

On Merit

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W.A.G.E. is an activist and advocacy organization currently focused on regulating the payment of artist fees by the non-profit arts organizations and institutions that subcontract artistic labor.

W.A.G.E.'s myopic focus on artist fees has sometimes been the subject of criticism by those who would argue that artists have always been unpaid, or that the sum total of W.A.G.E.'s efforts will result only in minor increases in quality of life for a limited number of artists, and that these efforts are ultimately reformist and fail to deal with the super-structural problem of economic inequity and exploitation engendered by capitalism, and most alarmingly, that calling for the remuneration of cultural value in capital value in fact operates in collusion with said super-structure.

This may all be true. W.A.G.E. is essentially a reformist organization because we advocate for reform within an existing economy. But we believe that this economy—the non-profit economy—is worth reforming and it's through a myopic focus on fees that conditions fundamental to the Work of Artists in the Age of Speculative Capitalism become visible.

The very simple but critical question, *why don't non-profits pay artist fees?* has regularly been posed to W.A.G.E. and over the years we have answered it different ways. These have included drawing attention to a lack of government regulation, a lack of transparency, their omission as a line item in budgets, the assertion of exposure as a fair exchange, and quite simply, because they don't have to pay them. As it turns out, these

answers only tell us how fees aren't paid, but they don't actually tell us why, which means that they're symptomatic of a larger structural issue.

So, after 7 years of thinking and talking about this question, I'm going to re-pose and re-answer it here, again, now. *Why don't non-profits pay artist fees?*

The short answer is: because artists don't think they deserve them; because non-profits don't know what they're doing in this regard; and because the philanthropists who support the non-profit sector know exactly what they're doing, and they always have.

The long answer is more nuanced. It addresses the contradictions that are intrinsic to the work of artists and to the non-profit economy itself. It addresses how the nature of charity defines the relationship between artists and non-profits, and between non-profits and their funders—and by doing so poses a significant challenge to the valuation, buying and selling of artistic labor.

W.A.G.E. was invited to participate in this conference ¹in part because we recently proposed a tool that could guarantee artists a minimum income in the non-profit sector. The tool is W.A.G.E. Certification. It's a program initiated and operated by W.A.G.E. that 'certifies' those non-profits voluntarily paying artist fees that meet minimum payment standards. These standards were established by W.A.G.E. in consultation with artists, administrators, curators, sociologists, labor historians, writers, and others.

W.A.G.E. chose to establish compensation standards within this sector because none previously existed. Not only were there no guidelines for what artists should be paid, there remains no consensus within the art field itself, even and especially among artists themselves, about whether we should be paid at all beyond the sale of art commercially. This lack of consensus comes as no surprise since it's consistent with the contradictions that, in the privacy of many artists' own personal logic, sound something like this:

- The real value of my work is non-monetary but I want to be paid for my work because my work requires time + labor and I need to earn a living.
- I only exhibit my work in non-profit and artist-run spaces in order to remain critical of the market economy, so getting paid means I'm not being critical of the market economy.
- I have to build up my social and cultural capital in order for my work to be perceived as worthy of compensation, but the more cultural and social capital I accrue, the more I appear to not need compensation.
- People think artists are penniless radicals who live off the state. People think artists are privileged networked gentrifiers

who readily profit from the excesses of the art market.

These thought bubbles describe a common condition. They describe what it feels like to embody the contradictions endemic to being a contemporary artist—namely, that the radical social or political potential of art is compromised by its commodity or market status, including that of labor, and that there is no way out of this condition.

With no way out, we have to find a way to live within it. We also have to find a way to get paid for our work—not only within this condition, but also despite it.

From W.A.G.E.'s perspective, embodying a contradiction does not justify non-payment for services rendered and content provided, although many believe that it does. If we were to agree with them, we might also believe that the few artists who appear to have found a way out have somehow passed through the eye of the needle into another dimension where the radical social and political potential of art production is seamlessly compatible with living well from selling that which is produced, and that these artists are exceptional.

By exceptional I mean that they are successful, and that the success of these artists is due to their exceptional talent, toil, and savvy—in other words, that their success is based on *merit*. But I also mean that they are the exception and by being the exception, they also prove the rule. And what is the rule? Again, the rule is that the contradictions inherent to being a contemporary artist under neoliberal capitalism are not resolvable, and as such the conditions under which we work are just that: the conditions under which we work, and nothing can be done to change them.

