. It fails to indicate whether Lubinsky's particular relationship with Scott deviated from typical industry practices. During the postwar years, it was customary for interested producers to contact a prospective artist's record company to reach a financial arrangement in order to allow a contracted artist to perform for another company. Indeed, Lubinsky had himself done as much with many other artists, and even lent Scott out to King Records in the 1950s. According to Chip Deffaa, more than thirty years later, Scott was "still bewildered about why Lubinsky – who no longer had any interest in recording Scott – would want to block him from recording for anyone else. Keeping Scott down didn't benefit him."<sup>32</sup>

This point appears particularly perplexing given Savoy's financial success in the 1960s. Examples of Lubinsky's questionable business practices are most prominent during Savoy's first decade when it had to struggle for survival. By the 1960s, however, Savoy had transitioned to becoming the preeminent and most

<sup>29</sup> Halberstadt, 225.

<sup>30</sup> "Falling in Love Is Wonderful" (Audio CD): [http://www.amazon.com/Falling-Love-Wonderful-Jimmy-Scott/dp/B00007JQTY/ref=cm\\_cr\\_dp\\_orig\\_subj](http://www.amazon.com/Falling-Love-Wonderful-Jimmy-Scott/dp/B00007JQTY/ref=cm_cr_dp_orig_subj).

<sup>31</sup> Shaun Dale, "It's Not a Normal Life: Cosmik Interview with Joel Dorn"

[http://www.cosmik.com/aa-april01/joel\\_dorn.html](http://www.cosmik.com/aa-april01/joel_dorn.html)

<sup>32</sup> Chip Deffaa, *Blue Rhythms: Six Lives in Rhythm and Blues*, 96. Interestingly, it appears that Scott has no first-hand knowledge of the dynamics that led Atlantic to quickly withdraw his album. For example, he believed the Atlantic recordings were suppressed because Lubinsky "was friends with the people at Atlantic. You can bet they paid some money to Lubinsky. Don Williamson, "Interview with Little Jimmy Scott," *All About Jazz* (Jan 2000): <http://www.allaboutjazz.com/iviews/jscott.htm>.



profitable gospel record company. Moreover, it appears that at the time of Scott's abortive recordings with Tangerine and Atlantic, Lubinsky's A&R man, Fred Mendelsohn, who worked with Scott, had expanded his responsibility at Savoy.

As alluded to earlier in this chapter, Mendelsohn's music industry career began in the late 1940s when he established a series of well respected but financially unsuccessful record companies. Mendelsohn then became the leading A&R man at Savoy from 1952 to 1956. After a brief absence, he returned to Savoy in 1960, functioning in executive capacities increasingly for the next twenty years. His prominence at Savoy was apparent in a 1968 *Ebony* story on the company's greatest gospel star, James Cleveland. Speaking on behalf of Savoy, Mendelsohn noted that Cleveland had a contract notable in the industry for its special provisions: while most record artists work against sales royalties, Cleveland received a guaranteed salary. "He and Savoy have simply agreed on a certain figure," Mendelsohn said, "and he knows that every three months, his check is in the mail. He's probably the only gospel artist around who has that kind of deal. Well, maybe Mahalia Jackson has something similar, but as far as we know, Cleveland's the only one."<sup>33</sup>

According to Scott, Mendelsohn "made things as pleasant as possible for me. . . . He always believed in me. For twenty-five long years, he never gave up on me"<sup>34</sup> Mendelsohn even recorded Scott on Savoy in 1976. As a result, it seems highly unlikely that Savoy would have been resistant to reaching some accommodation with Tangerine or Atlantic. Indeed, according to British deejay and jazz historian Spencer Leigh, it was the reverse: that it was Ray Charles who seemed unwilling to enter into

any agreement with Savoy. Don Williamson claims that "Rather than contest [the Savoy contract] or come to an agreement, Ray Charles withdrew the album. Undoubtedly, part of Charles's calculation was the fact that it flopped in its three weeks of distribution. There were no major reviews, no profiles of the singer, no media interest whatsoever."<sup>35</sup> Instead, according to Leigh, "Charles erased Jimmy's vocals and asked the organist Wild Bill Davis to play over the tracks. Hence, Wild Bill's album, 'Wonderful World of Love.'"<sup>36</sup>

