

the  
artist  
as  
philanthropist

strengthening  
the next  
generation of  
artist-endowed  
foundations

a study of the emerging artist-endowed  
foundation field in the U.S.

study report supplement 2013

# the artist as philanthropist

## strengthening the next generation of artist-endowed foundations

a study of the emerging artist-endowed  
foundation field in the US

# study report supplement 2013

Christine J. Vincent, Study Director

**Study Committee**

Alberta Arthurs

Charles C. Bergman

James T. Demetrion

Lowery Stokes Sims

James Allen Smith

Stephen K. Urice



THE ASPEN INSTITUTE  
Philanthropy & Social Innovation

Study Report published 2010. Study Report Supplement published 2013.  
[www.aspeninstitute.org/psi/a-ef-report](http://www.aspeninstitute.org/psi/a-ef-report)

The views expressed are those of the authors and are not of the Program on Philanthropy and Social Innovation or the Aspen Institute, its trustees, or its funders.

The Aspen Institute's **Program on Philanthropy and Social Innovation (PSI)** seeks to inform and maximize the impact of grantmaking foundations, nonprofit organizations, social enterprises, and public-private partnerships through leadership development initiatives, convenings, and communications so that each can contribute to the good society at home and abroad. The Program's theory of change rests on the premise that if their leaders have clarity about their values, are collaborative in their approach to problem-solving, and are aware of the strategies and potential partnerships available to them, they are more likely to succeed in advancing the social good.

**The Aspen Institute** is an educational and policy studies organization with a mission to foster leadership based on enduring values and to provide a nonpartisan venue for dealing with critical issues. The Institute is based in Washington, DC; Aspen, Colorado; and on the Wye River on Maryland's Eastern Shore. It also has offices in New York City and an international network of partners.

© 2013 The Aspen Institute  
One Dupont Circle NW, Suite 700  
Washington, DC 20036-1133  
202-736-5800, fax 202-467-0790  
<http://www.aspeninstitute.org/>

Published in the United States of America.

# TABLE OF CONTENTS:

## STUDY REPORT SUPPLEMENT 2013

Preface.....	i
Acknowledgements .....	iii
Executive Summary .....	xi
Introduction .....	xxi

### UPDATES TO VOLUME I

#### PART A. FINDINGS: OVERVIEW OF THE FIELD

2.4 The Artist-Endowed Foundation Field: Field Dimensions – Updated .....	3
2.4.1 Census of Artist-Endowed Foundations – Updated .....	15
2.4.2 Foundation Assets – Updated.....	21
2.4.3 Charitable Purpose Disbursements – Updated .....	31
2.4.4 Foundations and Associated Artists – Updated.....	37

#### Appendix A.2 The Field

B. Snapshot Profiles: Largest Artist-Endowed Foundations – Updated.....	43
---	----

#### Appendix A.3 Quantitative Profile of the Artist-Endowed Foundation Field

A. Identified Artist-Endowed Foundations – Updated.....	113
C. Artist-Endowed Public Charities Identified During Research – Updated .....	131

### SUPPLEMENTS TO VOLUME II

#### PART B. CONSIDERATIONS IN FOUNDATION PRACTICE

#### Appendix B. Foundation Practice – Supplemental

E. The Literature of Estate Planning As It Pertains to Visual Artists .....	141
---	-----

#### PART C. COLLECTED BRIEFING PAPERS

#### 9. Briefing Papers – Supplemental

##### 9.8 Planning in Light of Trends

9.8.1 Foreword to Supplemental Briefing Papers .....	149
9.8.2 Authors’ Affiliations.....	153
9.8.3 Incorporating in New York State: Forming Charitable.....	155
Organizations with Cultural and Philanthropic Purposes (James J. Fishman)	
9.8.4 Artist-Endowed Foundations Holding Stock in Artists’ .....	161
Corporations: A Costly Arrangement (Jill S. Manny)	
9.8.5 Statutory Copyright Termination and Artist-Endowed.....	169
Foundations (Lee-Ford Tritt)	



# PREFACE

The Aspen Institute's National Study of Artist-Endowed Foundations, the first in-depth examination of private foundations created in the US by visual artists, was initiated in 2007 with the encouragement and support of a donor consortium led by Charles C. Bergman of the Pollock-Krasner Foundation, Jack Cowart of the Roy Lichtenstein Foundation, and Joel Wachs of the Andy Warhol Foundation for the Visual Arts. Along with other long-serving directors, including Sandy Hirsch of the Adolph and Esther Gottlieb Foundation, these leaders, always generous in sharing their experiences with new members of this emerging field, gave shape to the Study's mission, which is to help the next generation of artist-endowed foundation make the most of its donors' generosity in service to a charitable purpose.

The Study's aim is to encourage effective practice in formation of artist-endowed foundations and the operation of these new philanthropies, thereby increasing the ability to fulfill their charitable mandates. Its chief strategy is to address the significant information gap facing individuals involved in creating new artist-endowed foundations and leading and governing their operations. It has done this by researching, assembling, and making available relevant information about this new field and the often-complex considerations involved in the creation and management of artist-endowed foundations and their charitable programs.

Since its release in 2010 at [www.aspeninstitute.org/psi/a-ef-report](http://www.aspeninstitute.org/psi/a-ef-report), a variety of activities above and beyond the basic distribution of the Study Report publication have been mounted to ensure that the Study's research findings reach their intended audiences and do not sit passively on the shelf. These dissemination activities include publication of a reading guide to the Study Report tailored for artists and their family members, publication of articles based on the Study's findings in national journals, presentation of panel discussions and lectures to a variety of national and local audiences, and presentation of a professional education convening based on the Study's findings for leaders of artist-endowed foundations.

This publication, *Study Report Supplement 2013*, which incorporates an updated data profile of the field along with newly commissioned briefing papers on emergent policy issues and a descriptive survey of relevant estate planning literature, is an additional component of the dissemination program. As a resource for those creating the next generation of artist-endowed foundations, along with those leading the field, it offers information about recent growth, both in numbers and in aggregate assets, and explores what this expansion means with respect to the field's evolving practices and the forces shaping its development.

Both the initial Study Report and this supplemental publication have been written for a general audience from a nonspecialist's perspective, although in some cases, briefing papers authored by independent scholars also address the interests of specialist audiences. As has been true from the Study's inception, its research findings and related materials are offered in the belief that presentation of information about the overall field and its evolving practices, including its distinctive characteristics, will provide the best possible context for the inevitable attention from policymakers that is sure to result as the field transforms dramatically in scale and achieves greater visibility.

Christine J. Vincent  
Study Director  
The Aspen Institute's National Study of Artist-Endowed Foundations



# ACKNOWLEDGEMENTS

Many organizations and individuals have assisted in realizing the work of the Study's dissemination program. Following the Study's publication, an ad hoc group met to inform planning for dissemination of its research findings. This group included: Charles C. Bergman, chairman and CEO, the Pollock-Krasner Foundation; Jack Cowart, executive director, Roy Lichtenstein Foundation; Jack Flam, president, the Dedalus Foundation; Sanford Hirsch, executive director, the Adolph and Esther Gottlieb Foundation; Carolyn Somers, executive director, Joan Mitchell Foundation; and Joel Wachs, president, the Andy Warhol Foundation for the Visual Arts, with additional input by Leah Levy, director, the Jay DeFeo Trust, and Cynthia Gehrig, president, Jerome Foundation. In addition, members of this group graciously took up roles individually to advance the Study's dissemination by hosting presentations, participating as panelists and speakers, and facilitating opportunities to collaborate on presentations with organizations whose interests in the realm of the arts, philanthropy, and law bear on the Study's research.

A wide range of organizations whose constituents have a stake in the Study's research have generously provided opportunities to share its findings by organizing or hosting panel discussions and presentations. Among these are: Alliance of Artists Communities; American Bar Association Section of Taxation, Exempt Organizations Committee; Art Dealers Association of America and Mitchell-Innes & Nash Gallery; ArtTable New York and Robert Rauschenberg Foundation; Artists & Legacy Symposium presented by The Noguchi Museum, Judd Foundation, and Philip Johnson Glass House of the National Trust for Historic Preservation; Association of Academic Museums and Galleries and the Johns Hopkins University; Council of Artist Foundations and Roy Lichtenstein Foundation; the Dedalus Foundation; Farnsworth Art Museum; Graham Foundation for Advanced Studies in the Fine Arts; Grantmakers in the Arts and the Pollock-Krasner Foundation, Jerome Foundation, and the Andy Warhol Foundation for the Visual Arts; Armand Hammer Museum of Art and Culture Center, University of California Los Angeles; Harvard Art Museums; Hauser Center for Nonprofit Organizations, Harvard University; Heckerling Institute on Estate Planning, University of Miami School of Law; International Foundation for Art Research; Los Angeles County Museum of Art; Milano School of International Affairs, Management, and Urban Policy, the New School; Museum of Modern Art; New York City Bar Association, Art Law Committee; Provincetown Art Association and Museum; Western States Artist Foundations and the Jay DeFeo Trust; and Social Theory, Politics and the Arts Conference and the University of Kentucky. Numerous foundation leaders made themselves available to participate as panelists and conveners for these presentations; they are listed below, with thanks.

The New School's Milano School of International Affairs, Management, and Urban Policy contributed significantly as a key partner in the Study's enhanced dissemination program by collaborating in the November 2012 presentation of a professional education convening with content based on the Study's findings—the Seminar for Artist-Endowed Foundation Leaders: Issues in Practice and Policy. In particular, Seminar Co-director Aida Rodriguez, professor of Professional Practice and former chair of Management Programs at the New School's Milano School, saw an opportunity to build on the school's storied history in the arts and social change to assist new leaders in cultural philanthropy. Likewise,



Study advisor Stephen K. Urice provided valuable guidance on Seminar content generally and on recruitment of participating scholars able to address critical policy issues that have come to the fore since the Study Report's publication. Scholars in the fields of art, philanthropy, law, education, and cultural policy, listed below, kindly accepted the invitation to serve as Seminar faculty.

Authors of the supplemental briefing papers presented in this publication's **Part C. Collected Briefing Papers**—James J. Fishman, Jill S. Manny, and Lee-Ford Tritt—came to the topic of artist-endowed foundations as authorities in New York nonprofit law and practice, private foundation law, and estate planning and copyright law, respectively. Their interest in engaging this topic for the first time is appreciated, as is their willingness to accommodate the assignment in busy schedules. In the same spirit, Stephen K. Urice and Marion R. Fremont-Smith generously extended the impact of their initial roles as scholarly advisors and authors of key briefing papers by advising on supplemental research, reviewing papers and publications, and participating in presentations, as well as providing guidance on dissemination generally.

Development of the *Reading Guide to the Study Report for Artists and Their Family Members* was informed significantly by artists and artists' family members who contributed their questions and shared their personal perspectives on the topic, helping to ensure that the publication would speak to the concerns of its intended audience. In addition to the many artists interviewed individually during the Study's research program, those contributing also included artists who participated in the Study's dissemination activities. Among these are the artists and their family members who gathered at the Los Angeles home of Jennifer Guidi and Mark Grotjahn for a March 2013 evening organized by independent curator Paul Schimmel and Ann Philbin, director of the Armand Hammer Museum of Art and Cultural Center, as well as artists' family members who convened in November 2012 at the Museum of Modern Art for a symposium on considerations in foundation creation, and the artists who participated in the April 2011 Artist & Legacy Symposium presented by The Noguchi Museum, the Judd Foundation, and the Philip Johnson Glass House.

The Study's initial research program, publication, and dissemination activities were advised by Alberta Arthurs, former director, Arts and Culture, The Rockefeller Foundation; Charles C. Bergman, chairman and CEO, the Pollock-Krasner Foundation; James T. Demetrian, director emeritus, Hirshhorn Museum and Sculpture Garden, Smithsonian Institution; Lowery Stokes Sims, curator, Museum of Arts and Design; James Allen Smith, vice president, director of Research and Education, The Rockefeller Archive Center; and Stephen K. Urice, professor of law, University of Miami School of Law. Their wise guidance is deeply appreciated.

With the leadership of the Lichtenstein, Pollock-Krasner, and Warhol Foundations, the consortium supporting the Study's initial activities was broadened in order to fund these enhanced dissemination efforts. Listed below, the group includes national and local institutional philanthropies, individual donors, and artist-endowed foundations themselves. Charles C. Bergman in particular played a key role in advocating support for the Study's enhanced dissemination. As has been true since the Study's inception,

while benefitting from donor support, the Study also enjoyed complete independence, arriving at its conclusions free of influence from its funders, who bear no responsibility for the findings and views presented in the Study's initial report and this supplement, the accompanying briefing papers, related publications, and presentations.

The staff of the Aspen Institute's Program on Philanthropy and Social Innovation, particularly Tracey Rutnik, deputy director for Research and Policy, and Eric Boehm, Finance and Program manager, provided valuable support to conduct and administer the Study's research and dissemination activities. Finally, Jane Wales, vice president, Philanthropy and Society, Aspen Institute, and director of the Institute's Program on Philanthropy and Social Innovation, has generously encouraged the Study's activities as a dimension of the program's mission to strengthen philanthropy's role in advancing social innovation.

Christine J. Vincent  
Study Director

The Aspen Institute's National Study of Artist-Endowed Foundations

## Study Dissemination Presentations: Foundation Panelists and Conveners

Patricia L. Bailey, President  
Heliker-LaHotan Foundation

Alexandra Benjamin, Executive Director  
The Mandelman-Ribak Foundation

Charles C. Bergman, Chairman and CEO  
The Pollock-Krasner Foundation

Richard Calvocoressi, Director  
The Henry Moore Foundation

Bloum Cardenas, Co-trustee  
Niki Charitable Art Foundation

Pamela Clapp, Former Program Director  
The Andy Warhol Foundation for the  
Visual Arts

Jack Cowart, Executive Director  
Roy Lichtenstein Foundation

Jack Flam, President  
The Dedalus Foundation

Cindy Gehrig, President  
Jerome Foundation

Richard Grant, Executive Director  
Richard Diebenkorn Foundation

Julia Gruen, Executive Director  
The Keith Haring Foundation

Sarah Herda, Executive Director  
Graham Foundation for Advanced Studies  
in the Fine Arts

Sanford Hirsch, Executive Director  
The Adolph and Esther Gottlieb Foundation

John Jacob, Director  
Inge Morath Foundation

Ann Koll, Former Executive Director  
Emilio Sanchez Foundation

Leah Levy, Director  
The Jay DeFeo Trust

Joseph S. Lewis III, President  
Noah Purifoy Foundation

Christy MacLear, Executive Director  
Robert Rauschenberg Foundation

K. C. Maurer, CFO and Treasurer  
The Andy Warhol Foundation for the  
Visual Arts

Mark McKenna, Executive Director  
Herb Ritts Foundation

Amy Schichtel, Executive Director  
The Willem De Kooning Foundation

Carolyn Somers, Executive Director  
Joan Mitchell Foundation

Morgan Spangle, Executive Director  
The Dedalus Foundation

Michael Ward Stout, President  
The Robert Mapplethorpe Foundation

## Seminar for Artist-Endowed Foundation Leaders: Participating Scholars

Bruce Altshuler, Director

Program in Museum Studies, New York University

Author, *Collecting the New: Museums and Contemporary Art*, Princeton University Press (2005)

Alberta Arthurs, Former Director, Arts and Humanities

Rockefeller Foundation

Former Board President, Exit Art

Richard Calvocoressi, Director

The Henry Moore Foundation

Former Director, Scottish National Gallery of Modern Art

Elena S. Danielson, Archivist Emerita

Hoover Institution Library and Archives, Stanford University

Author, *The Ethical Archivist*, Society of American Archivists (2010)

Ruth Fine, National Gallery of Art Curator, 1972–2012

Co-author, *O’Keeffe on Paper*, National Gallery of Art (2000)

James J. Fishman, Professor of Law

Pace University School of Law

Co-author, *New York Nonprofit Law and Practice: With Tax Analysis*, LexisNexis (2nd ed., 2009)

Marion R. Fremont-Smith, Senior Research Fellow

Hauser Center for Nonprofit Organizations, Harvard University

Author, *Governing Nonprofit Organizations*, Harvard Belknap Press (2004)

