— SHAKERS —

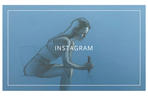
Conversation with Virginia Broersma about the FARE contract for artists

MARY JO MATSUMOTO COMMENTS OFF

Search

Sign up for my newsletter

FOLLOW ME



RECENT ARTICLES

ON BEING A SECRET POET, HEAVEN ON EARTH, AND THE FINE ART OF SHOWING UP
NOVEMBER 17, 2022

CONVERSATION WITH SHARON SPRUNG
SEPTEMBER 16, 2022

CONVERSATION WITH VICTORIA POWELL
JUNE 3, 2022

CONVERSATION WITH LUCY PULS
APRIL 12, 2022

CONVERSATION WITH ARINZE STANLEY
MARCH 23, 2022

CONVERSATION WITH RAY TURNER
MARCH 9, 2022

CONVERSATION WITH PETER SHELTON
FEBRUARY 21, 2022

If you've ever wondered about your rights as an artist after your work is sold, maintaining provenance and other legal questions about your art, then keep reading. Today's guest is Virginia Broersma, (artist and founder of The Artists' Office), who is spearheading along with Susan Schwartz (artist and attorney) a project to provide free, artist-centric contracts to artists as a way to advocate for better business practices within the art world.

MJ: For artists who are not familiar with the FARE contract, could you explain what it is and why it would benefit an artist to use it?

Virginia Broersma: The FARE contract is a sales agreement for artists to use when they sell their work. But more than that, it is a legal tool that will protect artists' interests and establish ongoing rights in their work after it is sold. The FARE contract is available for free at artistscontract.com and includes options for a variety of rights that artists can select to include such as resale royalties, the prevention of future sales for a period of time (to prevent flipping), and to be notified of future buyers of the work so that the artist can maintain provenance. It is generated through a questionnaire to make the process simple and (perhaps) less intimidating for those unfamiliar with using contracts.

We think artists should establish the practice of getting their agreements in writing at the beginning of their careers. While it may not seem that important, there are many future issues that could arise that can be prevented through using a contract, and many benefits that can be established as well. A contract can be a tool to strengthen professional relationships, protect artists' legacies and ensure that their work is used in a way that they approve of.

A few examples of consequences artists have faced by not having contracts in place are flipping that destabilizes an artist's market, having their work included in a controversial exhibition that contextualizes their work in an unfavorable light, having their work discounted without their approval, and missing out on profits when their work increases in value in the secondary market.

MJ: What is the history of contracts for artists and why do you think it has not been widely used?

Virginia Broersma: Artists have used contracts for many aspects of their careers such as commissioned works, however, the sales contract has become more urgent and crucial since the 1960's as artists' work began to obtain astronomical increases in value in the secondary market. A key moment in art history is the sale of Robert Rauschenberg's piece "Thaw" at the 1973 Skull Auction. The artwork had been purchased from Rauschenberg for $900 and resold for $85,000 – enraging Rauschenberg as he did not receive any piece of that increase in value.

Another key point in artist contract history was the drafting of the 1971 Artist's Reserved Rights Transfer and Sale Agreement that came out of conversations amongst artists who wanted the ability to protect their rights after their work had sold, and to retain the ability to receive a portion of the profits when the work resells. It was drafted by curator Seth Siegelaub and attorney Robert Projanksy, and many artists have used or attempted to use this contract over the years. Hans Haacke is a notable example of successfully using the 1971 Artist's Contract as it's called, however many artists have been told by their dealers that using contracts is just "not how it's done." Visual artists have widely accepted this so as to not lose out on opportunities, while other creative industries have secured royalties and advocated for better business practices such as using contracts. The tide is turning though, and many artists are now unwilling to forfeit their future protections and economic benefits because other players in the art world don't want to change their practices.

MJ: You started working on The Artist Contract Project during Covid lockdown. What drew you to the project and how has it impacted your own career?