Leigh also points out that Atlantic though "flush with money," chose not to fight Lubinsky but then decided to make a second album "even though there was no hope of a release."<sup>37</sup> Scott also found fault with Atlantic: "Atlantic didn't care about the record in the first place. The idea of a legal expense – even a small one to call Lubinsky's bluff – was all they needed to back out."<sup>38</sup> Dorn admits that Atlantic chose not to fight. "Meanwhile, the media didn't help," he laments. "There were no big reviews. No articles on Jimmy in *Down Beat* or the *New York Times*. No nothing."<sup>39</sup>

Thus, it appears that both Tangerine and Atlantic were at least partially culpable for the fact that Scott's records failed to reach the marketplace as it appears that neither company made any attempt to negotiate with Savoy. Since they believed the records weren't going to sell well, both Atlantic and Tangerine felt there was no point in entering into negotiations with Lubinsky. The decision of Atlantic to do a second album reflected their willingness to pay the small price of recording an album in

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<sup>33</sup> James Cleveland: King of Gospel," *Ebony* XXIV(Nov 1968) 80.

<sup>34</sup> Williamson; Ritz, 73.

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<sup>35</sup> Ritz, 135

<sup>36</sup> Spencer Leigh, "Someone to Watch over Me: An appreciation of Jimmy Scott," (2004) [http://www.spencerleigh.demon.co.uk/Feature\\_Scott.htm](http://www.spencerleigh.demon.co.uk/Feature_Scott.htm)

<sup>37</sup> Leigh.

<sup>38</sup> Ritz, 158.

<sup>39</sup> Ritz, 158



case things turned around and the demand improved. “I figured that these new tracks wouldn’t be issued but at least I could get them in the can and leave the rest to future fate,” explained Dorn.<sup>40</sup>

In addition, the recollections of Dorn and Pomus in the 1980s and 1990s seem to verify that their more recent reflections overstated Savoy’s culpability in the inability of Scott to revive his career. Halberstadt stated that until the late 1970s Pomus lost touch “after Scott left New York in the late fifties, and Doc thought he was still living in Cleveland.”<sup>41</sup> Elsewhere, Halberstadt has stated that in 1970 Pomus hooked up with Joel Dorn and they became good friends: “Doc talked on the phone with Dorn nearly every day.”<sup>42</sup> If Dorn and Pomus were as close as Halberstadt claims, his biography leaves a gaping hole in not addressing why Pomus was unaware of Scott’s whereabouts until he began searching for him in the late 1970s.<sup>43</sup> This disconnect suggests that in the early 1970s Dorn believed the Scott recordings for Atlantic were inconsequential. Only after Scott resurfaced in the 1980s and the public sensibilities towards the treatment of black performers changed did Dorn probably reassess the Atlantic episodes.

Circumstantial evidence seems to indicate that during the time Atlantic, Tangerine and Savoy had their altercation, Scott had a strong following only among a small core group of aficionados. Magid noted, “His records were not earthshaking, but he developed a very solid following. He

had style and a sound and a way of phrasing that has been copied by many, many singers.”<sup>44</sup> David Ritz goes even further: “By the end of the fifties, in the new world of pop, rock, and rhythm and blues, [Scott] didn’t stand a chance. He was – and remains – a jazz singer specializing in deep, romantic ballads. . . . The historians ignored him. He wasn’t given as much as a mere mention in any of the major jazz books of the period. . . . No one paid him the least attention.”<sup>45</sup>

Leigh speculated on reasons why Scott’s fan base was small: his limited and hackneyed repertoire; his being the slowest singer in the world; and his freakish feminine voice that, while attractive to some listeners, was off-putting to many others, likely more, resulting in a limited demand for his records. As a result, in the 1960s with the low-ebb in popularity of jazz ballads, his record sales were too meager for record companies to risk paying Savoy for the right to distribute them. Even the Sire Records signing of Scott verifies the limited appeal that he had. The first album sold 50,000, the second 25,000 and the third only 6,000. Scott was able to continue to record and perform because of the regard important musicians had for him strengthened by his core fan base.

Lubinsky’s motivations must also be considered. First, they doubtless reflected the money lost on Scott during his years at Savoy; Scott cut sixty sides at Savoy and none had been successful. Ritz stated that “When producer Freddy Mendelsohn gave him material he saw as commercial, the results were banal and sometimes painful.” And Scott complained, “Lubinsky wanted me to make more rock-sounding records but I just wasn’t willing.”<sup>46</sup>

Scott also seemed to become increasingly irresponsible, possibly because

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<sup>40</sup> Ritz, 164.