W.A.G.E. asserts otherwise, and we believe that insisting on payment for services rendered and content provided is wholly unrelated to the paralysis we all experience and which is endemic to living within a contradiction.

As we define it, an artist fee is not a reward. It's payment for subcontracted labor which is the work that you do when you enter into a transactional relationship with an arts organization to produce an exhibition or program. This makes the artist fee the closest thing this sector has to a wage. And because W.A.G.E. mandates that fees should be the same for all artists, it is therefore understandable that advocating for their equal distribution threatens the belief some artists have in their own exceptional status, which they may also believe was earned on a level playing field where it was all equal opportunity, all the time.

But in truth, we're all invested in this meritocracy, and the standardized payment of fees based on labor and not merit threatens our need to believe in the possibility of being the next exception, one that the simultaneous increase in critical and

market value would confirm. Thus we find ourselves competing with each other for impossible success in a system that's basically rigged.

So you can see how the contradictions we work within as artists are also divisive and as such they pose real obstacles to building consensus and have tended to shut down whatever potential we have as a labor force to bargain collectively for adequate remuneration. Add to that a vested interest some theoreticians and academics may have in maintaining the status quo because their work depends on the perpetual treading of theoretical water, and you have a labor movement that will tend to do the same: tread water.

The good news is that the contradictions inherent to being a contemporary artist are compatible with the contradictions at play within—and which are also definitive of—the non-profit art economy, governed as it is under the veiled logic of charity. And while it can reasonably be argued that charity is a transaction like any other, doing so would undermine a relation that has been carefully defined in the most pious of terms over a period of centuries: we understand charity as the redistribution of wealth, from the rich to the needy, as it should be, because the needy merit the charity of the donor, and the charity provided is an expression of the donor's belief in social and economic justice.

Suspended between the high-minded generosity of the donor and the desperation of the needy is the *non-profit organization*. The non-profit organization is by definition a public charity. In demonstrating that it serves the public good, it also enjoys a special moral status signified by its 501c3 designation as a tax-exempt organization. Instead of contributing to the tax base, it is eligible to receive taxpayer money to serve the public good, in effect aiding the government in doing its work, and as some would have it, in aiding the government to fulfill its responsibility to provide public goods.

Charitable status also enables the non-profit to give tax write-offs to the private foundations and individuals who support it through grant making and cash donations. This means that, instead of paying into the tax base, donors bypass the state and pay directly into the causes they are personally or politically invested in while also getting a tax break. The rules of charity have been written to incentivize giving but they also have been written to benefit the wealthy and this should come as no surprise.

To be clear, 'non-profit' does not mean that making profit is prohibited—it simply means that if profit is made it must be reinvested into the provision of future services and not redistributed to officers, directors, or members. In other words, this rule, known as the "non-distribution constraint", protects

the organization from the potential of individual greed to degrade its mission to serve the public good. For examples of such degradation we need look no further than the compensation package of Glen Lowry, director of MoMA who in fiscal year 2013 earned close to \$2 million (\$1,856,954), or Lisa Phillips who made \$614,000, nearly 5% of the New Museum's total operating budget and more than three times what its other highest paid employees earned that year.

Taken together, the defining mechanisms of the non-profit—its tax-exempt status, its ability to receive subsidies, and the restriction on personal gain—appear to locate it outside of the commercial marketplace where its moral standing is clear and consolidated and secure. But as it turns out, the moral standing of the non-profit serves two important functions within the marketplace itself.

The first is by providing an alternative to it. In the free market there are of course no restrictions on personal gain, so shareholders and owners have both the incentive and the opportunity to increase profit by providing lower quality services and by exploiting workers. In the art field, the for-profit entity is none other than the commercial gallery, within which the role of the art dealer is none other than that of someone who takes advantage of consumers for personal gain. This is to be expected, and in this equation the radical social and political potential of art is usually negated, or at the very least, declawed.

By contrast, the non-profit sector's restriction on personal gain provides consumers with an alternative in which they can trust that they are not being taken advantage of. Bound as it is by its charitable status to operate educationally, and often to provide institutional support for artists, as well as for practices that are less saleable, more immaterial, and perhaps more likely to destabilize or eliminate completely their own market value, when the non-profit offers art as pure radical social and political potential, it is apparently not doing so for private gain or for profit, and this is what gives it its moral authority.