Virginia Broersma: The project developed and expanded over time as Susan Schwartz and I had conversations about what artists need and what challenges they face. As we continued to research artist contracts on our own so that we could share the information with other artists, we recognized that there was a great need for education and conversation around these topics within the art world. We also felt strongly that artists should be leading the way.

The lockdowns opened up so many possibilities for connecting with people that I think we are all recognizing at this point. Susan and I had meetings with like-minded people and organizations from across the country and around the world. We talked with people who I never would have personally had access to at this point in my career as an artist. It showed me that while a passion project such as this is a lot of work, it has great potential for building relationships with people who you can quickly identify as allies.

The process of helping other artists advocate for themselves has also helped me become more comfortable with advocating for myself. It can be really tough to do so and is much easier when you are seeing the harm done to other artists. I have learned that when I ask for other people to consider my rights, I am helping every artist by normalizing these "asks".

MJ: I think many artists are concerned with being a "squeaky wheel" and potentially jeopardizing a good relationship with a gallery. How would you suggest an artist signing with a gallery navigate a discussion of using a contract like this?

Virginia Broersma: This is the primary hurdle for most artists. However, this is what has contributed to artists lacking what are considered best practices in other industries. We suggest that artists start by saying, "I'd like to use a contract for our agreement. May I send over my contract for you to review?" and go from there.

We have created a list of talking points for artists who are still looking for the language to ask for contracts and to negotiate things such as resale royalties and being notified of future buyers so they can track the provenance of their work. These talking points can be found here: https://www.artistscontract.com/fare-talking-points

MJ: What are your hopes for the Artist Contract in terms of its evolution?

Virginia Broersma: We hope to finish getting a handful more contracts available on the website. We also want to continue educating artists about how to use contracts, and why they should use them. We continue to reach out to institutions and college programs to give presentations on the project so that we can plant seeds with artists at the early stages of their careers.

We also hope that artists will adopt the practice of using contracts and encourage their artist friends and peers to do so as well. This would build the grassroots aspect of the project where it moves away from us as the founders and expands out into the world where artists are spearheading the changes that they want to see in the art world by simply asking for what they want, and getting it in writing.

***

You can view the FARE contract and other artist contracts at artistscontract.com. Virginia Broersma's work can be seen on her website and check out The Artist's Office, where she works with artists to identify and pursue opportunities such as grants, exhibitions, and residencies.

If you enjoyed this post, you might also want to read Curator Kiki Karaglou on Dangerous Beauty or Conversation with Art Critic Hall W. Rockefeller.

Share via:
Facebook Twitter LinkedIn + More

FACEBOOK · TWITTER · PINTEREST

TAGS: FARE CONTRACT

< PREVIOUS POST
CONVERSATION WITH JOSHUA LAROCK
SEPTEMBER 21, 2021

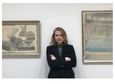
NEWER POST >
CONVERSATION WITH ANNA ILTNERE OF THE SEA LIBRARY
DECEMBER 22, 2021

Mary Jo Matsumoto

Related Posts

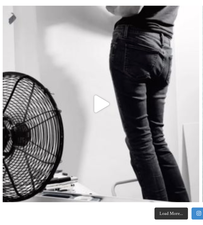
CONVERSATION WITH CURATOR JENNIFER KEIL
FEBRUARY 11, 2022

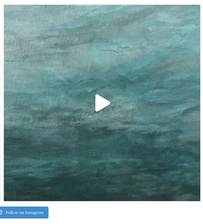
CURATOR KIKI KARAGLOU ON DANGEROUS BEAUTY
JULY 23, 2021

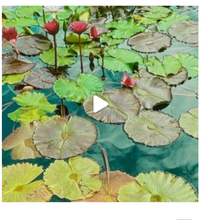


CONVERSATION WITH ART CRITIC HALL W. ROCKEFELLER
MAY 7, 2021

FOLLOW ALONG ON INSTAGRAM







Load More... Follow on Instagram

© 2023 COPYRIGHT BY MARY JO MATSUMOTO. ALL RIGHTS RESERVED.