<sup>41</sup> Halberstadt, 211.

<sup>42</sup> Halberstadt, 188.

<sup>43</sup> “For twenty years, Doc and I spoke on the phone fourteen times a day,” Dorn recalls. “At least three of those daily conversations concerned Jimmy Scott. He was obsessed with seeing Jimmy make it.” (Ritz, 188) But these conversations were *after* Doc and Scott reconnect, not during the period when Dorn was recording him for Atlantic.

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<sup>44</sup> Shaw, 358.

<sup>45</sup> Ritz, 118.

<sup>46</sup> Ritz, 119.

of ill treatment or lack of success. When Lubinsky attempted one last time to make a successful record, Scott missed numerous rehearsals. And when the 1959 album, “Fabulous Songs of Jimmy Scott” flopped, Lubinsky tried to promote a Scott single by arranging for him to appear on the NYC TV show, *Teen Bandstand*. Scott arrived unprepared, forgetting the words to the song, forcing him to ad lib with disastrous results.<sup>47</sup>

Explaining why Lubinsky fought the Tangerine release, his son Herman, Jr. offered, “He felt like he put good money into Jimmy with little results. When Jimmy suddenly turned up with an album distributed by ABC, Dad was incensed. If Jimmy had initially come to [my father] and asked for permission . . . I have a feeling that my father would have agreed.”<sup>48</sup>

Perhaps Lubinsky felt proprietary toward those artists who had not fulfilled his expectations. Certainly, Lubinsky was in a more powerful position than Scott, and seems to have his own biases of how his artists should behave. And we still know little of what may have influenced Scott’s behavior and so cannot really know his side of the story.

### **The Exploitation of Jimmy Scott**

The common opinion that Lubinsky exploited Jimmy Scott becomes problematic in light of the testimony and factual evidence laid out here. Scott was never a profitable recording artist; rather, he fell into the group of the many artists that cost Lubinsky money; money Lubinsky had to recoup from the sales of his more successful artists. Indeed even if Lubinsky ran a sweatshop enterprise – “slave barracks” in the words of *Billboard* executive Paul Ackerman<sup>49</sup> – in this competitive

environment, lower costs could have resulted into lower prices for the records sold.

This certainly was the view of Herman Lubinsky. In 2005, his son commented on the business strategy of Malaco Records, the current owner of Savoy’s gospel catalog. “The reissues they have done have been budget-oriented with no significant liner notes, bonus tracks, or the slick artwork that usually accompanies CD issues,” noted Dick Lubinsky. “In one sense, their frugal reissue approach is in step with Herman Lubinsky’s original mission. In the book *The Gospel Sound*, Herman Lubinsky told gospel music historian Anthony Heilbut, ‘I always say I make records for the man with the dinner pail and the lady over the washtub.’”<sup>50</sup>

The world of the independents in the immediate postwar decade was a classic example of competitive markets. Facing strong competition, individual owners had to keep costs as low as possible in order to survive. All three of Savoy’s A&R men at one time or another owned independent record companies which had failed. Unless one had a star performer under contract – like Savoy had with James Cleveland in the 1960s – profitability in the recording business had to wait until the 1970s when ownership of publishing rights became very profitable. Until then, both owners and artists at all but the major recording companies rarely achieved financial security.

In addition, during the postwar period, artists made their money on live appearances. Recordings were used to create publicity, which helped them obtain more concert dates and higher pay for their performances. As a result, live performances became an important opportunities for exploitation—by venue operators, booking agents, and bandleaders. Jimmy Scott’s case serves as just one example of how artistic

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<sup>47</sup> Ritz, 117-118.

<sup>48</sup> Ritz, 135.

<sup>49</sup> Ritz, 92.

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<sup>50</sup> Carpenter et al., 260.

careers were vulnerable to ruthless practices by other segments of the music industry.