Neil Grabois, Dean

Milano School of International Affairs, Management, and Urban Policy

Former Vice President, Carnegie Corporation of New York

Justin Hughes, Professor of Law

Benjamin N. Cardozo School of Law, Yeshiva University

Senior Advisor to the Under Secretary of Commerce

United States Patent and Trademark Office

Jill S. Manny, Adjunct Professor of Law and Executive Director

National Center on Philanthropy and the Law

New York University School of Law, New York University

Ruth Masterson, Senior Program Director

Association of Small Foundations

Co-author, *Working With Consultants*, Association of Small Foundations (2011)

Nancy Mowll Mathews, Senior Curator Emerita

Williams College Museum of Art

Co-author, *Maurice Brazil Prendergast, Charles Prendergast: A Catalogue Raisonné*, Williams College Museum of Art (1990)

Aida Rodriguez, Professor of Professional Practice  
Milano Management Programs, The New School for Public Engagement  
Former Deputy Director, Equal Opportunity Division, The Rockefeller Foundation

James Allen Smith, Vice President and Director of Research and Education  
The Rockefeller Archive Center  
Former Executive Director, The Howard Gillman Foundation

Ruth Ann Stewart, Clinical Professor of Public Policy  
Robert F. Wagner Graduate School of Public Service, New York University  
Former Senior Specialist, Arts, Humanities and Social Legislation, Congressional  
Research Service

Lee-Ford Tritt, Professor of Law and Director  
The Center for Estate Planning, University of Florida School of Law  
Author, *Liberating Estates Law from the Constraints of Copyright*, Rutgers Law Journal  
(2006)

Stephen K. Urice, Professor of Law  
University of Miami School of Law  
Co-author, *Law, Ethics and the Visual Arts*, Kluwer Law International (5th ed., 2007)

Christine J. Vincent, Study Director  
The Aspen Institute's National Study of Artist-Endowed Foundation  
Former Deputy Director, Media, Arts and Culture, Ford Foundation

Gretchen A. Wagner, General Counsel  
ARTstor  
Member, Committee on Intellectual Property, College Art Association

## **Study Donor Consortium**

The Josef and Anni Albers Foundation

Artists' Legacy Foundation

The Aspen Institute, Program on  
Philanthropy and Social Innovation

California Community Foundation

The Dedalus Foundation

The Jay DeFeo Trust

Ford Foundation

Jacques and Natasha Gelman Trust

The Getty Foundation

The Adolph and Esther Gottlieb Foundation

Agnes Gund Foundation

Frederick Hammersley Foundation

Keith Haring Foundation

Harpo Foundation

Jerome Foundation

The Joyce Foundation

Roy Lichtenstein Foundation

The Henry Luce Foundation

Lucid Art Foundation

The Robert Mapplethorpe Foundation

Pierre and Tanna Matisse Foundation

Joan Mitchell Foundation

The New York Community Trust

Niki Charitable Art Foundation

The Pollock-Krasner Foundation

Robert Rauschenberg Foundation

Herb Ritts Foundation

Rockefeller Brothers Fund

The Judith Rothschild Foundation

Louisa Stude Sarofim

Eugene V. & Clare E. Thaw Charitable Trust

The Andy Warhol Foundation for the Visual Arts



# EXECUTIVE SUMMARY: HIGHLIGHTS OF UPDATED FINDINGS

An artist-endowed foundation is a tax-exempt, private foundation created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries to own the artist's assets for use in furthering charitable and educational activities serving a public benefit. Artists' assets derive from art-related activities, as well as other sources unrelated to art. Among assets conveyed to artist-endowed foundations are financial and investment assets, art assets (such as art collections, archives, libraries, and copyrights and intellectual property), real property (such as land, residences, studios, exhibition facilities, and nature preserves), and other types of personal property.

In deploying their assets for public benefit, artist-endowed foundations typically take up roles as one of four functional types: *grantmaking foundation*; *direct charitable activity foundation*, with a chief purpose such as a study center, exhibition program, house museum, artist residency program, art education program, and the like; *comprehensive foundation*, which combines multiple functions; and *estate distribution foundation*, formed without the intention of perpetuity in order to accomplish the posthumous, charitable distribution of an artist's assets. These roles can change over the course of a foundation's life cycle.

## PROJECT OVERVIEW

The Aspen Institute's National Study of Artist-Endowed Foundations is the first research effort focused on the emerging field of private foundations created in the US by visual artists. The Study's mission is to help the next generation of artist-endowed foundations make the most of its donors' generosity in service to a charitable purpose. It aims to do this by filling the significant information gap facing individuals involved in creating and leading new artist-endowed foundations, thereby shortening the steep learning curve inherent in these complex entities and helping to ensure that charitable resources can be spent on charitable purposes, not costly lessons.

The Study's findings were released in November 2010. The two-volume Study Report, *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations*, is available to view and download at [www.aspeninstitute.org/psi/a-ef-report](http://www.aspeninstitute.org/psi/a-ef-report). Volume 1 of the report provides an overview of the emerging field, its origins, current status, trends, and prospects. Volume 2, a handbook on practice, offers artists, their advisors, and foundation leaders a summary of considerations in forming and operating these organizations and their charitable programs.

Since publication of the Study Report, the artist-endowed foundation field has continued to expand, both the number of foundations identified as well as the aggregate assets held by members of the field. This publication—*Study Report Supplement 2013*—provides information on that growth, analyzes the factors shaping it, and explores its possible ramifications. It does this by updating the Study's initial findings using quantitative data on the scope and scale of the field. The data focus on benchmark years



addressed in the Study's initial findings (1990, 1995, 2000, and 2005) with the addition of 2010, which is the most recent year for which the chief source of data—the annual information return (Form 990-PF) filed yearly by private foundations with the Internal Revenue Service (IRS)—is available currently for the greatest number of foundations. In addition to updating the field's dimensions, this publication highlights several key trends that will shape its growth in the coming years.

## **THE ARTIST-ENDOWED FOUNDATION FIELDS: FIELD DIMENSIONS – UPDATED**

### **Universe**

The number of artist-endowed foundations identified to date now totals 363, including the cohort of 261 foundations identified for research purposes initially. This includes extant foundations, as well as those existing previously that subsequently terminated. It does not include foundations in formation that have not yet been added to the public databases listing private foundations whose tax exemption the IRS has recognized. Of the identified foundations, 2010 financial data were available for analysis on 285. Those without data had terminated prior to 2010, filed initial returns after 2010, or failed to file for the year.

### **Assets**

Artist-endowed foundations reported \$3.48 billion in aggregate assets in 2010, up 44 percent from \$2.42 billion in 2005. Over the 15-year period ending in 2010, assets have increased 360 percent. This compares with the greater foundation universe as a whole, which reported a 17 percent growth in assets for 2005 to 2010 and 184 percent growth for the 15-year period overall.

The great bulk of the growth is in art assets, which now account for a majority of the field's assets—\$1.99 billion (57 percent) out of \$3.48 billion assets overall, up 83 percent from 2005 when art assets of \$1.09 billion represented 45 percent of aggregate assets of \$2.42 billion. The field's liquidity has declined commensurately, with financial assets increasing by only 11 percent and dropping to 38 percent of all assets in 2010 from 49 percent in 2005. Land and building assets remained stable at five percent of all assets.

Alongside the growth in art assets, a majority of the field's assets now are reported as charitable use assets—those used or held for use directly in carrying out a foundation's charitable purposes and, as such, with a value excluded from calculation of the private foundation annual payout requirement. The field's charitable use assets increased 63 percent to \$2.06 billion in 2010 from \$1.26 billion in 2005, rising to 59 percent of all assets from 52 percent. Despite this trend, not all artist-endowed foundations classify art assets as charitable use assets; some consider these investment assets.

Different factors have contributed to the overall growth in the field's art assets. A group of 78 foundations that together reported 99 percent of all art assets saw these assets increase in value \$907.49 million (85 percent) overall between 2005 and 2010. Within this, however, 31 foundations together reported a \$62.94 million decrease in the value of art assets due to grants and sales of art,

while 23 foundations saw a \$641.97 million increase primarily due to donor gifts and bequests, and another 23 foundations reported an increase of \$355.46 million, generally due to appreciation. One foundation reported no change.

Even as the number of foundations reporting art assets increased, rising to 147 in 2010 from 107 in 2005, the percentage of all foundations reporting art assets grew only nominally, to 52 percent from 49 percent. More broadly, the portion of the field reporting art assets, or land and building assets, or art assets in combination with land and building assets, rose to 59 percent in 2010 from 55 percent in 2005.

### **Charitable Disbursements**

Artist-endowed foundations expended \$131.83 million for charitable purposes in 2010, including \$69.99 million (53 percent) in contributions, gifts, and grants, and \$61.83 million (47 percent) in charitable operating and administrative expenses—those that include costs to administer grantmaking programs, as well as conduct direct charitable activities, such as operating artist residency programs, exhibition programs, art education programs, study centers, house museums, and the like. Overall, charitable disbursements increased almost 60 percent between 2005 and 2010. While contributions, gifts, and grants increased 52 percent, charitable operating and administrative expenses grew 69 percent, continuing a trend identified in the Study's initial analysis.

More broadly, total giving by artist-endowed foundations increased 79 percent over the 2000 to 2010 decade, rising to \$69.99 million from \$39.03 million. During the same period, all foundations nationally reported a 66 percent increase in giving and family foundations reported an increase of 82 percent.

### **Grantmaking**

Not all artist-endowed foundations make grants, but the majority does and the proportional profile of this group's giving is similar to that of family foundations. Sixty-nine percent of artist-endowed foundations (197) reported contributions, gifts, and grants in 2010. Of this group, seven percent reported total giving of \$1 million or more while, at the other end of the scale, 48 percent reported total giving of less than \$50,000. In comparison, six percent of family foundations reported total giving of \$1 million or more in 2010 and 49 percent reported total giving of less than \$50,000.

While the field's giving rose 79 percent over the 2000 to 2010 decade, the single highest total grants paid by any one foundation grew 92 percent, to \$12.46 million from \$6.50 million, even as it held steady at just under 20 percent of all giving.

Grantmaking with artworks, typically to museums and educational institutions, continues to represent a distinctive aspect of the field's giving, often as a dimension of activities by estate distribution foundations. The value of art grants varies substantially from year to year. In 2010, three foundations made grants of artworks valued at \$1 million or more.

The focus of the field's grantmaking interest is squarely on the arts and culture, which represents 84 percent of all giving by foundations that reported total giving of \$100,000 or more in 2010. The

remaining 16 percent was dispersed across a range of interests, including: medical research and services, higher education, and human services (almost four percent each); social action, HIV/AIDS research and services, the environment, community improvement, and religious institutions (each about one percent); and historic preservation and animal welfare (less than one percent each).

## **Foundation Status**

Despite the field's growth in numbers, the percentage of the field that reported its status as that of operating foundation remained steady at 25 percent, as it has since 2000, even with evidence that some foundations change status during their life cycle. In the greater foundation universe, nine percent report as operating foundations.

Although they comprise just one-quarter of the field, operating foundations now report a decisive majority of the field's charitable-use assets, rising to 63 percent in 2010 from 53 percent in 2005 and nearly doubling in value to \$1.31 billion from \$672.76 million. Concurrent with this, their share of the field's overall assets increased to 43 percent from 33 percent. While they continued to report the bulk of their charitable purpose disbursements (86 percent) as charitable operating and administrative expenses, they also sustained an involvement in grantmaking, which accounted for 14 percent (\$5.10 million) of their charitable expenditures in 2010. This is consistent with research nationally pointing to a trend of grantmaking by operating foundations generally.

Nonoperating foundations reported a majority of the field's assets overall, but this share dropped to 57 percent in 2010 from 67 percent in 2005. At the same time, they continued to report significant charitable-use assets, rising to \$758.58 million from \$591.92 million, although their share of the field's charitable-use assets overall declined to 37 percent from 47 percent. With grants of \$64.89 million in 2010, nonoperating foundations accounted for the majority of the field's giving (93 percent) and grantmaking dominated their charitable expenditures (69 percent). At the same time, they also continued to report strong charitable operating and administrative expenses, comprising 31 percent of their charitable disbursements. This aligns with recent research nationally finding higher levels of charitable operating and administrative expense for nonoperating foundations with particular operating characteristics, several of which are found among artist-endowed foundations: conducting direct charitable activities, making grants to individuals, and making grants internationally.

## **Foundation Size**

Proportionally, the artist-endowed foundation field has more large foundations and fewer small foundations than is the case among foundations nationally. Continuing a trend, the largest foundations—those reporting assets of \$50 million and above, nearly doubled between 2005 and 2010, increasing to 20 foundations from 12. They now represent seven percent of all foundations. In contrast, just two percent of foundations nationally, as well as of family foundations, report assets of \$50 million or more.

While the smallest foundations—those reporting less than \$1 million in assets—increased 20 percent, rising to 128 from 107, they continued to see their portion of the field decline, dropping to 45 percent

from almost 50 percent. In comparison, 67 percent of foundations nationally, and 62 percent of family foundations, reported assets of less than \$1 million in 2010.

### **Foundation Formation**

Formation of artist-endowed foundations held steady in the past decade, but did not accelerate. One-third of all identified foundations (114 foundations, 32 percent) were formed during 2001 to 2010, down slightly from a high in foundation formation during 1991 to 2000 (121 foundations, 33 percent). The slower growth for this period is consistent with patterns among family foundations and in the greater foundation universe. That said, the two most recent decades saw the creation of two-thirds of all identified foundations.

The trend toward creation of foundations after the death of the associated artist continued, with posthumously formed foundations accounting for 63 percent of all foundations established in the 2001 to 2010 period. This sustains a long-term rise from the 1981 to 1990 period, when 36 percent of foundations were formed posthumously. Foundations established posthumously might be formed under artists' estate plans, or by surviving spouses or other heirs or beneficiaries. At the same time that posthumous formation prevailed, the age of those artists who did create foundations during their lifetimes continued to rise, with an average age of 73 for the 2001 to 2010 period, up from 64 for the 1971 to 1980 period.

Survivorship remains a factor related to motivations in foundation formation. The number of identified foundations reporting at least \$1 million in assets and associated with a deceased artist rose to 126 from 94 in the Study's initial findings. Consistent with prior findings, a majority of these foundations (58 percent) continues to be associated with artists without lineal descendants, although this share is down from 64 percent. In contrast, 42 percent of these foundations are associated with artists who did have lineal descendants, and this share is an increase from 36 percent previously.

### **Foundation Termination**

Continuing a pattern highlighted in the Study's initial findings, not all artist-endowed foundations exist in perpetuity. Across all decades, a total of 57 foundations (16 percent) have terminated to date. Among these are foundations that completed their function as estate distribution foundations and those that transferred assets in full to public charities to sustain operation of their programs. This also includes 15 foundations whose tax-exempt status was revoked by the IRS, in all but one case for failure to file annual information returns; most had been flagged as inactive in the Study's initial findings. Separately, eight foundations converted to public charity status and continued operations.

A closer look at the net effect of foundation formation and termination trends reveals the field's dynamism. While at least one estate distribution foundation that terminated by 2010 had reported \$1 million or more in assets in 2005, another nine foundations reporting \$1 million or more in assets were established after 2005.

## **Associated Artists**

Although the number of identified foundations has increased, the characteristics of their associated artists have changed little overall. Foundations associated with artists whose primary roles are not in the fine arts—photographers, illustration artists, and designers, including architects—have increased in number, but the majority of foundations (68 percent) continues to be associated with artists that have primary roles in the traditional fine art forms, those of painter and sculptor.

Likewise, the diversity of artists associated with foundations changed little. Foundations associated with female artists, individually or in combination with male artists, increased in number. Nonetheless, foundations associated with male artists (79 percent) continue to represent the bulk of the field. Separately, foundations associated with artists of color increased nominally and as a result, declined to eight percent from nine percent of the field.

Foundations associated with one artist continue to dominate the field (86 percent), although those associated with more than one artist increased in number. A small but growing portion of the field (two percent) is associated with multiple artists of the same gender, these being family members, professional associates, or life partners.