Ironically though, it is precisely the non-profit's moral authority that *increases* the monetary value of the art and artists that pass through it in the form of exhibitions and programs. The logic is that if it's exhibited in a non-profit institution, it serves the public good and therefore must have value beyond commerce—and it is exactly this perception that adds economic value to art when it reaches the commercial auction and sales markets.

So, to summarize what we have so far: on one level we have a constituency of artists who are ambivalent about whether they should be paid at all, and whose potential to form consensus and organize around remuneration is constricted by the divisive contradictions inherent to being a contemporary artist under

neoliberal capitalism.

On another level we have the non-profit arts organization, whose status positions it outside the commercial marketplace, thereby concealing its central role in imbuing art with economic value. At worst the non-profit is a tax shelter for the wealthy, and at best it is the mechanism through which some of our most beloved institutions provide critical support for artists in a context that retains the radical social and political potential of art.

Now place the socially conscious but ambivalent artist in front of the fun house mirror that is the non-profit and it's not surprising to find a serious distortion in the valuation and transaction of artistic labor. Now add a third level: private philanthropy, the primary source of funding for non-profit arts organizations in the United States.

Philanthropy is characterized as "private initiative for public good, focusing on quality of life." Although very much connected, the distinction between charity and philanthropy is that, where charity "relieves the pains of social problems", philanthropy attempts to "solve social problems at their root causes." As the Chinese proverb goes, it's the difference between giving a man a fish so that he will eat for a day and teaching him how to fish so that he will eat for a lifetime.

Philanthropy defines itself as a form of charity that would prefer to teach a man how to fish. Fine, but not only does this imply remarkable hubris on the part of the philanthropist, it also points to the pathetic and bitter irony on which the entire system is based.

While it's true that private philanthropy established some of the country's most important educational institutions; advocated for the secular development of the humanities and sciences; and pushed government to implement and deliver social programs on a federal level, the source of its leverage to do these things came from the wealth it derived from the mass exploitation of labor during the emergence of industrial capitalism. In its exploitation of working people, the philanthropist produced the very so-called social problems it purports to try to solve. In other words, the exploitation of labor is likely the root cause of the problem and a lifetime of fishing isn't going to fix it.

On top of that, profound tax breaks incentivize the creation of private foundations within which philanthropists store their wealth, requiring the dispersal of only a minimum of 5% of its assets annually. Put another way: tax law makes it advantageous for industrial capitalists to become philanthropists because, in addition to amassing wealth by exploiting labor and resources on an industrial scale, it is also financially beneficial for them to appear to solve the very social problems they caused in the first

place.

Testifying to the efficacy with which wealth and power are consolidated and perpetuated over the long-term in this way, and in other ways, is the legacy of ur-capitalists like Andrew Carnegie, John D. Rockefeller, and Henry Ford which lives on through their private foundations whose assets remain in the billions of dollars.

Activist and professor Ruth Wilson Gilmore posed the critical question “what is a foundation?” and has answered it in this way: “A foundation is stored wealth. A foundation’s funds are stolen value created by working people around the world in factories, mines and fields. That’s what foundations are. And most foundation money goes to universities, where it’s held in trust for the very thieves who stole it in the first place.”

And while this is unarguably true, it is also true that philanthropy, in coordination with reformers, was responsible for identifying a need and forcing government to step up and provide for it, as it did with arts funding. The New York State Council on the Arts and the National Endowment for the Arts were founded in the mid-1960s at the behest of the Rockefellers, under Nelson Rockefeller’s governorship, shortly after which the alternative space movement of the early 1970s began, giving rise to now established non-profit institutions such as The Drawing Center, The Kitchen, Artists Space, PS1, and so on.

So, while it’s as simple as philanthropy benefiting from trying to fix the social problems it caused in the first place, it’s also as complicated as philanthropy now being an indispensable ancillary mechanism to government in the support that it provides. One of the consequences of a government deeply dependent on philanthropy is that the more money philanthropists are incentivized by federal and state tax law to store and gift through their foundations, the less money there is in the tax base for the government to redistribute into causes that have been collectively determined as worthy of support.