Lee Magid related the process by which he got Scott to begin recording with Savoy:

I first heard Little Jimmy Scott when he sang with Lionel Hampton. Had a big seller called 'The Masquerade is Over.' No before that, he was responsible for 'Everybody is Somebody's Fool.' The label didn't even give him credit – it just read: Vocal Refrain.<sup>51</sup>

Scott, then, was denied credit for the only hit he ever had. And Scott joins a long list of Hampton's band members, under his wife Gladys's direction, whose services and talents were underpaid or otherwise exploited. Indeed, Scott left the Hampton band twice because of the mistreatment he experienced. The atmosphere of [Lionel's] band was volatile," Jimmy Cleveland claims. "We were overworked and underpaid, and we didn't like it. We complained to the union about no overtime. We complained that blowing so hard and long was compromising our health. Hamp passed the complaints on to Gladys, and Gladys didn't care."<sup>52</sup>

The band members' pay "severely undercut market rate," remembers Clifford Solomon. A Hampton saxophonist, who in the eighties became Ray Charles's musical director, Solomon testified, "Twenty dollars a night, twenty-two if you soloed. . . . Gladys was notoriously cheap. She traveled first-class with her own separate entourage. She had her poodle and her parrot and her Jaguar driven by Curly Hammer." Quincy Jones quipped, "Give Gladys credit, She

made [Lionel] a rich man. Her business acumen set him up for life."<sup>53</sup>

When he moved on from Hampton's band, Scott hooked up with Teddy Reig. According to Jerry Wexler,

Teddy had wonderful taste and cosmic chutzpah. Teddy was the embodiment of Norman Mailer's 'White Negro.' He had a green card into the black nation. He married a black woman and, like Mezz Mezzrow, Symphony Sid, and Johnny Otis, lived black. . . . Teddy was the guy who produced Bird's landmark recordings for Savoy. Teddy produced the first-ever sessions for Miles and Getz. Basie adored Teddy, and Teddy was responsible for Basie's best stuff, his Roulette records. . . . Teddy was a freelancer and wheeler-dealer who suffered no fools and took no prisoners. He could be rude and crude. . . . Some considered him a liar and schemer and self-serving schmuck. I liked him. I liked the music he made. I liked the fact that he delivered. Were it not for guys like him, the world of recorded jazz would be considerably poorer.<sup>54</sup>

Lee Magid was less generous. "Label owners hated him, but he served their needs. They needed a conduit to jazz musicians, who spoke a language of their own. Teddy spoke that language, but when he translated to the owners, something got lost in the translation. That loss was usually a pile of cash that wound up in Teddy's pocket."<sup>55</sup> Reig skimmed the money off of his artists work through his relationship with the promoter Jimmy Evans, according to Jimmy

<sup>51</sup> Shaw, *Honkers and Shouters*, 358.

<sup>52</sup> Ritz, 58.

<sup>53</sup> Ritz, 59.

<sup>54</sup> Ritz, 71.

<sup>55</sup> Ritz, 71-72.

Scott. “Reig and Evans worked hand in hand with kickbacks between them. It wasn’t about nothing but money.”<sup>56</sup>

Chuck Berry has similar stories from the short time that Reig was his manager. He related the following example: “After a concert in Lynn, Massachusetts, in 1955, he handed me a hundred-dollar bill, but without the usual written statement, saying ‘How’s that?’ That night the crowd had to number over twelve hundred . . . We should have earned near to \$750 aside from the guaranteed \$150 but I could not have proved it. I pondered dearly how to overcome being vulnerable to such swindles.”<sup>57</sup>

Despite his continued efforts, Scott failed to earn money from his club dates until he escaped the booking arrangement he had with Reig and Evans. Then, because he had developed a sufficient following in Newark, he could arrange his own bookings and became “[a] hero among hipsters.”<sup>58</sup> His fans included aspiring singer Joe Pesci and Frankie Valli, who soon became the leader of the Four Seasons. And his earnings were sufficient for Scott to finally purchase a home for himself and his new wife.

### Understanding Competitive Capitalism

The economics of the music industry deserves further exploration. During the 1950s the concern among capitalist critics was the growth of the largest corporations. It seemed that in every major industry, a few firms dominated. At the time, the leading public economist, John Kenneth Galbraith, saw the concentration of production in large corporations as *potentially* beneficial. For him, the small-scale businesses were the exploitive villains.