## **KEY TRENDS**

Art assets now comprise a majority of the field's assets, whereas art assets and financial assets were on par in 2005. Tied to this is a parallel shift, with charitable-use assets, once even with noncharitable-use assets, now in the majority.

The rising portion of the field's charitable purpose disbursements committed to charitable operating and administrative expenses parallels the growth in charitable-use assets, presumably the result at least in part of an increased emphasis on direct charitable activities involving those assets.

The growth in the field's giving is keeping pace with that of the greater foundation universe. The overwhelming focus of artist-endowed foundation giving on the arts and culture continues to be a hallmark of this field. Grantmaking with artworks is one aspect of that focus, particularly as a function of estate distribution foundations.

Larger artist-endowed foundations are increasing as a portion of the overall field and frequently are comprehensive foundations—those with multiple activities, often combining grantmaking with direct charitable activities that deploy charitable-use assets.

The field's dynamism remains evident, with entities forming as private foundations, changing between nonoperating and operating status, terminating, or converting to public charity status. No doubt tied to the growth of the field's art assets, the rise of estate distribution foundations is one dimension of this dynamism.

Artists without lineal descendants continue to account for a majority of the field's larger foundations. This suggests that for a substantial portion of artists creating foundations, estate tax considerations are not likely to be a primary motivation.

Nonetheless, foundations associated with artists survived by children are growing in number and also as a portion of the field, pointing not only to possible estate tax considerations on the part of such artists, but also to the increased potential for involvement by artists' family members in foundation governance.

## **LOOKING AHEAD**

While the number of artist-endowed foundations will continue to increase steadily, the field as a whole is on the cusp of exponential growth in the scale of its assets. Not reflected in 2010 data are pending bequests to established foundations made by artists deceased in recent years, including Louise Bourgeois, Helen Frankenthaler, Mike Kelley, LeRoy Neiman, Irving Penn, Robert Rauschenberg, Maurice Sendak, Dorothea Tanning, and Cy Twombly, among others. It is reasonable to project that these bequests ultimately could double the size of the field's assets. The potential increase in charitable disbursements and charitable activities that could result is significant.

Foundations' transparency and willingness to educate the public about their processes and programs will be vital in navigating the field's greater visibility resulting from its substantial growth. Likewise, sustaining the field's generous commitment to collegial exchange and peer assistance through networks such as the Council of Artist Foundations will be essential as it welcomes the next generation of foundations.

Foundation governance will continue to be a critical issue, as discussed in the Study's initial findings, particularly with respect to four concerns.

*Public Benefit:* As the number of art collections flowing into the artist-endowed foundation field grows, and the scale of assets classified as charitable-use assets continues to increase, effective realization of the charitable use of such assets, and clear evidence of their benefit to the public, will be ever more important to justify this classification.

*Conflict of Interest:* As more artists who have children consider forming foundations tasked in part to educate about and promote their works, and envision their family heirs in a governance role, a clear understanding of the conflict of interest risks that will result should these family heirs themselves own and sell the artist's works, potentially benefitting economically from the foundation's activities, will be crucial.

*Professional Development:* As the field expands, and greater numbers of individuals find themselves serving for the first time as a member of a foundation's governing body, a commitment to professional development to educate themselves about private foundation governance and regulation will be paramount for these new leaders and for the foundations they steward.

*Diversity:* Although foundations associated with artists who are women have grown in number, there remain few associated with artists of color. It is to be hoped this will change in the coming years. In

the meantime, given its commitment to generative support for the arts in our multicultural society, it will be important for the field as a whole to consider diversity in developing foundation boards and staff and in reaching out to new grantees.

Three trends evident with the emergence of new foundations will shape the field in the coming years.

*Incorporating in New York State:* Foundations increasingly deploy their art assets in direct charitable activities, such as study centers and exhibition programs. Those foundations forming in New York may find that their process of incorporation could fall under the purview of the state's regulatory system for collection-owning charitable organizations, which views such entities as educational institutions (as are museums) and their art assets as educational collections, potentially subject to limits on deaccessioning. Artists generally intend their art in part to be sold by their foundations in order to fund operations and endow charitable programs, intentions potentially at odds with this system.

*Artists' Corporations:* Starting in the 1970s, artists were advised in some cases to incorporate their studio practice, and foundations now are beginning to receive this generation's bequests. As a result, a growing number of foundations find themselves with ownership interest in artists' corporations, even as their governing boards learn about the complicated and expensive nature of this situation arising from limits by law on the business holdings of private foundations.

*Statutory Copyright Termination:* Artists' estate plans increasingly are prepared using will substitutes, such as trusts. On a technical basis, there remain questions as to whether transfer of copyrights by will substitute, as opposed to by will, leaves in place the statutory rights of family heirs to take possession of artists' copyrights at a later date, potentially presenting a challenge for those artists who intend to bequeath their copyrights permanently to a foundation.

From the vantage point of 2013, greater forces are likely to be at play as the field evolves. On the one hand, economic factors might contribute to spurring formation of artist-endowed foundations, including a strong global art market and a rising US stock market. Alternatively, federal tax policies might slow foundation formation, beginning with the newly permanent federal estate tax exclusion of \$5 million per person, with proper planning \$10 million for two spouses generally. Beyond this, with the newly recognized right of married same sex couples to be taxed as spouses, the federal estate tax marital deduction, which potentially can function to delay foundation formation, will extend to a broader universe of artists.

Lastly, although the number and scale of artist-endowed foundations will continue to increase, many artists will opt to use alternatives to the single-artist, private foundation form. This will include artists who choose to establish organizations that will depend on support from the general public and, as such, seek to qualify as public charities; those who forego an intervening mechanism and simply make their bequests directly to museums, educational institutions, and community foundations; and those who seek out opportunities enabling them to combine their bequests with those of other artists to achieve their goals for posthumous philanthropy.

## **CONCLUSION**

Artist-endowed foundations continue to represent a very small segment of the universe of 76,000 private foundations in the US. Likewise, their aggregate charitable contributions still pale compared to the \$2.3 billion committed to the arts in total by this country's private foundations. But such measures belie the field's potential influence. Despite their seemingly modest position, these distinctively endowed charities are increasing in number, and the focus of their activities holds particular relevance to the visual arts. Together they steward a growing cultural patrimony of modern and contemporary art, and they actively engage the visual arts field through their giving and by direct programs in ways that set them apart from most other private foundations. The updated findings presented here depict a field poised for substantial growth in its charitable resources and philanthropic impact.





# INTRODUCTION

The Aspen Institute's National Study of Artist-Endowed Foundations, the first research effort focused on the emerging field of private foundations created in the US by visual artists, released its findings in November 2010. The two-volume Study Report, titled *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations*, is available to read and download at [www.aspeninstitute.org/psi/a-ef-report](http://www.aspeninstitute.org/psi/a-ef-report).

Volume I of this publication provides an overview of the emerging field, its origins, current status, trends, and prospects. It forecasts continued momentum in foundation creation, by artists themselves as well as by artists' surviving spouses and other heirs and beneficiaries. Volume 2 of the Study Report, a handbook on practice, offers artist-donors, their advisors, and foundation leaders a summary of considerations in forming, sustaining, and terminating these philanthropies, as well as planning and conducting their charitable programs. Briefing papers by scholars in the arts, philanthropy, and law address key issues in foundation practice; an annotated bibliography cites references in foundation formation, administration, and program management; and recommendations on practice and policy highlight opportunities to advance the young field.

Since the Study Report's release, the artist-endowed foundation field has continued to expand, both in terms of the number of foundations identified as well as in aggregate assets held by members of the field. For leaders of established artist-endowed foundations, as well as for those who will play a role in creating the next generation, it is important to understand what this expansion potentially signifies with respect to the field's evolving practices and the trends shaping its growth. The purpose of this publication—*Study Report Supplement 2013*—is to provide that information.

This supplement is selective, not comprehensive, and as such is not intended to replace the initial Study Report, but to be read alongside that publication. **Volume I. Overview of the Field** is updated in this publication with a detailed chapter on the field's expanded dimensions, including the scope, scale, and nature of foundations' assets and activities. Two updated appendices support this chapter, including one that lists all identified artist-endowed foundations and another that offers profiles of the largest foundations, those holding assets of \$1 million and more as of 2005, 2008, or 2010. Artist-endowed public charities identified in the course of research are listed in a third appendix.

This publication updates **Volume II. Considerations in Foundation Practice** with a new appendix that provides a descriptive survey of estate planning literature as it pertains to visual artists. Lastly, the original collection of scholarly briefing papers is supplemented with three additional essays addressing topics that have come to the fore since publication of the initial Study Report and represent a potentially significant influence on the field's development.

The mission of the Aspen Institute's National Study of Artist-Endowed Foundations is to help the next generation of artist-endowed foundations make the most of its donors' generosity in service to a

charitable purpose. It aims to do this by filling the significant information gap facing individuals involved in creating and leading new artist-endowed foundations, thereby shortening the steep learning curve inherent in these complex entities and helping to ensure that charitable resources can be spent on charitable purposes, not costly lessons.

the artist as philanthropist  
strengthening the next generation of  
artist-endowed foundations

a study of the emerging artist-endowed  
foundation field in the US

study report supplement 2013

**UPDATES TO VOLUME I**

PART A.

FINDINGS: OVERVIEW OF THE FIELD



## 2.4 THE ARTIST-ENDOWED FOUNDATION FIELD: FIELD DIMENSIONS – UPDATED

This chapter supplements select portions of **Chapter 2.1 The Artist-Endowed Foundation Field: Scope, Scale, and Development**, found in **Volume I** of the Study Report, by updating key findings with respect to quantitative data on the number of foundations identified, the field’s assets and charitable purpose disbursements, and the characteristics of artists associated with foundations. The data focus on a set of benchmark years addressed in the Study’s initial findings (1990, 1995, 2000, and 2005), with the addition of 2010, which is the most recent year for which the chief source of data—the annual information return (Form 990-PF) filed yearly by private foundations with the Internal Revenue Service (IRS)—is available currently for the greatest number of foundations.

Two updated appendices support the analysis presented in this chapter. The first of these is **Appendix A.2 B. Snapshot Profiles: Largest Artist-Endowed Foundations - Updated**, which provides brief data profiles of the 170 artist-endowed foundations that reported assets of at least \$1 million in one or more of the years 2005, 2008, and 2010. The second of these is **Appendix A.3 A. Identified Artist-Endowed Foundations - Updated**, which lists all artist-endowed foundations identified by the Study as of this publication. Separately, **Appendix A.3 C. Artist-Endowed Public Charities Identified During Research – Updated** lists artist-endowed public charities identified to date during the course of research on private foundations.

The chapter first describes methodology used for the update and then re-caps definitions for important terms. This is followed by highlights of the updated findings, with key trends and projections, supported by tables and commentary addressing four topics: the census of artist-endowed foundations, foundation assets, charitable purpose disbursements, and characteristics of artists associated with foundations.

### METHODOLOGY

This update draws on foundation data through 2005 as presented in **Volume I. Appendix A.3 Quantitative Profile of the Artist-Endowed Foundation Field** of the Study Report. The methodology used to assemble and analyze the data through 2005 is detailed in that appendix. The more recent foundation data for 2010 were collected from foundations’ Forms 990-PF, which can be accessed by members of the general public at the websites of organizations such as Guidestar, the Foundation Center, and the National Center for Charitable Statistics/Urban Institute.

The foundation cohort used for the Study’s initial analysis, featured in the quantitative profile, has been supplemented for this current update with newly identified foundations. These additional foundations were identified by cross-referencing lists of artists’ names with databases of private foundations. The lists included artists prominent in their respective art disciplines, those active in particular geographic regions, and those highlighted in art market databases. New foundations also came to light through

contacts with existing artist-endowed foundations. The resulting identified foundations are tax-exempt private foundations established in the US under the Internal Revenue Code. For research purposes, a foundation's Ruling Year, which is the year a foundation's application for tax exemption was approved by the IRS, has been used to define a foundation's year of creation.

Financial data in this chapter are not adjusted for inflation. In some cases, data may not sum to totals because of rounding. In addition, the number of artist-endowed foundations cited for different items of data may differ due to variations in data reported by individual foundations. Lastly, data are not available for each inquiry for every benchmark year.

## **TERMS DEFINED – RECAP**

For the purposes of the Study, an artist-endowed foundation is defined as a tax-exempt private foundation created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries, to own the artist's assets for use in furthering exempt charitable and educational activities serving a public benefit. Artists' assets derive from art-related activities, as well as other sources unrelated to art. Among assets conveyed to artist-endowed foundations are financial and investment assets, art assets (such as art collections, archives, libraries, and copyrights and intellectual property), real property (such as land, residences, studios, exhibition facilities, and nature preserves), and other types of personal property.

For research purposes, *artist* is defined as a visual artist who is or was professionally active, as indicated by the presence of arts sales data, or whose professional activities have been represented in collections, publications, databases, and venues of professional art and design fields.

As detailed in the Study Report, artist-endowed foundations are categorized for research purposes as one of four functional types: grantmaking foundation; direct charitable activity foundation, such as a study center and exhibition foundation, house museum foundation, or program foundation operating an artist residency program or art education program; comprehensive foundation, which combines multiple functions; and estate distribution foundation, one formed without the intention of perpetuity in order to accomplish the posthumous, charitable distribution of an artist's assets.

## **HIGHLIGHTS OF UPDATED FINDINGS**

National and global financial upheaval defined the period of 2006 through 2010. After reaching record highs in 2007, plummeting stock prices in 2008 signaled the start of the economic recession in the US. Half of private foundations nationally surveyed by the Council on Foundations reported endowment losses of at least 30 percent. This was followed ultimately by significant reductions in grantmaking. As 2010 closed, these factors had stabilized, but had not regained lost ground. Against this broad backdrop, the following are highlights of the updated data and analysis of the artist-endowed foundation field.

## **Universe and Foundation Formation**

*Identified Foundations*—The number of artist-endowed foundations identified to date now totals 363, including the cohort of 261 foundations identified for research purposes initially. Identified foundations include those extant currently, as well as those that existed previously but subsequently terminated. The increase in identified foundations includes 52 foundations created after completion of the Study’s initial analysis and 50 foundations created prior to the analysis but identified after analysis was completed. Of those created prior to analysis, foundations extant in 2005 would have added \$71 million (three percent) to the \$2.42 billion in aggregate assets reported by identified foundations that year, as published. The geographic distribution of all identified foundations strongly parallels that of the initial cohort.

*Formation Trends*—One-third of all identified foundations (114 foundations, 32 percent) were formed in the 2001 to 2010 decade, down slightly from a high in foundation formation in the 1991 to 2000 decade (121 foundations, 33 percent). Reflecting this, the overall rate of increase slowed from 104 percent to 48 percent, consistent with similar patterns among family foundations and the foundation field nationally.

*Lifetime or Posthumous Foundation Creation*—The trend toward creation of foundations after the death of the associated artist continued, with posthumously formed foundations rising to 63 percent of all foundations established in the 2001 to 2010 period, up from 36 percent of those established in the 1981 to 1990 period. Posthumous creation takes place under an artist’s estate plan, or by an artist’s surviving spouse or other heirs or beneficiaries.

*Artists’ Age at Lifetime Creation*—Among those artists who did create foundations during their lifetimes, the average age at foundation formation continued to rise, reaching 73 for the 2001 to 2010 period, up from 64 for the 1971 to 1980 period.

*Termination Trends*—Across all decades, a total of 57 identified foundations (16 percent) have terminated to date. Among these are foundations completing their function as estate distribution foundations and those transferring their assets in full to public charities to sustain operation of their programs. This also includes 15 foundations whose tax-exempt status was revoked by the IRS, in all but one case for failure to file annual information returns; most had been flagged as inactive in the Study’s initial findings. Separately, eight foundations have converted to public charity status and continued operations.

*Net Gain*—Although at least one estate distribution foundation that terminated by 2010 had reported \$1 million or more in assets in 2005, another nine foundations reporting \$1 million or more in assets in 2010 were established after 2005.



## Field Assets

*Available Data*—Of all identified foundations, 2010 financial data were available for analysis on 285 foundations. Those without data had terminated prior to 2010, filed initial returns after 2010, or failed to file for the year.