Thus, the fewer tax dollars collected by the government, the fewer public goods it can provide and fund, resulting in the proliferation of non-profits to fill the gap, where they serve as *private* producers of public goods. At this point, not only has the government handed over the provision and funding of these goods to the non-profit sector, it has caused fierce competition for funding within it, making it function not unlike a market economy in that sense. Within this equation, instead of requiring the non-profit to justify its programming on the basis of its educational value, which is what defines its 501c3 status, the non-profit receives funding on the basis of how well it will serve the agenda of the philanthropist.

In the arts, the current philanthropic agenda supports programs located at the intersection of art and social justice, where artists act as economic engines and agents for social change. Also known as social practice. Also known as the instrumentalizing of artists to clean up the mess that capitalism made. Also known as using artists to perpetuate and spread a global neoliberal agenda through things like 'creative place-making'. Also known as the orchestrated displacement of working class people. Also known as gentrification.

The funding of these initiatives, and for the less innocuous ones, happens through a highly formal and somewhat ritualized application process between grant maker and grantee. Mysterious as it sometimes is, the process makes sense given that it's necessary for the grantee to demonstrate reliability and accountability in its use of the funds in accordance with the grant-maker's wishes, but it's ultimately a ritual based on a charitable relation through which the donor derives utility and retains power.

In other words, in order to receive *charity*—a sum of money based on the discretion of the donor—it must prove that what it does *merits* funding. Does this sound familiar? If so, then the answer to the question, *why don't non-profits pay artist fees?*, is probably starting to become clear.

The non-profit doesn't consistently pay artist fees based on anything resembling the actual value of cultural labor today because it redistributes funds to artists on the same basis that it receives them: as *charity*, and on *merit*. The problem is that artists are not charity cases. And compensation is not based on merit.

By insisting that the work of artists in the non-profit sector be exchanged not as charity but as subcontracted labor, and not on the basis of merit but on the basis of services rendered and content provided, what I hope is also becoming clearer, is how this insistence disrupts the chain of contradiction that places all of our work in the service of maintaining the status quo in the for-profit sector.

But it's going to take more than reforming the payment of artist fees to cause any real disruption to the order of things, so I'm going to conclude with some thoughts about what it might look like to extend reform into something more disruptive and more organized. If artists are a labor force, and if non-profits are instrumental in determining the value of the labor that artists provide, then non-profits are a critical ally to artists, particularly because they are subject to the same conditions of charity and merit that determine their survival.

So I wonder if it's in response to precisely these conditions that we're seeing the emergence of the Common Practice franchise, of which there are now three, in London, New York and L.A. In

total there are 23 small and mid-scale arts organizations that have come together to make the case for their value and for the deferred value they generate within the art economy. This is no doubt occurring in response to increased deregulation and corresponding increases in competition for funding within the field. But whatever the reason, their organizing in this way and at this point bodes well for W.A.G.E. Certification because if we can certify one, there should be no reason why we can't certify them all. If they're united in making the case for their own value and survival, then they can't reasonably exclude the role of artists in that, and getting W.A.G.E. Certified would acknowledge it.

By next month there will be a total of 10 W.A.G.E. Certified organizations, which is pretty good for a program that was launched just over 3 months ago. At this rate we could have 30 to 40 signed on by the end of the year. But what if we wanted to go faster than that—what if we wanted to accelerate the formation of, like the Common Practice franchise, something that starts to look like a union of organizations?

Here is an outlandish idea: what would happen if W.A.G.E. began certifying individual artists on the basis of their commitment to exhibit only with W.A.G.E. Certified organizations? On its face this idea might seem divisive, but over time it could result in the emergence of a unified field—albeit one compromised by the contradictions of the system within which it operates, but at least unified in its commitment not to operate in the same way that the system itself does.

(This text is dedicated to Randy Martin)

<http://wageforwork.com>

This article was published for *The Artist as Debtor Conference* on <http://artanddebt.org>, which was organized by the artists Noah Fischer (member of Occupy Museums) and Coco Fusco to discuss the art and the debt economy on January 23 2015 at The Great Hall of Cooper Union for the Advancement of Science and Art, New York.

Notes:

1. *The Artist as Debtor Conference*, held on January 23 2015 at The Great Hall of Cooper Union for the Advancement of Science and Art, New York, <http://artanddebt.org> ↩