Galbraith posited that size of large corporations enable them to utilize technologies and methods of production that yielded cost advantages over their small-scale competitors. These competitors tried to offset their higher costs by reducing labor costs as much as possible. As a result, small-scale companies aggressively oppose unions, minimum wage legislation, or anything that might increase wage costs.<sup>59</sup> Galbraith believed that these harmful effects would be most substantial in family businesses where the owners not only exploited their workers but also themselves, their wives, and their children.

Applying this thesis to the 1950s music industry yields the scenario described throughout this essay. As a result of such economic conditions, the independents offered lower royalties and operated under more onerous working conditions than much larger corporate labels. In addition, most owners worked long hours and lived frugal lives.

The profit squeeze on independent jazz labels was particularly strong in the late 1950s when the public’s interest moved to other music styles. For Lubinsky this led to a disgruntled Jimmy Scott; at Prestige it led a disgruntled saxophonist Jackie McLean to conclude he had made a grave mistake by signing with Bobby Weinstock’s record company. In a 1966 interview, McLean explained, “If you can imagine being under the Nazi regime and not knowing it then you’ve got an idea of what it’s like to be with that company.”<sup>60</sup>

McLean relates how Prestige took advantage of his financial situation. “They give you a little bit of front money, and then they tell you about the royalties you are going to get after the record is released. I did a million dates for them, and all it amounted

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<sup>56</sup> Ritz, 72.

<sup>57</sup> Chuck Berry, *Chuck Berry: The Autobiography* (Harmony Books, 1987) 109.

<sup>58</sup> Ritz, 110.

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<sup>59</sup> John Kenneth Galbraith. *Economics and the Public Purpose* (Boston: Houghton Mifflin, 1973) 74.

<sup>60</sup> A.B. Spellman, *Four Lives in the Bebop Business* (1966).

to is that I paid for the whole thing: engineers, the notes on the back of the album, the color photographs, the whole thing, out of my money. I still get statements saying that I owe that company ridiculous sums like \$50,000; I'm exaggerating, but it's not much less ridiculous than that."<sup>61</sup>

The late fifties are littered with Jimmy Scotts and Jackie McLeans; embittered second and third-tier artists who couldn't sell in the waning years of the jazz era. Unfortunately, their personal accounts have been used uncritically to generalize about the record company's behavior. Music critic Frank Kofsky used McLean's story to buttress his claim that it "was notorious in jazz circles that Weinstock habitually took advantage of musicians who were desperate for money – often because of an addiction to heroin – by signing them to contracts requiring them to record a huge number of selections in exchange for a minute advance against future royalty payments."<sup>62</sup>

What McLean ignores is that with declining jazz sales, he had no choice if he wanted Prestige to survive. Indeed, Weinstock found these hassles with artists increasingly distasteful. By the end of the decade, he had hired a group of young producers to handle all of the recording sessions. The label limped along through the 1960s, moving into folk music and relying on re-releases of its early 1950s recordings.

The exploitation associated with small-scale enterprises is most famously captured by the sweatshops. Critics of unfettered capitalism point to its predatory nature; its potential to abuse the most powerless, most defenseless groups in society. Contemporary sweatshops in Southeast Asia are currently associated with the brutal treatment of children and young women. In Lubinsky's day, critics contend that the free

market allowed businessmen to take advantage of the poor, powerless black musician who had no choice but to work for as little as possible.

It is easy to see why most caring people sympathize with critics of capitalism and those they deem the worst exploiters of the powerless. Paul Krugman contends, however, that outcries over the abuses experienced by Asian workers employed by transnational corporations are misplaced. He questions these indictments because he believes that while "fat-cat capitalists might benefit from globalization, the biggest beneficiaries are, yes, Third World workers." He highlights improvements in diet and the drop in malnutrition. Krugman also notes that though "a shocking one-third of young Indonesian children are still malnourished ... in 1975, the fraction was more than one-half."<sup>63</sup>

For Krugman these benefits are the result of the workings of the invisible hand:

These improvements have not taken place ... [as] the result of the benign policies of national governments, which are as callous and corrupt as ever. It is the indirect and unintended result of the actions of soulless multinationals and rapacious local entrepreneurs, whose only concern was to take advantage of the profit opportunities offered by cheap labor. It is not an edifying spectacle; but no matter how base the motives of those involved the result has been to move hundreds of millions of people from abject poverty to something still awful but nonetheless significantly better.

Krugman infers that the rise in real wages is experienced by large groups of

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<sup>61</sup> Kofsky, 52-53

<sup>62</sup> Ibid.