*Asset Growth*—In 2010, identified foundations reported aggregate assets of \$3.48 billion, with an average asset value of \$12.22 million and a median of \$1.33 million. This compares to \$757.41 million in assets in 1995 with an average of \$6.42 million and a median of \$844,144. The field's assets have increased 360 percent over the 15-year period ending in 2010.

*Pace of Growth*—The rate of increase to artist-endowed foundations' assets was at its height (82 percent) between 2000 and 2005, then slowed between 2005 and 2010 (44 percent). This compares with the greater foundation universe as whole, which reported a 17 percent growth in assets for 2005 to 2010 and 184 percent growth for the 15-year period ending in 2010.

*Donor Contributions*—Donors have sustained their contributions to foundations although the amounts vary in any year. In 2010, foundations reported \$90.96 million in donor contributions with an average of \$319,148 and \$12.84 million as the largest contribution. This compares to 2005, when donor contributions totaled \$86.86 million, with an average of \$386,050 and \$26.44 million as the largest contribution.

*Large Foundations*—The number of artist-endowed foundations reporting assets of \$50 million or more grew exponentially between 1995, when there were two such foundations, and 2010, when there were 20. As part of this trend, they nearly doubled between 2005 and 2010, increasing to 20 foundations from 12. They now represent seven percent of foundations, a ratio greater than that for foundations nationally, of which just two percent report assets of \$50 million or more, as is also true of family foundations.

*Small Foundations*—At the other end of the scale, the number of foundations reporting less than \$1 million in assets doubled between 1995 and 2010, growing to 128 from 64, even as their portion of the field overall continued to drop, declining to 45 percent of the overall population from 55 percent. In comparison, 62 percent of family foundations reported assets less than \$1 million in 2010, as did 67 percent of foundations nationally. Artist-endowed foundations at this scale typically include new foundations, those with living donors, and estate distribution foundations completing the disposition of their assets.

*Art Assets*—Art assets now account for a majority of the field's assets, 57 percent. Between 2005 and 2010, the field's art assets, reported at fair market value, increased \$906.04 million (83 percent). In 2010, aggregate assets of \$3.48 billion included \$1.99 billion in art assets (57 percent), up from 2005, when aggregate assets of \$2.42 billion included \$1.09 billion in art assets (45 percent).

*Liquidity*—As the field’s aggregate assets have increased, its liquidity has declined. Financial assets grew 11 percent to \$1.31 billion in 2010 from \$1.18 billion in 2005, the period that encompassed the economic recession beginning in 2008. More broadly, the field’s financial assets dropped as a portion of all assets to just 38 percent in 2010 from 49 percent in 2005.

*Asset Diversity*—Although the number of foundations reporting art assets increased, rising to 147 foundations in 2010 from 107 in 2005, the percentage of all foundations reporting art assets grew only nominally, to 52 percent in 2010 from 49 percent in 2005. Overall, the number of foundations owning art assets, or land and building assets, or art assets in combination with land and building assets, grew to 167 (59 percent) in 2010 from 121 (55 percent) in 2005.

*Changes in Art Asset Value*—Different factors have contributed to the growth of the field’s art assets. The 78 foundations reporting 2010 art assets of \$1 million or more, which accounted for 99 percent of all art assets that year, together saw those assets increase in value \$907.49 million overall (85 percent) to \$1.97 billion in 2010 from \$1.06 billion in 2005. Of this group, however, 31 foundations reported decreases in the value of art assets in this period totaling \$62.94 million, primarily due to sales and grants of artworks. One foundation reported no change. In contrast, 23 foundations reported increases in the value of art assets totaling \$641.97 million, primarily due to donor gifts and bequests, and another 23 foundations reported increases totaling \$355.46 million, generally due to appreciation.

*Charitable-Use Assets*—A majority of the field’s assets now are reported as charitable-use assets—those used or held for use directly in carrying out a foundation’s charitable purposes and as such, with a value excluded from calculation of the private foundation annual payout requirement. The field’s charitable-use assets increased 63 percent to \$2.06 billion in 2010 from \$1.26 billion in 2005, rising to 59 percent of all assets from 52 percent.

*Status*—The portion of foundations reporting their status as that of operating foundation has remained steady at 25 percent since 2000, even with evidence that some foundations change status during their life cycle. The level of artist-endowed foundations reporting as operating foundations continues to exceed that among foundations nationally, of which nine percent report as operating foundations.

*Operating Foundation Assets*—Although a minority numerically (71 foundations in 2010), operating foundations reported a majority of the field’s charitable-use assets, rising to 63 percent in 2010 from 53 percent in 2005 and nearly doubling in value to \$1.31 billion from \$672.76 million. Concurrent with this growth, their share of the field’s assets overall increased to 43 percent from 33 percent.

*Nonoperating Foundation Assets*—Nonoperating foundations are most numerous (214 foundations in 2010) and they continued to report a majority of the field’s assets overall, but this share dropped to 57 percent in 2010 from 67 percent in 2005. At the same time, nonoperating foundations

continued to report significant charitable-use assets, rising to \$758.58 million in 2010 from \$591.92 million in 2005, although their share of the field's charitable-use assets overall declined to 37 percent from 47 percent.

### **Charitable Purpose Disbursements**

*Overall Charitable Disbursements*—Foundations expended \$131.83 million for charitable purposes in 2010, including \$69.99 million (53 percent) in contributions, gifts, and grants, and \$61.83 million (47 percent) in charitable operating and administrative expenses—those that include costs to administer grantmaking programs and conduct direct charitable activities, such as operating artist residency programs, exhibition programs, art education programs, study centers, house museums, and the like.

*Growth in Charitable Disbursements*—Disbursements for charitable purposes increased almost 60 percent between 2005 and 2010, growing to \$131.83 million from \$82.67 million. While contributions, gifts, and grants increased by 52 percent in that period, rising to \$69.99 million from \$46.04 million, charitable operating and administrative expenses grew 69 percent to \$61.83 million from \$36.63 million. This continues a trend identified in the Study's initial analysis.

*Operating Foundation Charitable Disbursements*—In 2010, operating foundations continued to report the bulk of their charitable purpose disbursements (86 percent) as charitable operating and administrative expenses, but they also sustained an involvement in grantmaking, reporting \$5.10 million in giving in 2010, representing 14 percent of their charitable expenditures overall. This is consistent with recent research nationally that has identified a trend of grantmaking by operating foundations generally.

*Nonoperating Foundation Charitable Disbursements*—With grants of \$64.89 million in 2010, nonoperating foundations continued to account for the majority of the field's giving overall (93 percent) and grantmaking dominated their charitable expenditures (69 percent). They also continued to report strong charitable operating and administrative expenses, comprising 31 percent of their total charitable disbursements. This aligns with recent research nationally that has identified higher levels of charitable operating and administrative expense for nonoperating foundations with particular operating characteristics, several of which are found among artist-endowed foundations: conducting direct charitable activities, making grants to individuals, and making grants internationally.

*Contributions, Gifts, and Grants*—Total contributions, gifts, and grants reported by identified foundations increased 79 percent for the ten-year period from 2000 to 2010, rising to \$69.99 million from \$39.03 million. In comparison, giving by the foundation field nationally rose 66 percent during the same period and as a subset, giving by family foundations rose 82 percent. At the same time that giving by artist-endowed foundations increased, the percentage of giving represented by the single highest total grants paid by any one foundation remained fairly steady at just under 20 percent of all giving.

*Grantmaking Scale*—Sixty-nine percent (197) of artist-endowed foundations reported contributions, gifts, and grants in 2010. Of this group, seven percent (13 foundations) reported total giving of \$1 million or more while at the other end of the scale, 48 percent (94 foundations) reported total giving of less than \$50,000. As a comparison, six percent of family foundations nationally reported total giving of \$1 million or more in 2010 while 49 percent reported less than \$50,000 in grants.

*Gifts of Art*—Grantmaking with artworks, typically to museums and educational institutions, continued to represent a strong aspect of the field's giving, often as a dimension of activities by estate distribution foundations. In 2010, three foundations made grants of artworks valued at \$1 million or more.

*Grantmaking Interests*—The focus of the field's grantmaking interest is squarely on the arts and culture, which represents 84 percent of all giving by foundations that reported total giving of \$100,000 or more in 2010. The remaining 16 percent of giving was dispersed across a range of interests, including medical research and services, higher education, and human services (almost four percent each); social action, HIV/AIDS research and services, the environment, community improvement, and religious institutions (each about one percent); and historic preservation and animal welfare (less than one percent each).

## **Associated Artists**

*Artists' Primary Roles*—Even as the number of identified foundations has grown, the characteristics of their associated artists have changed little overall. The majority of foundations (68 percent) continues to be associated with artists that have primary roles in the traditional fine art forms, those of painter and sculptor, compared to 69 percent in the Study's initial findings. Foundations associated with photographers, illustration artists, and designers, including architects, have increased in number, but continue to account for the smaller portion of the field, 28 percent, comparable to their 27 percent share previously.

*Artists' Diversity*—Foundations associated with male artists continue to account for the bulk of the field (79 percent), comparable to 80 percent in the Study's initial findings. Foundations associated with female artists, individually or in combination with male artists, increased in number, but remain a minority of the field, 33 percent, comparable to their 31 percent share previously. Separately, foundations associated with artists of color increased in number only nominally and continue to represent a very small part of the field, eight percent in comparison to nine percent in the Study's initial findings.

*Multiple Associations*—Foundations associated with more than one artist increased in number, as did foundations that shared an associated artist with another foundation, but in either case, foundations with multiple associations remain a small part of the field, about 15 percent.

*Survivorship*—A total of 126 foundations associated with deceased artists reported at least \$1 million in assets in 2010, compared to 96 foundations in the Study's initial findings. Of this group, those

foundations associated with artists without lineal descendants continued to be a majority (58 percent), although this is down from their 64 percent share in the Study's initial findings. Foundations associated with artists with lineal descendants accounted for 42 percent, in comparison to their 36 percent share previously.

## **KEY TRENDS**

Art assets now comprise a majority of the field's assets, which were evenly split between art assets and financial assets in 2005. Tied to this is a parallel shift, with charitable-use assets, once on par with noncharitable-use assets, now in the majority.

The rising portion of the field's charitable purpose disbursements committed to charitable operating and administrative expenses parallels the growth in charitable-use assets, presumably the result at least in part of an increased emphasis on direct charitable activities involving those assets.

Although not all artist-endowed foundations make grants, the majority does and the scale of this group's giving is growing, with an involvement that strongly parallels that of family foundations nationally.

The growth in the field's giving is keeping pace with that of the greater foundation universe. The overwhelming focus of the field's giving on the arts and culture continues to be a hallmark. Grantmaking with artworks is one aspect of that focus.

Larger artist-endowed foundations are increasing as a portion of the overall field and are likely to be comprehensive foundations—those with multiple activities, often grantmaking in combination with direct charitable activities that deploy charitable-use assets.

A subset of artist-endowed foundations continues to play a defined role with a limited time frame as estate distribution foundations. The number of foundations with this function is likely to increase alongside growth of the field's art assets.

Artists without lineal descendants continue to account for a majority of the field's larger foundations. At the same time, foundations associated with artists survived by children are growing in number and as a portion of the field, pointing to the increased potential for involvement by artists' family members in foundation governance.

## **LOOKING AHEAD**

While the number of artist-endowed foundations will continue to increase steadily, the field as a whole is on the cusp of exponential growth in the scale of its assets. Not reflected in 2010 data are pending bequests to established foundations made by artists deceased in recent years, including Louise Bourgeois, Helen Frankenthaler, Mike Kelley, LeRoy Neiman, Irving Penn, Robert Rauschenberg, Maurice Sendak, Dorothea Tanning, and Cy Twombly, among others. It is reasonable to project that

pending bequests ultimately could double the size of the field's assets in the next few years. The potential increase in charitable disbursements and charitable activities that could result is significant.

Foundation governance will continue to be a critical issue, as discussed in the Study's initial findings, particularly with respect to four concerns.

*Public Benefit*—As the number of art collections flowing into the artist-endowed foundation field grows, and the scale of assets classified as charitable-use assets continues to increase, effective realization of the charitable-use of such assets, and clear evidence of their benefit to the public, will be ever more important to justify this classification.<sup>1</sup>

*Conflict of Interest*—As more artists who have children consider forming foundations tasked in part to educate about and promote their works, and envision their family heirs in a governance role, a clear understanding of the conflict of interest risks that will result should these family heirs themselves own and sell the artist's works, potentially benefitting economically from the foundation's activities, will be crucial.<sup>2</sup>

*Professional Development*—As the field expands, and greater numbers of individuals find themselves serving for the first time as a member of a foundation's governing body, a commitment to professional development to educate themselves about private foundation governance and regulation will be paramount for these new leaders and the foundations they steward.<sup>3</sup>

*Diversity*—Although foundations associated with artists who are women have grown in number, there remain few associated with artists of color. It is to be hoped this will change in the coming years. In the meantime, given its commitment to generative support for the arts in our multicultural society, it will be important for the field as a whole to consider diversity in developing foundation boards and staff and in reaching out to new grantees.<sup>4</sup>

From the vantage point of 2013, greater forces are likely to be at play as the field evolves. On the one hand, economic factors might contribute to spurring formation of artist-endowed foundations, including a strong global art market and a rising US stock market. Alternatively, federal tax policies might slow foundation formation, beginning with the newly permanent federal estate tax exclusion of \$5 million per person, with proper planning \$10 million for two spouses generally. Beyond this, with the newly recognized right of married same sex couples to be taxed as spouses, the federal estate tax marital deduction, which potentially can function to delay foundation formation, will extend to a broader universe of artists.

Lastly, although the number and scale of artist-endowed foundations will continue to increase, many artists will opt to use alternatives to the single-artist, private foundation form. This will include artists who choose to establish public charities, those who make direct bequests to museums, educational institutions, and community foundations, and those who seek out opportunities enabling them to combine their bequests with those of other artists to achieve their goals for posthumous philanthropy.

## CONCLUSION

Artist-endowed foundations continue to represent a very small segment of the universe of 76,000 private foundations in the US.<sup>5</sup> Likewise, their aggregate charitable contributions still pale compared to the \$2.3 billion committed to the arts in total by this country's private foundations.<sup>6</sup> But such measures belie the field's potential influence. Despite their seemingly modest position, these distinctively endowed charities are increasing in number, and the focus of their activities holds particular relevance to the visual arts. Together they steward a growing cultural patrimony of modern and contemporary art, and they actively engage the visual arts field through giving and by direct programs in ways that set them apart from most other private foundations. The updated findings presented here depict a field poised for substantial growth in its charitable resources and philanthropic impact.

---

<sup>1</sup> See **Volume 2**, 9.4.2 "Public Benefit and Exemption: The Public Benefit Requirement as a Practical Aid in Designing, Organizing, and Operating Artist-Endowed Foundations," Frances R. Hill.

<sup>2</sup> See **Volume 2**, 9.4.1 "Federal and State Laws Regulating Conflict of Interest and Their Application to Artist-Endowed Foundations," Marion R. Fremont-Smith.

<sup>3</sup> See **Volume 1**, 5.1 Forecast: Expectation for New Artist-Endowed Foundations, Governance.

<sup>4</sup> See **Volume 1**, 5.1 Forecast: Expectation for New Artist-Endowed Foundations, Artists Creating Foundations.

<sup>5</sup> FC Stats: The Foundation Center's Statistical Information Service, 2012.

<sup>6</sup> Steven Lawrence and Reina Mukai, "Foundation Grants to Arts and Culture, 2010: A One-year Snapshot," in *GIAreader*, Fall 2012.

## **2.4 THE ARTIST-ENDOWED FOUNDATION FIELD: FIELD DIMENSIONS – UPDATED**

2.4.1 Census of Artist-Endowed Foundations – Updated

2.4.2 Foundation Assets – Updated

2.4.3 Charitable Purpose Disbursements – Updated

2.4.4 Foundations and Associated Artists – Updated





## 2.4.1 Census of Artist-Endowed Foundations – Updated

### A. IDENTIFIED FOUNDATIONS

As of April 2013, 363 artist-endowed foundations with exempt status recognized by the Internal Revenue Service (IRS) were identified for research purposes. This includes foundations extant currently, as well as those that existed previously but subsequently terminated. Examples of terminated foundations are the Paul Strand Foundation, Mark Rothko Foundation, and John Sloan Memorial Foundation, which terminated respectively in 1982, 1990, and 1996. The group of 363 identified foundations comprises the cohort of 261 foundations identified for research purposes initially, as published, with the addition of 101 foundations. The additional foundations include 52 created after 2005, the last year for which foundation data were available for analysis presented in the initial Study Report publication, and 50 created prior to 2006 but identified after analysis was complete. Of those created prior to 2006 but identified after analysis, 37 were extant in 2005 and reported aggregate assets of \$71 million that year, an amount that would have added three percent to the \$2.4 billion in aggregate assets reported by identified foundations in 2005. The geographic distribution of all identified foundations parallels that of the initial cohort.

#### 2.4.1 - A.1 Identified Foundations

<b>Foundations</b>	<b>Initial Cohort</b>	<b>Additional</b>	<b>All Identified</b>
Identified for Initial Analysis	261		
Additional Identified		102	
Total Identified	261	102	362

#### 2.4.1 - A.2 Geographic Distribution of Identified Foundations

<b>Region</b>	<b>Initial Cohort</b>	<b>All Identified</b>
Northeast	60%	59%
West	22%	20%
Midwest	13%	14%
South	5%	7%
Total Identified	100%	100%

## B. Foundation Formation by Decade

Tracked in ten-year increments, foundation creation has continued apace, although the rate of increase slowed after a high in the 1991–2000 decade. A total of 121 identified foundations (33 percent) were established during those years while 114 foundations (32 percent) were formed subsequently in the 2001–2010 period. Despite this decline, about one-third of all identified foundations were established in the past decade. By way of comparison, a similar pattern holds true for family foundations nationally, one-third of which were established in the 2000s, down slightly from a high in the prior decade (Foundation Center, 2012).

### 2.4.1 - B. Foundation Formation by Decade

<b>Decade</b>	<b>Number</b>	<b>% of all Formed</b>	<b>Increase</b>
Through 1970	41	11%	
1971–1980	22	6%	54%
1981–1990	53	15%	84%
1991–2000	121	33%	104 %
2001–2010	114	32%	48%
After 2010	11	3%	
Unknown	1	0%	
Total	363	100%	

## C. Foundation Formation: Lifetime and Posthumous Creation

Of identified foundations created during the 2001–2010 decade, a majority of foundations, 72 (63 percent), were created after the artist’s death, while 34 foundations (30 percent) were created during the artist’s life, and eight (seven percent) were created in the year of the artist’s death. The trend toward posthumous creation of foundations has increased in the past two decades, the period during which two-thirds of all identified foundations were formed. Posthumous foundation creation might take place under an artist’s estate plan, or by an artist’s surviving spouse or other heirs or beneficiaries. Among those artists who did create foundations during their lifetimes, the average age at foundation formation continued to rise, reaching 73 for the 2001 to 2010 period, up from 64 for the 1971 to 1980 period.

### 2.4.1 - C.1 Foundation Formation: Lifetime and Posthumous Creation

<b>Decade</b>	<b>During Life</b>	<b>%</b>	<b>Year of Death</b>	<b>%</b>	<b>After Death</b>	<b>%</b>	<b>Total</b>	<b>%</b>
Up to 1971	25	61%	2	5%	14	34%	41	100%
1971–1980	9	41%	0	0%	13	59%	22	100%
1981–1990	29	55%	5	9%	19	36%	53	100%
1991–2000	47	39%	10	8%	64	53%	121	100%
2001–2010	34	30%	8	7%	72	63%	114	100%
Total*	144	41%	25	7%	182	52%	351	100%

\*Excludes post-2010 and unknown

### 2.4.1 - C.2 Age of Artist at Lifetime Foundation Formation

<b>Decade</b>	<b>Mean</b>	<b>Median</b>	<b>Oldest</b>
Up to 1971	58	58	87
1971–1980	64	70	84
1981–1990	69	71	90
1991–2000	71	70	90
2001–2010	73	72	98

## D. Foundation Termination

A total of 57 identified foundations (16 percent) have terminated as of April 2013, with almost one-half of all terminations taking place in the 2001–2010 decade. The largest group, 27 foundations (48 percent of those terminated), spent out their assets and ceased activities. In many cases this was as an *estate distribution foundation*, although in some instances, boards of modestly endowed foundations elected to terminate after several decades of activity. In a few cases, donors terminated foundations and separately established “replacement” foundations. Another 15 foundations (26 percent of those terminated) transferred their assets in whole to an extant public charity. The tax-exempt status of another 15 foundations (26 percent of those terminated) was revoked by the IRS, in all but one case as the result of automatic revocations that began to take effect in 2010 for charities failing to file annual information returns for three consecutive years. Most of these foundations had been flagged as inactive in the Study’s initial findings. Separately, eight foundations converted to public charity status and continued operations.

### 2.4.1 - D.1 Foundation Termination: Event

Type of Event	Number	% of all Terminated
Spend out	27	48%
Distribute to public charity	15	26%
Exemption Revoked	15	26%
Total	57	100%

### 2.4.1 - D.2 Foundation Termination: Year

Decade	Number	% of all Terminated
Through 1990	3	5%
1991–2000	6	11%
2001–2010	27	47%
After 2010	19	33%
Unknown	2	4%
Total	57	100%

Among foundations that spent out their assets and ceased activities are those with functions as estate distribution foundations, such as the Milton Horn Art Fund and the Georgia O’Keeffe Foundation, which terminated in 2005 and 2009, respectively. Modestly endowed foundations whose boards elected to terminate after several decades of activity include the Alice Baber Art Fund and Richard Florsheim Art Fund, which terminated in 2005 and 2007, respectively. Examples of foundations terminated and replaced with separate, new foundations include the Harriet G. and Esteban Vicente Charitable Trust and Wyeth Endowment for American Art, which terminated in 2004 and 2009, respectively.

Among foundations that transferred their assets in whole to an extant public charity to sustain operation of their program are the Martha Boschen Porter Fund, which made a terminating distribution in 2008 to the Berkshire Taconic Community Foundation to fund the Boschen Fund for Artists, and the Gloria F. Ross Center for Tapestry Studies, which made a terminating distribution in 2010 to the Arizona State Museum, University of Arizona, to establish the Gloria F. Ross Tapestry Program and Fund. Among foundations whose exemptions were revoked automatically for failure to file annual information returns are Chen Chi Foundation and Henry Hensche Foundation, inactive since 2005 and 2006, respectively, and both terminated in 2011. Examples of foundations that converted to public charity status and continued operations are the Romare Bearden Foundation and Albin Polasek Foundation, which converted in 2003 and 2009, respectively.



## 2.4.2 Foundation Assets – Updated

### A. Foundation Cohort Used for Analysis

Of the 363 identified foundations, 2010 data were available for analysis on 285 (79 percent). Those without 2010 data include foundations that terminated prior to 2010, those filing initial returns after 2010, and those that failed to file for the year.

#### **2.4.2 - A. Foundation Cohort Used for Analysis**

<b>Foundations</b>	<b>Data Available</b>	<b>No Data</b>	<b>Total Identified</b>
Number	285	78	363
Percentage	79%	21%	100%



## B. Update to Aggregate Assets: 2010

The field's aggregate assets grew 360 percent for the 15-year period of 1995 to 2010, rising to \$3.48 billion from \$757.41 million. Average assets grew 90 percent, increasing to \$12.22 million from \$6.42 million, while median assets grew by 58 percent, to \$1.33 million from \$844,144. The rate of growth slowed between 2005 and 2010, the period that encompasses the economic recession beginning in 2008, with assets increasing 44 percent in 2010, down from 82 percent in 2005. By way of comparison, for the greater foundation universe as a whole, assets grew 17 percent in the 2005 to 2010 period with a 15-year rate of increase of 184 percent (Foundation Center, 2012).

### 2.4.2 - B.1 Foundation Assets: Fair Market Value

Measure	1995	2000	2005	2010
Total Assets	\$757,410,873	\$1,331,416,122	\$2,423,216,829	\$3,481,826,728
Mean Assets	\$6,418,736	\$7,651,817	\$11,064,917	\$12,216,936
Median Assets	\$844,144	\$864,262	\$1,171,573	\$1,333,610
Largest Assets	\$107,148,324	\$185,919,756	\$230,461,192	\$316,547,132

### 2.4.2 - B.2 Foundation Assets: Rate of Increase

Measure	1995	1995-2000	2000-2005	2005-2010	1995-2010
Total Assets		76%	82%	44%	360%
Mean Assets		19%	45%	10%	90%
Median Assets		24%	36%	14%	58%
Largest Assets		74%	24%	37%	195%

## C. Donor Contributions to Foundations

Donor contributions to identified foundations totaled \$90.96 million in 2010. Total donor contributions rose in two of four benchmark years, although single-year samples do not reflect significant contributions received from donors in interim years.

### 2.4.2 - C. Donor Contributions to Foundations

<b>Measure</b>	<b>1995</b>	<b>2000</b>	<b>2005</b>	<b>2010</b>
Total Contributions	\$68,363,620	\$39,462,824	\$86,861,322	\$90,957,294
Mean Contributions	\$579,353	\$224,221	\$386,050	\$319,148
Median Contributions	\$3,161	\$1,388	\$0	\$0
Largest Total Contributions	\$40,456,223	\$6,998,247	\$26,443,278	\$12,836,197

## D. Scale of Assets

Between 2005 and 2010, identified foundations reporting assets of \$50 million or more almost doubled in number, to 20 from 12, rising to seven percent of the overall population. In comparison, foundations reporting assets of \$50 million or more comprise just two percent of foundations nationally (IRS, *Statistics of Income Bulletin*, Winter 2013), as well as of family foundations (Foundation Center, 2012). At the other end of the scale, foundations reporting less than \$1 million in assets increased to 128 in 2010 from 107 in 2005, but continued a 15-year trend by dropping to 45 percent of the overall population from 55 percent in 1995. In comparison, 67 percent of foundations nationally, and 62 percent of family foundations, reported less than \$1 million in assets in 2010.

### 2.4.2 - D.1 Scale of Assets: Population

Range	1995	%	2000	%	2005	%	2010	%
>\$49.9 Million	2	2%	3	2%	12	6%	20	7%
\$10–\$49.9 Million	12	10%	21	12%	29	13%	37	13%
\$1–\$9.9 Million	39	33%	51	29%	72	32%	100	35%
<\$1 Million	64	55%	102	57%	107	49%	128	45%
Total	117	100%	177	100%	220	100%	285	100%

### 2.4.2 - D.2 Scale of Assets: Population Growth

Range	1995	1995-2000	2000-2005	2005-2010	1995-2010
>\$49.9 Million	-	50%	300%	67%	900%
\$10–\$49.9 Million	-	75%	38%	28%	208%
\$1–\$9.9 Million	-	31%	41%	39%	156%
<\$1 Million	-	60%	5%	20%	100%
Total	-	60%	24%	30%	144%

## E. Types of Assets

**Art Assets**—In 2010, identified foundations reported aggregate assets of \$3.48 billion, including \$1.99 billion (fair market value) in art assets, representing 57 percent of all assets. This compares to 2005, when foundations reported aggregate assets of \$2.42 billion, including \$1.09 billion in art assets, representing 45 percent of all assets. Art assets nearly doubled and also increased as a percentage of all assets, although the percentage of foundations holding art assets grew only nominally, to 52 percent in 2010 from 49 percent in 2005.

**Land and Building Assets**—In 2010, foundations reported \$179.50 million in land and building assets, representing five percent of all assets. This compares to 2005, when foundations reported \$157.25 million in land and building assets, accounting for six percent of all assets. The percentage of foundations holding land and building assets grew modestly to 25 percent in 2010 from 21 percent in 2005.

**Financial Assets**—Foundations reported \$1.31 billion in financial assets in 2010, representing 38 percent of all assets. This compares to 2005, when foundations reported \$1.18 billion in financial assets, accounting for 49 percent of all assets. Financial assets grew 11 percent during this period. In 2010, financial assets were held by 99 percent of foundations, the same percentage as in 2005.

**Liquidity**—As the field's aggregate assets have increased, its liquidity has decreased. Financial assets represented 38 percent of all assets in 2010, down from half in 2005, while art assets rose to 57 percent of all assets from 45 percent.

### 2.4.2 - E.1 Types of Assets: Value

Category	2005	%	2010	%	Increase
Art Assets (FMV)	\$1,087,403,941	45%	\$1,993,498,162	57%	83%
Land & Building Assets	\$157,249,320	6%	\$179,500,107	5%	14%
Financial Assets	\$1,178,563,568	49%	\$1,308,828,459	38%	11%
Total	\$2,423,216,829	100%	\$3,481,826,728	100%	44%

### 2.4.2 - E.2 Types of Assets: Population

Foundations	2005	%	2010	%	Increase
Art Assets	107	49%	147	52%	37%
Land & Building Assets	46	21%	72	25%	57%
Financial Assets	219	99%	281	99%	28%
Note: Numbers do not sum.					

## F. Asset Diversity

From 2005 to 2010, the number of identified foundations reporting art assets increased to 95 from 75, as did those reporting art assets in combination with land and building assets, which grew to 52 from 32. Despite this increase, the percentage of all foundations reporting these types of assets grew modestly, to 59 percent from 55 percent. Not all artist-endowed foundations hold art assets or land and building assets, or a combination of the two. In 2010, 41 percent reported no assets of these types, down slightly from 45 percent in 2005.

### 2.4.2 - F. Asset Diversity: Population

<b>Foundations</b>	<b>2005</b>	<b>%</b>	<b>2010</b>	<b>%</b>	<b>Increase</b>
Art Assets	75	34%	95	33%	27%
Land & Building Assets	14	6%	20	7%	43%
Art Assets and Land & Building Assets	32	15%	52	18%	63%
Subtotal	121	55%	167	59%	38%
No Art or Land & Building Assets	99	45%	118	41%	19%
Total	220	100%	285	100%	30%

## G. Changes in Value of Art Assets

Of 147 identified foundations reporting art assets in 2010, 78 foundations (53 percent) reported art assets of \$1 million or more and together accounted for \$1.97 billion (99 percent) of all art assets. Sixty-nine of these foundations were extant in 2005 and reported \$1.06 billion in art assets, 98 percent of all art assets reported that year. Art assets reported by the 78 foundations increased between 2005 and 2010 by \$907.50 million (85 percent). Within this group, 31 foundations (40 percent) reported a combined decrease in art assets from 2005 to 2010 totaling \$62.94 million, resulting primarily from sales and grants of artworks. One foundation reported no change. Another 23 foundations (30 percent) reported a combined increase in art assets of \$641.97 million, primarily via gifts and bequests. The remaining 23 foundations (30 percent) reported a combined increase in art assets of \$355.46 million, primarily due to appreciation in value.

### 2.4.2 - G.1 Changes in Value of Art Assets: Population

Foundations	No.	2005	2010	Increase	%
Extant 2005	69	\$1,063,203,813	\$1,775,291,263	\$712,087,450	67%
Created Post-2005	9	0	\$195,404,146	\$195,404,146	-
Total	78	\$1,063,203,813	\$1,970,695,409	\$907,491,596	85%

### 2.4.2 - G.2 Changes in Value of Art Assets: Event

Foundations	Number	2005-2010
Decreases: Sales & Contributions	31	(\$62,939,927)
No Change	1	0
Increases: Gifts & Bequests	23	\$641,974,570
Increases: Appreciation	23	\$355,456,953
Total Increase	78	\$907,491,596

## H. Asset Classification: Charitable and Noncharitable-Use

The percentage of the field's assets reported as charitable-use assets—those used or held for use directly in carrying out a foundation's charitable purposes and as such, with a value excluded from calculation of the private foundation annual payout requirement—increased to 59 percent of all assets in 2010 from 52 percent of all assets in 2005. The percentage of the field's assets reported as noncharitable-use assets fell to 41 percent in 2010 from 48 percent in 2005. The value of charitable-use assets grew 63 percent to \$2.06 billion in 2010 from \$1.26 billion in 2005 while the value of noncharitable-use assets grew 22 percent, to \$1.42 billion from \$1.16 billion.