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<sup>63</sup> Paul Krugman, "In Praise of Cheap Labor." *Slate* (Mar 20, 1997).

rural and urban third-world workers since the growth of manufacturing has a ripple effect throughout the economy. Questioning the sincerity of his critics, Krugman wonders why the image of Indonesians sewing sneakers for 60 cents an hour evokes so much more sympathy than the image of other Indonesians earning half that trying to feed their families on tiny plots of land. He maintains that critics are motivated by feelings of guilt from benefiting from the cheap consumer goods produced on the global assembly line: “Unlike the starving subsistence farmer, the women and children in the sneaker factory are working at slave wages for our benefit -- and this makes us feel unclean.”<sup>64</sup>

Here, too, lie important parallels within the music industry. The black artists who flocked to the independents were desperate to improve their lives. Dick Lubinsky tells of the situation that developed in the 1960s.

Everybody was leaving the other gospel companies to come to Savoy. At one point my father had so many people who wanted to record there that he started renting the studio out. He'd have a certain amount of records pressed up and give them to you so that you could go out there and try to get your own records on the radio. If you got a hit, you could come back to Savoy and he'd sign you. If you didn't, it was just a small loss.<sup>65</sup>

To continue the comparison, for Third World workers, sweatshops function as a *starting* point. Workers have even worse choices, and so gained from sweatshop employment. As workers accumulate

experience and skills, they move up to better-paying firms. Similarly, for some desperate jazz musicians, Savoy could have been a valuable starting point from which they could move forward.

While there certainly could have been cases where onerous contracts locked artists unfairly to uncaring record owners, Little Esther's moving among record producers may have been much more the norm than the situation of Jimmy Scott. Indeed, the postwar environment was typified by the free movement of artists among labels as few independents offered contracts. According to Teddy Reig,

Nobody really wanted [contracts]. The artist wanted to stay free in case he got hot and got an offer from a major label. The owners, on the other hand, didn't want to make a commitment either. If you signed an artist to a year's contract, you would have to guarantee him twelve or sixteen sides. If you tried to get out after four, the federation could prevent you from doing any other dates until you lived up to your end of the bargain. Take a guy like John Lee Hooker. This guy was on 50,000 labels! Anyone with \$100 in his pocket was cutting four sides with him!<sup>66</sup>

Finally, there is the issue of artists signing away the publishing rights to the songs that they composed. Most record owners, however, did not realize how valuable publishing rights would become. Indeed, Herb Abramson sold his one-third interest in Atlantic Records for \$300,000 in December 1958 when the company's record sales were booming. It was only in the early 1970s that former owners and artists came to realize how valuable those publishing rights were. Indeed, when, in 1986, Morris Levy was forced to sell the publishing rights his

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<sup>64</sup> Ibid.

<sup>65</sup> Carpenter et al., 259.

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<sup>66</sup> Reig, 35.



Roulette record label, he received \$55 million, a sum that dwarfed the price received by the independents who sold their labels in the late 1960s and early 1970s. For Atlantic Records, Wexler and Ertegun received \$17.5 million, the Chess estate received \$6.5 million for Chess Records, and the Nathan estate less than \$5 million for King Records. This is not to deny the exploitation experienced by artists who were unable to keep their publishing rights; it only indicates that in the competitive postwar period, owners did not believe that they were stealing such valuable assets in the postwar years.

### **Conclusions**

The vilification of Herman Lubinsky is understandable. He was a white entrepreneur in a cutthroat environment where black artists could be exploited. While there were others who undercut the earnings of black artists – promoters and bandleaders – they at least had sympathies for the music performed. Bandleaders such as Hampton or promoters like Teddy Reig could be forgiven because they still appreciated the music and the black culture from which it flowed. In the political and social environment that developed in the 1990s, Jewish owners were an easy target so that their transgressions were inflated while others got a pass.

Moreover, the desire of the music world to believe that Jimmy Scott was a victim, led it to cast Lubinsky in a most unfavorable light even though he had little to do with the downslide of Scott's career. Victimization ideology makes it impossible to question the behavior of black artists as the victims should never be held responsible for their actions. It is always the owners who are the exploiters and only they should be held accountable. The more so when the owner's demeanor is so off putting while the victim's is so sympathetic.