### 2.4.2 - H. Asset Classification

Type of Use	2005	%	2010	%	Increase
Charitable-Use	\$1,264,675,187	52%	\$2,063,653,534	59%	63%
Noncharitable-Use	\$1,158,541,642	48%	\$1,418,173,194	41%	22%
Total	\$2,423,216,829	100%	\$3,481,826,728	100%	44%

Although art assets comprise most of the field's charitable-use assets, not all foundations report art assets as charitable-use assets. Examples of those reporting art assets as noncharitable-use assets include the Andy Warhol Foundation for the Visual Arts, the Pollock-Krasner Foundation, and the Renate, Hans, and Maria Hofmann Trust.

## I. Asset Classification by Foundation Status

One quarter of identified foundations reported their status as that of operating foundation in 2010, which was true also in 2000 and 2005 (see Study Report **Volume II, 6. Glossary of Terms in Practice** for the definition of operating versus nonoperating foundation status). Nine percent of all foundations nationally report as operating foundations (IRS, *Statistics of Income Bulletin*, Winter 2013). Although a minority numerically, foundations with operating status reported a majority of the field's charitable-use assets, rising to 63 percent in 2010 from 53 percent in 2005 and nearly doubling in value to \$1.30 billion from \$672.26 million. Their share of the field's assets overall increased to 43 percent in 2010 from 33 percent in 2005. Foundations with nonoperating status continued to report a majority of the field's assets overall, but their share fell to 57 percent in 2010 from 67 percent in 2005. At the same time, however, nonoperating foundations continued to report significant charitable-use assets, rising to \$758.58 million in 2010 from \$591.92 million in 2005, although their overall share of the field's charitable-use assets declined to 37 percent in 2010 from 47 percent in 2005.

### 2.4.2 - I.1 Asset Classification by Status: 2005

Status	Charitable	%	Non-Charitable	%	TOTAL	%
Nonoperating (74% of All)	\$591,916,336	47%	\$1,038,186,583	90%	\$1,630,102,919	67%
Operating (26% of All)	\$672,758,851	53%	\$120,355,059	10%	\$793,113,910	33%
Total	\$1,264,675,187	100%	\$1,158,541,642	100%	\$2,423,216,829	100%

### 2.4.2. - I.2 Asset Classification by Status: 2010

Status	Charitable	%	Non-Charitable	%	TOTAL	%
Nonoperating (75% of All)	\$758,577,683	37%	\$1,209,980,442	85%	\$1,968,558,125	57%
Operating (25% of All)	\$1,305,075,851	63%	\$208,192,752	15%	\$1,513,268,603	43%
Total	\$2,063,653,534	100%	\$1,418,173,194	100%	\$3,481,826,728	100%





## 2.4.3. Charitable Purpose Disbursements – Updated

### A. Charitable Purpose Disbursements

Foundations' charitable purpose disbursements comprise two types of expenditures: (1) contributions, gifts, and grants; and (2) charitable operating and administrative expenses, which include the costs to administer grantmaking programs, as well as conduct direct charitable activities, such as operating an artist residency program, exhibition program, art education program, study center, house museum, and the like. In 2010, identified foundations expended \$131.83 million for charitable purposes, including \$69.99 million (53 percent) in contributions, gifts, and grants, and \$61.83 million (47 percent) in charitable operating and administrative expenses. Overall, charitable disbursements increased almost 60 percent between 2005 and 2010. While contributions, gifts, and grants increased 52 percent, charitable operating and administrative expenses grew 69 percent, continuing a trend identified in the Study's initial analysis. More broadly, disbursements for charitable purposes increased 124 percent between 2000 and 2010, with contributions, gifts, and grants growing 79 percent, and charitable operating and administrative expenses rising 255 percent.

#### 2.4.3 – A. Charitable Purpose Disbursements

<b>Disbursements</b>	<b>2000</b>	<b>2005</b>	<b>2010</b>	<b>Increase</b>
Contributions, Gifts, & Grants	\$39,030,671 (69%)	\$46,036,872* (56%)	\$69,994,708 (53%)	79%
Charitable Operating & Administrative Expenses	\$17,420,979 (31%)	\$36,631,550 (44%)	\$61,830,453 (47%)	255%
Total Disbursements for Charitable Purposes	\$56,451,650 (100%)	\$82,668,422* (100%)	\$131,825,161 (100%)	124%
*Adjusted for one-time extraordinary grant				

## B. Charitable Purpose Disbursements by Status

In 2010, identified foundations with operating status reported 86 percent of their charitable purpose disbursements as charitable operating and administrative expenses, but they also reported \$5.10 million in grants, representing 14 percent of their overall charitable disbursements. This is consistent with research identifying a trend of grantmaking by operating foundations nationally (Foundation Center, 2012). Foundations with nonoperating status accounted for the great majority of the field's giving, realizing 69 percent of their charitable purpose disbursements as grants, which rose to \$64.89 million in 2010 from \$44.36 million in 2005. They also continued to report strong charitable operating and administrative expenses, representing 31 percent of their charitable disbursements. This aligns with research on foundations nationally finding higher levels of charitable operating and administrative expense for nonoperating foundations with particular operating characteristics, several of which are found among artist-endowed foundations: conducting direct charitable activities, making grants to individuals, and making grants internationally (Foundation Center, 2012).

### 2.4.3 – B.1 Charitable Purpose Disbursements by Status: 2005

Status	Contributions, Gifts, & Grants	Charitable Operating & Administrative Expenses	Total
Nonoperating (74%)	\$44,361,787 (73%)	\$16,610,937 (27%)	\$60,972,724 (100%)
Operating (26%)	\$1,675,085* (8%)	\$20,020,613 (92%)	\$21,695,698 (100%)
Total	\$46,036,872* (56%)	\$36,631,550 (44%)	\$82,668,422 (100%)

\*Adjusted for one-time extraordinary grant

### 2.4.3 – B.2 Charitable Purpose Disbursements by Status: 2010

Status	Contributions, Gifts, & Grants	Charitable Operating & Administrative Expenses	Total
Nonoperating (75%)	\$64,894,654 (69%)	\$29,564,819 (31%)	\$94,459,473 (100%)
Operating (25%)	\$5,100,054 (14%)	\$32,265,634 (86%)	\$37,365,688 (100%)
Total	\$69,994,708 (53%)	\$61,830,453 (47%)	\$131,825,161 (100%)

Examples of grantmaking operating foundations include: the Dedalus Foundation, which operates a study center with an archive and exhibition collection and makes grants to organizations, scholars, and artists (\$613,150 in grants, 17 percent of charitable expenditures in 2010); the Richard Avedon Foundation, which operates a study center with an archive and exhibition collection and makes grants to organizations (\$261,500 in grants, 15 percent of charitable expenditures in 2010); and the Josef and

Annie Albers Foundation, which operates a study center with archive and exhibition collection, hosts artists' residencies, and makes grants to organizations (\$110,360 in grants, six percent of charitable expenditures in 2010).

Examples of nonoperating foundations demonstrating the operating characteristics associated with higher levels of charitable operating and administrative expenses include: the Pollock-Krasner Foundation (reporting charitable operating and administrative expenses as 39 percent of charitable expenditures in 2010), which made \$2.05 million in grants to individual artists that year, the largest such program in the field, and conducted its grantmaking on an international basis; the Graham Foundation for Advanced Studies in the Fine Arts (reporting charitable operating and administrative expenses as 50 percent of charitable expenditures in 2010), which made \$1.01 million in grants to organizations, scholars, and artists that year, in addition to presenting public programs and exhibitions and operating a historic property; and the Joan Mitchell Foundation (reporting charitable operating and administrative expenses as 65 percent of charitable expenditures in 2010), which made \$1.62 million in grants to individual artists and organizations that year, in addition to maintaining a study center with archive and exhibition collection, operating a program of art education classes, and administering an artists' residency center.

## C. Contributions, Gifts, and Grants

Total contributions, gifts, and grants reported by identified foundations increased 79 percent for the ten-year period from 2000 to 2010, rising to \$69.99 million from \$39.03 million. In comparison, giving by the foundation field nationally rose 66 percent during the same period, and as a subset, giving by family foundations rose 82 percent (Foundation Center 2012). The average total contributions, gifts, and grants reported by foundations increased by 60 percent, to \$355,303 from \$221,765. At the same time, the median total contributions, gifts, and grants increased by 44 percent, to \$15,185 from \$10,520. Even as foundations reported an increase in giving, the overall percentage represented by the single highest total contributions, gifts, and grants reported by any one foundation remained fairly consistent at just under 20 percent.

### 2.4.3 – C. Contributions, Gifts, and Grants

Measure	2000	2005	2010	Increase
Contributions, Gifts, Grants	\$39,030,671	\$46,036,872*	\$69,994,708	79%
Mean Total Contributions	\$221,765	\$204,608*	\$355,303	60%
Median Total Contributions	\$10,520	\$12,396*	\$15,185	44%
Single Highest Total Contributions	\$6,503,300 (17% of all)	\$8,588,281* (19% of all)	\$12,456,738 (18% of all)	92%
*Adjusted for one-time extraordinary grant				

## D. Participation in Grantmaking

In 2010, 197 identified foundations (69 percent) reported contributions, gifts, and grants, although significant grantmaking was focused more narrowly. Thirteen foundations (seven percent of those making grants) reported total contributions, gifts, and grants of \$1 million or more and together accounted for more than 60 percent of all giving, totaling \$43.52 million. At the other end of the scale, 94 foundations (48 percent of those making grants) reported total contributions, gifts, and grants of less than \$50,000 and accounted for two percent of all giving, \$1.56 million. By way of comparison, six percent of family foundations nationally reported total giving of \$1 million or more in 2010, while nearly half (49 percent) of family foundations reported less than \$50,000 in grants (Foundation Center, 2012).

### 2.4.3 – D. Charitable Contributions, Gifts, and Grants: 2010

Foundations	Number	%	Grants	%
All Identified	285	100%		
Reporting Grants	197	69%	\$69,994,708	100%
>\$999,999	13	7%	\$43,518,547	62%
\$500,000-\$999,999	18	9%	\$13,019,491	19%
\$100,000-\$499,000	40	20%	\$9,681,232	14%
\$50,000-\$99,999K	32	16%	\$2,214,428	3%
<\$50,000	94	48%	\$1,561,010	2%
Total	197	100%	\$69,994,708	100%

Grantmaking with artworks, typically to museums and educational institutions, continued to represent a strong aspect of the field's giving. Of foundations that reported giving of \$1 million or more in 2010, two estate distribution foundations reported grants of artworks, including the Emilio Sanchez Foundation (\$1.18 million) and the George Rickey Foundation (\$1.82 million), while the George and Helen Segal Foundation continued an ongoing program making grants of artworks (\$1.13 million), as well as making grants to individual artists (\$50,000).

## E. Scan of Grantmaking Interests: 2010

Of the identified foundations reporting contributions, gifts, and grants in 2010, a group of 71 foundations reporting total giving of \$100,000 or more accounted for aggregate contributions, gifts, and grants of \$66.22 million. This represents 95 percent of the total \$69.99 million in contributions, gifts, and grants reported that year by all identified foundations. Based on a broad scan, the focus of this group's grantmaking was squarely on the arts and culture, representing 84 percent of all contributions, gifts, and grants. This pattern is depicted in greater detail in **Appendix A.2 B. Snapshot Profiles: Largest Artist-Endowed Foundations – Updated**. As a general observation, grants of artworks to arts institutions contribute strongly to this focus although the aggregate amount of such gifts can vary widely from one year to the next.

### 2.4.3 – E. Scan of Grantmaking Interests: 2010

<b>Category</b>	<b>Total</b>	<b>%</b>
Arts and Culture	\$55,259,499	83.6%
Medical Research and Services	\$2,558,908	3.9%
Higher Education	\$2,416,144	3.6%
Human Services	\$2,367,013	3.6%
Social Action	\$757,000	1.1%
AIDS Research and Services	\$736,450	1.1%
Environment	\$659,440	1.0%
Community Improvement	\$592,696	0.9%
Religious Institutions	\$557,120	0.8%
Historic Preservation	\$225,000	0.3%
Animal Welfare	\$90,000	0.1%
Total	\$66,219,270	100%

## 2.4.4 Foundations and Associated Artists – Updated

### A. Foundations and Associated Artists’ Primary Roles

Identified foundations associated with photographers, illustrators, and designers (including architects) in combination accounted for 28 percent of all foundations (101), comparable to their 27 percent share in the Study’s initial findings. The majority of foundations (246) continued to be associated with artists whose primary role is in the fine arts—painters and sculptors—and these foundations accounted for 68 percent of all foundations, compared to 69 percent previously.

#### 2.4.4 – A. Foundations and Associated Artists’ Primary Roles

<b>Roles</b>	<b>Initial</b>	<b>%</b>	<b>Update</b>	<b>%</b>
Painter	129	49%	174	48%
Sculptor	53	20%	72	20%
Designer	30	12%	43	12%
Photographer	22	8%	32	9%
Illustration Artist	18	7%	26	7%
Two Artists, Differing Roles	9	4%	16	4%
Total Foundations	261	100%	363	100%

For purposes of research, visual artists were categorized in five broad primary roles based on those defined in standard bibliographic references: painters; sculptors; photographers; illustration artists, including animators, cartoonists, comic book artists, and illustrators; and designers, including architects, craft artists, and graphic designers, as well as product, theatrical, and interior designers. As noted in the Study’s initial findings, only one identified foundation was associated with an artist in the primary role of filmmaker and only four as conceptual artists. For meaningful analysis, these artists were categorized in their secondary roles as painter and sculptor. Artists in these fields, as well as those with other types of primary roles such as video artists and performance artists, may only now be entering their seventh decade, the age at which the Study’s findings indicate artists typically create foundations.



## B. Foundations and Associated Artists' Genders

Identified foundations associated with female artists, individually or in combination with male artists, accounted for 33 percent of all foundations (119), comparable to their 31 percent share in the Study's initial findings. The majority of foundations (288) continued to be associated with male artists and these foundations accounted for 79 percent of all foundations, compared to 80 percent previously.

Foundations associated with one artist continued to dominate the field (312, or 86 percent) while a smaller group of foundations were associated with more than one artist (51, or 14 percent). A small portion of the field (seven, or two percent) was associated with multiple artists of the same gender, these being family members, professional associates, or life partners.

### 2.4.4 – B.1 Foundations and Associated Artists' Genders

<b>Genders</b>	<b>Initial</b>	<b>%</b>	<b>Update</b>	<b>%</b>
Male	179	69%	239	66%
Female	52	20%	73	20%
Male and Female	28	11%	44	12%
Male and Male	1	0%	5	1.5%
Female and Female	1	0%	2	.5%
Total Foundations	261	100%	363	100%

### 2.4.4 – B.2 Foundations and Associated Artists' Genders: All

<b>Genders</b>	<b>Initial</b>	<b>%</b>	<b>Update</b>	<b>%</b>
All with Male	208	80%	288	79%
All with Female	81	31%	119	33%
Total Foundations	261	-	363	-
Note: Numbers do not sum.				

## C. Foundations and Associated Artists' Ethnicities

Identified foundations associated with artists of color accounted for eight percent of all foundations (30), comparable to their nine percent share in the Study's initial findings. The vast majority of foundations (333) continued to be associated with artists of Caucasian descent and these foundations accounted for 92 percent of all foundations, compared to 91 percent previously.

### 2.4.4 – C. Foundations and Associated Artists' Ethnicities

<b>Ethnicities</b>	<b>Initial</b>	<b>%</b>	<b>Update</b>	<b>%</b>
Asian American	11	4%	12	3%
Hispanic	6	2%	7	2%
African American	6	2%	9	2%
Native American	2	1%	2	1%
Subtotal	25	9%	30	8%
Caucasian	236	91%	333	92%
Total Foundations	261	100%	363	100%

## D. Foundations and Multiple Associations

Identified foundations associated with multiple artists accounted for 14 percent of all foundations (51), in comparison to their 11 percent share in the Study's initial findings. The majority of foundations (312) continued to be associated with one artist and these foundations accounted for 86 percent of all foundations, in comparison to 89 percent previously. Separately, 55 identified foundations (15 percent) shared an associated artist with another foundation, in comparison to 17 percent previously. Overall, foundations with multiple associations remain a small part of the field, about 15 percent.

### 2.4.4 – D.1 Foundations with Multiple Associated Artists

<b>Association</b>	<b>Initial</b>	<b>%</b>	<b>Update</b>	<b>%</b>
One Artist	231	89%	312	86%
More Than One Artist	30	11%	51	14%
Total Foundations	261	100%	363	100%

### 2.4.4 – D.2 Foundations Sharing Associated Artists

<b>Association</b>	<b>Initial</b>	<b>%</b>	<b>Update</b>	<b>%</b>
Exclusive	216	83%	308	85%
One of Two or More Foundations	45	17%	55	15%
Total Foundations	261	100%	363	100%

## **E. Foundations and Survivorship of Associated Artists**

A total of 126 identified foundations associated with deceased artists reported at least \$1 million in assets (see **Appendix A.2 B. Snapshot Profiles: Largest Artist-Endowed Foundations – Updated**). This compares to 96 foundations in the Study’s initial findings. Of the 126 identified foundations, those associated with artists with lineal descendants accounted for 42 percent of all foundations (53), in comparison to their 36 percent share in the Study’s initial findings. The majority of foundations (73) continued to be associated with artists without lineal descendants and these foundations accounted for 58 percent of all foundations, in comparison to 64 percent previously.

### **2.4.4 – E. Survivorship of Deceased Artists Associated With Foundations Reporting Assets of \$1 Million or More**

<b>Association</b>	<b>2005</b>	<b>%</b>	<b>2010</b>	<b>%</b>
Artist With Lineal Descendant	35	36%	53	42%
Artist Without Lineal Descendant	61	64%	73	58%
Total Foundations	96	100%	126	100%



# Appendix A.2

## THE FIELD

### **B. Snapshot Profiles: Largest Artist-Endowed Foundations - Updated**

This appendix provides brief data profiles of 170 artist-endowed foundations that reported assets of at least \$1 million on the annual information return (Form 990-PF) filed with the Internal Revenue Service (IRS) for at least one of the tax years 2005, 2008, or 2010.<sup>1</sup> The earliest of these years, 2005, was the final benchmark year used for the Study's field data profile, featured in the Study Report publication.<sup>2</sup> The second year, 2008, was the most recent year for which returns were available for most foundations as of the Study Report's 2010 publication date. The third year, 2010, is the most recent year for which returns are available for most foundations as this current update is being prepared for publication. A total of 36 foundations, asterisked, have been added to the 134 presented originally. These foundations either were created after 2008 (N=9) or they existed as of 2008 but held assets of less than \$1 million at that time (N=12) or were identified after publication (N=15).<sup>3</sup>

#### **Definition of Artist-Endowed Foundation, Artists' Assets, and Visual Artists**

For the purposes of the Aspen Institute's National Study of Artist-Endowed Foundations, an *artist-endowed foundation* is a tax-exempt, private foundation created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries to own the artist's assets for use in furthering exempt charitable and educational activities serving a public benefit. *Artists' assets* derive from art-related activities, as well as other sources unrelated to art. Among assets conveyed to artist-endowed foundations are financial and investment assets, art assets (such as art collections, archives, libraries, and copyrights and intellectual property), real property (such as land, residences, studios, exhibition facilities, and nature preserves), and other types of personal property.

*Visual artists* are defined by the Study as those whose professional activities have produced art sales data or whose works have been represented in collections, critical publications, databases, and venues of professional art and design fields. Visual artists identified as associated with private foundations were categorized in five broad primary roles, based on those defined in standard bibliographic references: painters, sculptors, photographers, illustration artists (animators, cartoonists, comic book artists, and illustrators), and designers (architects, craft artists, graphic designers, and product, theatrical, or interior designers).<sup>4</sup> An example of a standard bibliographic reference is the Getty Research Institute's Union List of Artist Names, at [www.getty.edu/research/tools/vocabularies/ulan](http://www.getty.edu/research/tools/vocabularies/ulan).

## **Snapshot Profile Content**

### **Artist Information**

The list of foundations is organized alphabetically by artist, noting the respective foundation. Artists' primary roles are identified based on standard bibliographic references, along with dates of birth and, if applicable, death.

### **Foundation Information**

The state to which the foundation reports or with which it is registered is listed, as is the state of the foundation's address if that is different from the reporting state, followed by the employer identification number. The Ruling Year in which a foundation's application for tax exemption was approved by the IRS is given, along with the creator of the foundation, defined for these purposes as the individual whose actions committed the artist's assets to charitable use. The foundation type, based on function, is noted. See **Volume 1, Chapter 2.2 Foundation Taxonomy: Types of Artist-Endowed Foundations by Function** for a discussion of foundation types. Lastly, the URL for the foundation's website is given, if available.

### **Financial Dimensions**

Two basic financial metrics are given for each foundation: fair market value of total assets; and total charitable purpose disbursements, including total grant expenditures, if paid. Grantmaking focus is characterized broadly based on grants reported in the annual information return. Charitable purpose disbursements include two types of expenditures: contributions, gifts, and grants paid; and charitable operating and administrative expenses paid. An example of the latter would be costs to administer grant programs, as well as expenses to conduct direct charitable activities, as is the case for study and exhibition programs, house museums, artists' residencies, art education classes, and the like.

For more extensive information, each foundation's annual information return, with detailed data on a wide range of dimensions, can be viewed online at the websites of organizations such as Guidestar, the Foundation Center, and the National Center for Charitable Statistics/Urban Institute by searching on the foundation's name or employer identification number.

### **Foundations Not Listed**

Criteria used to identify foundations for the Study's analysis are discussed in **Volume 1, 1.1 Research Program**. Not listed in this appendix are artist-endowed foundations reporting assets less than \$1 million for tax years 2005, 2008, and 2010. Foundations of living donors often operate on a pass-through basis, expending most of the funds contributed by their donor, and therefore are not likely to appear in this list. Similarly, new foundations created following the death of an artist typically do not receive the bulk of their donor's bequest immediately and often remain modestly funded for several years; such foundations are less likely to appear in this list. Finally, the list does not include foundations that terminated prior to 2005, although they may have reported assets of at least \$1 million when active.

## **Artist-Endowed Foundations Reporting Assets of \$1 Million and Above as of 2005, 2008, or 2010**

EDWIN AUSTIN ABBEY, Painter and Illustrator

1852–1911

Abbey Memorial Scholarships Trust

NY. EIN 13-6053133

Ruling Year 1982. Initial entity established 1926.

Creator: The artist's surviving spouse, deceased

Function: Grantmaking foundation providing single organization support (The Incorporated Edwin Austin Abbey Memorial Scholarships, London, UK) for scholarships and fellowships at the British School in Rome

URL: [www.abbey.org.uk](http://www.abbey.org.uk)

2005 Assets: \$1,575,601

2005 Charitable Purpose Disbursements: \$57,375, including grants of \$54,269

2008 Assets: \$1,434,744

2008 Charitable Purpose Disbursements: \$46,041, including grants of \$44,730

2010 Assets: \$1,851,526

2010 Charitable Purpose Disbursements: \$72,288, including grants of \$71,012

CHARLES ADDAMS, Cartoonist

1912–1988

Tee and Charles Addams Foundation

NY. EIN 11-3506582

Ruling Year 2000

Creator: The artist's surviving spouse, deceased

Function: Study and exhibition foundation

URL: [www.charlesaddams.com](http://www.charlesaddams.com)

2005 Assets: \$7,243,944

2005 Charitable Purpose Disbursements: \$123,907

2008 Assets: \$10,142,957

2008 Charitable Purpose Disbursements: \$433,612, including grants of \$2,200

2010 Assets: \$10,053,945

2010 Charitable Purpose Disbursements: \$425,771, including grants of \$21,000

JOSEF ALBERS, Painter, Designer, Theorist, and Educator

1888–1976

ANNI ALBERS, Designer, Printmaker, and Educator

1899–1994

The Josef Albers Foundation Inc. (dba The Josef and Anni Albers Foundation)

NY, CT. EIN 23-7104223

Ruling Year 1972



Creator: The artists

Function: Comprehensive foundation operating a study and exhibition program, making discretionary grants, and providing artists' residencies

URL: [www.albersfoundation.org](http://www.albersfoundation.org)

2005 Assets: \$18,803,968

2005 Charitable Purpose Disbursements: \$1,623,157, including grants of \$107,150

2008 Assets: \$13,709,665

2008 Charitable Purpose Disbursements: \$1,962,960, including grants of \$99,487

2010 Assets: \$10,906,430

2010 Charitable Purpose Disbursements: \$1,983,901, including grants of \$110,360

#### HERMAN J. ALBRECHT, Architect

1896–1961

Herman J. Albrecht Library of Historical Architecture Inc.\*

OH. EIN 30-0377654

Ruling Year 2008

Creator: The artist's son, deceased

Function: Program foundation maintaining an architectural library collection

URL: [www.library.osu.edu/find/collections/rarebooks/the-herman-j-albrecht-library-of-historical-architecture](http://www.library.osu.edu/find/collections/rarebooks/the-herman-j-albrecht-library-of-historical-architecture)

2008 Assets: \$794,547

2008 Charitable Purpose Disbursements: \$12,966

2010 Assets: \$1,272,431

2010 Charitable Purpose Disbursements: \$4,049

#### LINDA LEE ALTER, Painter and Collector

Born 1939

Leeway Foundation

PA. EIN 23-2727140

Ruling Year 1994

Creator: The artist and her family

Function: Grantmaking foundation supporting social change projects by women and transgender artists, primarily in the Delaware Valley region

URL: [www.leeway.org](http://www.leeway.org)

2005 Assets: \$19,417,293

2005 Charitable Purpose Disbursements: \$818,131, including grants of \$275,263

2008 Assets: \$14,162,964

2008 Charitable Purpose Disbursements: \$1,128,998, including grants of \$368,285

2010 Assets: \$15,644,993

2010 Charitable Purpose Disbursements: \$792,481, including grants of \$267,043

DONALD M. ANDERSON, Graphic Designer and Educator

1915–1995

Donald M. Anderson Foundation

WI. EIN 39-6614493

Ruling Year 1995

Creator: The artist

Function: Grantmaking foundation providing single organization support (Graphic Design Program, Art Department, University of Wisconsin-Madison)

URL: [www.donaldandersonfoundation.org](http://www.donaldandersonfoundation.org)

2005 Assets: \$1,049,012

2005 Charitable Purpose Disbursements: Grants of \$48,694

2008 Assets: \$668,601

2008 Charitable Purpose Disbursements: Grants of \$55,311

2010 Assets: \$786,755

2010 Charitable Purpose Disbursements: Grants of \$34,756

BENNY ANDREWS, Painter, Illustrator, and Educator

1930–2006

NENE HUMPHREY, Sculptor

Born 1947

The Andrews-Humphrey Family Foundation\*

NY. EIN 51-0655879

Ruling Year 2010

Creator: Nene Humphrey

Function: Comprehensive foundation maintaining an exhibition collection and making grants to support arts organizations

2010 Assets: \$14,991,000

2010 Charitable Purpose Disbursements: Grants of \$130,000

ALEXANDER ARCHIPENKO, Sculptor

1887–1964

The Archipenko Foundation

DE, NY. EIN 13-4123083

Ruling Year 2000

Creator: The artist's surviving spouse

Function: Study and exhibition foundation

URL: [www.archipenko.org](http://www.archipenko.org)

2005 Assets: \$1,542,290

2005 Charitable Purpose Disbursements: \$124,649

2008 Assets: \$1,195,038  
2008 Charitable Purpose Disbursements: \$178,192  
2010 Assets: \$2,581,445  
2010 Charitable Purpose Disbursements: \$160,007

RICHARD AVEDON, Photographer

1923–2004

The Richard Avedon Foundation Inc.

DE, NY. EIN 20-1275443

Ruling Year 2004

Creator: The artist

Function: Initially a study and exhibition foundation; now a comprehensive foundation operating a study and exhibition program and making grants, including to assist museum photography programs

URL: [www.richardavedon.com](http://www.richardavedon.com)

2005 Assets: \$4,602,262

2005 Charitable Purpose Disbursements: \$308,575

2008 Assets: \$3,821,957

2008 Charitable Purpose Disbursements: \$1,123,455

2010 Assets: \$170,116,884

2010 Charitable Purpose Disbursements: \$1,765,018, including grants of \$261,500

MILTON AVERY, Painter

1885–1965

SALLY MICHEL AVERY, Painter and Illustrator

1905–2003

Milton and Sally Avery Arts Foundation Inc.

NY. EIN 13-3093638

Ruling Year 1983

Creator: Sally Michel Avery

Function: Grantmaking foundation supporting visual art education and artist-support programs, primarily in the New York City region

URL:

2005 Assets: \$4,420,396

2005 Charitable Purpose Disbursements: Grants of \$389,300

2008 Assets: \$3,012,125

2008 Charitable Purpose Disbursements: Grants of \$537,000

2010 Assets: \$2,530,084

2010 Charitable Purpose Disbursements: Grants of \$429,750

ROSEMARIE BECK, Painter

1925–2003

Rosemarie Beck Foundation

NY, ME. EIN 73-1663290

Ruling Year 2006

Creator: The artist

Function: Study and exhibition foundation

URL: [www.rosemariebeck.org](http://www.rosemariebeck.org)

2005 Assets: \$2,323,827

2005 Charitable Purpose Disbursements: Grants of \$56,950

2008 Assets: \$2,208,297

2008 Charitable Purpose Disbursements: Grants of \$2,500

2010 Assets: \$2,248,403

2010 Charitable Purpose Disbursements: \$29,950

WILLIAM ADAIR BERNOUDY, Architect

1910–1988

Gertrude and William A. Bernoudy Foundation

MO, IL. EIN 43-6512119

Ruling Year 1995

Creator: The artist and his surviving spouse, deceased

Function: Grantmaking foundation supporting culture, community betterment, historic preservation, and architectural education, primarily in the St. Louis region

URL:

2005 Assets: \$13,910,947

2005 Charitable Purpose Disbursements: \$1,203,474, including grants of \$1,170,000

2008 Assets: \$9,348,302

2008 Charitable Purpose Disbursements: \$1,017,227, including grants of \$965,875

2010 Assets: \$9,416,281

2010 Charitable Purpose Disbursements: \$670,810, including grants of \$642,500

FRANCES BLAKEMORE, Painter and Collector

1906–1997

Blakemore Foundation

WA. EIN 91-1505735

Ruling Year 1996

Creator: The artist and her spouse, deceased

Function: Grantmaking foundation supporting Asian fine arts and Asian language fellowships

URL: [www.blakemorefoundation.org](http://www.blakemorefoundation.org)

2005 Assets: \$11,972,477

2005 Charitable Purpose Disbursements: \$1,291,027, including grants of \$1,187,457

2008 Assets: \$7,059,835

2008 Charitable Purpose Disbursements: \$1,183,665, including grants of \$1,061,011

2010 Assets: \$8,635,519

2010 Charitable Purpose Disbursements: \$743,669, including grants of \$633,150

ALBERT BLOCH, Painter and Educator

1882–1961

Albert Bloch Foundation

KS. EIN 48-1216501

Ruling Year 2003

Creator: The artist's surviving spouse, deceased

Function: Study and exhibition foundation

URL:

2005 Assets: \$2,407,687

2005 Charitable Purpose Disbursements: \$2,972

2008 Assets: \$2,945,401

2008 Charitable Purpose Disbursements: \$3,413

2010 Assets: \$3,453,851

2010 Charitable Purpose Disbursements: \$2,203

HERB BLOCK, Editorial Cartoonist

1909–2001

The Herb Block Foundation

VA, DC. EIN 26-0008276

Ruling Year 2002

Creator: The artist

Function: Grantmaking foundation supporting social justice programs, scholarships for Washington, DC, community college students, and foundation-initiated projects in editorial cartooning

URL: [www.herbblockfoundation.org](http://www.herbblockfoundation.org)

2005 Assets: \$57,978,156

2005 Charitable Purpose Disbursements: \$2,012,426, including grants of \$1,163,000

2008 Assets: \$54,983,138

2008 Charitable Purpose Disbursements: \$4,447,627, including grants of \$3,163,000

2010 Assets: \$52,349,752

2010 Charitable Purpose Disbursements: \$2,522,323, including grants of \$1,523,500

EDITH C. BLUM, Painter and Philanthropist

1892–1976

Edith C. Blum Foundation Inc.

NY. EIN 13-3564317

Ruling Year 1990. Successor to 1976 charitable trust.

Creator: The artist

Function: Grantmaking foundation supporting culture, education, and community betterment, primarily in the New York City region

URL:

2005 Assets: \$15,245,528

2005 Charitable Purpose Disbursements: \$643,883, including grants of \$521,600

2008 Assets: \$14,346,233

2008 Charitable Purpose Disbursements: \$732,996, including grants of \$616,850

2010 Assets: \$16,452,687

2010 Charitable Purpose Disbursements: \$691,661, including grants of \$587,445

#### RUTH HARRIS BOHAN, Painter and Illustrator

1891–1981

Ruth H. Bohan Foundation

MO. EIN 43-6269867

Ruling Year 1987

Creator: The artist

Function: Grantmaking foundation providing single institution support (University of Kansas)

URL:

2005 Assets: \$13,967,280

2005 Charitable Purpose Disbursements: \$605,614, including grants of \$567,159

2008 Assets: \$14,844,198

2008 Charitable Purpose Disbursements: \$733,689, including grants of \$707,177

2010 Assets: \$12,443,663

2010 Charitable Purpose Disbursements: \$278,528, including grants of \$250,000

#### LOUISE BOURGEOIS, Sculptor

1911–2010

The Easton Foundation Inc.

NY. EIN 13-3190220

Ruling Year 1984

Creator: The artist

Function: Study and exhibition foundation

URL:

2005 Assets: \$259,682

2005 Charitable Purpose Disbursements: Grants of \$203,075

2008 Assets: \$3,872,828

2008 Charitable Purpose Disbursements: \$290,673, including grants of \$273,454

2010 Assets: \$17,316,126

2010 Charitable Purpose Disbursements: \$196,169, including grants of \$52,185

WILLIAM THEO BROWN, Painter

1919–2012

PAUL WONNER, Painter

1920–2008

William Brown and Paul Wonner Foundation\*

CA. EIN: 26-4010221

Ruling Year 2009

Creator: The artists

Function: Study and exhibition foundation making grants of artworks to arts organizations

URL:

2010 Assets: \$1,026,762

2010 Charitable Purpose Disbursements: \$0

CHARLES EPHRAIM BURCHFIELD, Painter and Illustrator

1893–1967

Charles E. Burchfield Foundation Inc.

NY. EIN 16-6073522

Ruling Year 1967

Creator: The artist

Function: Grantmaking foundation supporting culture, education, and community betterment, primarily in western New York State, including support to Burchfield Penney Art Center, NY

URL:

2005 Assets: \$2,205,336

2005 Charitable Purpose Disbursements: \$102,908, including grants of \$69,100

2008 Assets: \$2,124,460

2008 Charitable Purpose Disbursements: \$139,947, including grants of \$101,000

2010 Assets: \$2,419,326

2010 Charitable Purpose Disbursements: \$180,357, including grants of \$131,000

HANS GUSTAV BURKHARDT, Painter and Collector

1904–1994

Hans G. and Thordis W. Burkhardt Foundation

CA. EIN 95-4392905

Ruling Year 1993

Creator: The artist and his spouse, deceased

Function: Comprehensive foundation operating a study and exhibition program, and making grants to visual art education

URL: [www.burkhardt.foundation.org](http://www.burkhardt.foundation.org)

2005 Assets: \$9,561,280

2005 Charitable Purpose Disbursements: \$144,583, including grants of \$9,250

2008 Assets: \$9,748,418

2008 Charitable Purpose Disbursements: \$218,789, including grants of \$64,200  
2010 Assets: \$9,250,168  
2010 Charitable Purpose Disbursements: \$169,637, including grants of \$57,840

ALEXANDER CALDER, Sculptor  
1898–1976

Calder Foundation Inc. (fka The Alexander and Louisa Calder Foundation Inc.)  
NY. EIN 13-3466986

Ruling Year 1991

Creator: The artist's children and grandchildren

Function: Study and exhibition foundation

URL: [www.calder.org](http://www.calder.org)

2005 Assets: \$8,177,764

2005 Charitable Purpose Disbursements: \$650,357

2008 Assets: \$39,717,893

2008 Charitable Purpose Disbursements: \$862,592, including grants of \$50,000

2010 Assets: \$134,927,206

2010 Charitable Purpose Disbursements: \$920,481

Painter Hill Foundation Inc.

NY. EIN: 13-3952016

Ruling Year 1997. Foundation terminated 2006.

Creator: The artist's children and grandchildren

Function: Grantmaking foundation providing single organization support (Calder Foundation, NY)

2005 Assets: \$674,775

2205 Charitable Purpose Disbursements: \$0

ERIC CARLE, Illustrator

Born 1929

The Eric and Barbara Carle Foundation\*

MA. EIN 04-3296725

Ruling Year 1997

Creator: The artist and his spouse

Function: Grantmaking foundation supporting art museums, community betterment, education, social services, and animal welfare, primarily in Western Massachusetts, and the Eric Carle Museum of Picture Book Art, MA

URL:

2005 Assets: \$759,735

2005 Charitable Purpose Disbursements: \$55,788, including grants of \$53,500

2008 Assets: \$914,861

2008 Charitable Purpose Disbursements: \$512,995, including grants of \$510,000



2010 Assets: \$1,637,992

2010 Charitable Purpose Disbursements: \$322,641, including grants of \$319,600

JOSEPH CORNELL, Sculptor

1903–1972

The Joseph and Robert Cornell Memorial Foundation

NY. EIN 13-3097502

Ruling Year 1984

Creator: The artist

Function: Grantmaking foundation supporting education and medical services, and making grants of artworks to museums

URL:

2005 Assets: \$71,418,045

2005 Charitable Purpose Disbursements: \$4,071,223, including grants of \$3,852,500

2008 Assets: \$55,059,046

2008 Charitable Purpose Disbursements: \$3,367,850, including grants of \$3,150,000

2010 Assets: \$62,860,379

2010 Charitable Purpose Disbursements: \$5,109,135, including grants of \$5,025,000

JASPER FRANCIS CROPSEY, Painter and Architect

1823–1900

Newington-Cropsey Foundation

NY. EIN 06-0972155

Ruling Year 1978

Creator: The artist's great granddaughter

Function: House museum foundation operating the Cropsey Home and Studio

URL: [www.newingtoncropsey.com](http://www.newingtoncropsey.com)

2005 Assets: \$18,769,897

2005 Charitable Purpose Disbursements: \$3,379,776, including grants of \$93,995

2008 Assets: \$19,263,938

2008 Charitable Purpose Disbursements: \$3,902,062, including grants of \$128,045

2010 Assets: \$19,740,360

2010 Charitable Purpose Disbursements: \$3,806,058, including grants of \$79,424

PHILIP CAMPBELL CURTIS, Painter

1907–2000

Philip C. Curtis Charitable Trust for the Encouragement of Art

AZ. EIN 91-2094316

Ruling Year 2002

Creator: The artist

Function: Study and exhibition foundation

URL: [www.philipccurtis.org](http://www.philipccurtis.org)

2005 Assets: \$5,374,390  
2005 Charitable Purpose Disbursements: \$43,979, including grants of \$10,200  
2008 Assets: \$5,142,483  
2008 Charitable Purpose Disbursements: \$76,699, including grants of \$9,500  
2010 Assets: \$6,585,358  
2010 Charitable Purpose Disbursements: \$30,460, including grants of \$2,000

WILLEM DE KOONING, Painter

1904–1997

The Willem de Kooning Foundation Inc.

DE, NY. EIN 13-4151973

Ruling Year 2001

Creator: Court-appointed conservators of the artist's property

Function: Study and exhibition foundation

URL: [www.dekooning.org](http://www.dekooning.org)

2005 Assets: \$54,851,752

2005 Charitable Purpose Disbursements: \$798,640

2008 Assets: \$55,221,028

2008 Charitable Purpose Disbursements: \$1,273,385

2010 Assets: \$55,669,967

2010 Charitable Purpose Disbursements: \$1,605,447, including grants of \$74,973

JAY DEFEO, Painter and Photographer

1929–1989

The Jay DeFeo Trust\*

CA. EIN 94-6642644

Ruling Year 1998

Creator: The artist

Function: Study and exhibition foundation

URL: [www.jaydefeo.org](http://www.jaydefeo.org)

2005 Assets: \$669,225

2005 Charitable Purpose Disbursements: \$280,539, including grants of \$7,500

2008 Assets: \$404,057

2008 Charitable Purpose Disbursements: \$276,075, including grants of \$250

2010 Assets: \$10,025,229

2010 Charitable Purpose Disbursements: \$308,860, including grants of \$7,000

ETTORE DEGRAZIA, Painter

1901–1982

DeGrazia Art and Cultural Foundation Inc.

AZ. EIN 86-0339837

Ruling Year 1979

Creator: The artist

Function: House museum foundation operating the DeGrazia Gallery in the Sun

URL: [www.degrazia.org](http://www.degrazia.org)

2005 Assets: \$25,013,061

2005 Charitable Purpose Disbursements: \$984,633, including grants of \$60,434

2008 Assets: \$26,170,703

2008 Charitable Purpose Disbursements: \$968,517, including grants of \$74,029

2010 Assets: \$23,119,954

2010 Charitable Purpose Disbursements: \$943,392, including grants of \$49,023

#### DOROTHY DEHNER, Sculptor, Painter, and Printmaker

1901–1994

Dorothy Dehner Foundation for the Visual Arts Inc.

NY. EIN 13-3830526

Ruling Year 1995

Creator: The artist

Function: Grantmaking foundation supporting visual art education and making grants of artworks to museums

URL:

2005 Assets: \$1,332,809

2005 Charitable Purpose Disbursements: \$22,828, including grants of \$2,000

2008 Assets: \$1,169,238

2008 Charitable Purpose Disbursements: \$24,981

2010 Assets: \$853,130

2010 Charitable Purpose Disbursements: \$124,406, including grants of \$98,000

#### RICHARD DIEBENKORN, Painter

1922–1993

The Richard Diebenkorn Foundation\*

CA. EIN 26-1517545

Ruling Year 2009

Creator: The artist's surviving spouse

Function: Study and exhibition foundation

URL:

2010 Assets: \$24,566,980

2010 Charitable Purpose Disbursements: \$518,617, including grants of \$400,000

#### ENRICO DONATI, Painter and Sculptor

1909–2008

E D Foundation

NY. EIN 13-6319615

Ruling Year 1969

Creator: The artist

Function: Grantmaking foundation supporting animal welfare and making grants to artists

URL:

2005 Assets: \$1,432,119

2005 Charitable Purpose Disbursements: \$65,750, including grants of \$60,750

2008 Assets: \$1,525,676

2008 Charitable Purpose Disbursements: \$52,287, including grants of \$52,250

2010 Assets: \$1,692,336

2010 Charitable Purpose Disbursements: \$62,301, including grants of \$53,500

#### ALDEN B. DOW, Architect

1904–1983

Alden and Vada Dow Fund

MI. EIN 38-6058512

Ruling Year 1962

Creator: The artist and his surviving spouse, deceased

Function: Grantmaking foundation supporting culture, education, and community betterment, primarily in the midland Michigan region

URL: [www.avdowfamilyfoundation.org](http://www.avdowfamilyfoundation.org)

2005 Assets: \$9,709,190

2005 Charitable Purpose Disbursements: \$558,975, including grants of \$482,415

2008 Assets: \$6,681,051

2008 Charitable Purpose Disbursements: \$407,76,2 including grants of \$268,800

2010 Assets: \$10,249,414

2010 Charitable Purpose Disbursements: \$96,112, including grants of \$53,000

Alden B. and Vada B. Dow Creativity Foundation

MI. EIN 38-28-52321

Ruling Year 1989

Creator: The artist's surviving spouse, deceased

Function: House museum foundation operating the Alden B. Dow Home and Studio

URL: [www.abdow.org](http://www.abdow.org)

2005 Assets: \$1,746,308

2005 Charitable Purpose Disbursements: \$682,682

2008 Assets: \$2,126,888

2008 Charitable Purpose Disbursements: \$695,925

2010 Assets: \$2,806,275

2010 Charitable Purpose Disbursements: \$596,813

PAUL DYCK, Painter and Collector

1917–2006

Paul Dyck Foundation Research Institution of American Indian Culture

AZ. EIN 94-2693309

Ruling Year 1981

Creator: The artist

Function: Program foundation preserving and presenting a Native American artifact collection

URL:

2005 Assets: \$83,991

2005 Charitable Purpose Disbursements: \$27,071

2008 Assets: \$5,911,961

2008 Charitable Purpose Disbursements: \$109,453

2010 Assets: \$5,432,094

2010 Charitable Purpose Disbursements: \$248,596

CHARLES EAMES, Architect, Designer, and Filmmaker

1907–1978

RAY KAISER EAMES, Designer, Architect, and Filmmaker

1912–1988

Charles and Ray Eames House Preservation Foundation Inc.

CA, VT. EIN 20-0276962

Ruling Year 2004

Creator: The artists' daughter

Function: House museum foundation operating Eames House

URL: [www.eamesfoundation.org](http://www.eamesfoundation.org)

2005 Assets: \$6,483,687

2005 Charitable Purpose Disbursements: \$0

2008 Assets: \$6,218,607

2008 Charitable Purpose Disbursements: \$51,003

2010 Assets: \$5,868,823

2010 Charitable Purpose Disbursements: \$256,281

WILL EISNER, Cartoonist

1917–2005

Will and Ann Eisner Family Foundation Inc.\*

FL. EIN: 65-0309613

Ruling Year 1992

Creator: The artist and his surviving spouse

Function: Grantmaking foundation supporting programs in comics and sequential art education, medical research, humanitarian programs, and social services

URL:

2005 Assets: \$54,214  
2005 Charitable Purpose Disbursements: \$11,371, including grants of \$10,550  
2008 Assets: \$933,943  
2008 Charitable Purpose Disbursements: Grants of \$44,000  
2010 Assets: \$1,012,817  
2010 Charitable Purpose Disbursements: Grants of \$97,000

CLAIRE FALKENSTEIN, Sculptor and Painter

1908–1997

Falkenstein Foundation  
CA. EIN 95-4721433  
Ruling Year 2004  
Creator: The artist  
Function: Study and exhibition foundation  
URL:  
2005 Assets: \$5,932,924  
2005 Charitable Purpose Disbursements: \$61,269  
2008 Assets: \$5,784,131  
2008 Charitable Purpose Disbursements: \$49,069  
2010 Assets: \$5,735,178  
2010 Charitable Purpose Disbursements: \$71,995

LORSER FEITELSON, Painter and Educator

1898–1978

HELEN LUNDEBERG, Painter

1908–1999

Lorser Feitelson and Helen Lundeborg Feitelson Art Foundation  
CA. EIN 95-3451355  
Ruling Year: 1980  
Creator: The artists  
Function: Study and exhibition foundation  
URL:  
2005 Assets: \$2,415,243  
2005 Charitable Purpose Disbursements: \$44,641  
2008 Assets: \$2,715,808  
2008 Charitable Purpose Disbursements: \$2,000  
2010 Assets: \$2,633,656  
2010 Charitable Purpose Disbursements: \$12,741

ERIC FISCHL, Painter and Sculptor

Born 1948

APRIL GORNIK, Painter

Born 1953

Fischl Gornik Family Foundation Inc.\*

DE, NY. EIN 30-4575431

Ruling Year 2009

Creator: The artists

Function: Grantmaking foundation supporting humanitarian programs, social services, animal welfare, education, and arts organizations

URL:

2010 Assets: \$1,469,677

2010 Charitable Purpose Disbursements: Grants of \$34,500

LILLIAN H. FLORSHEIM, Sculptor and Collector

1896–1988

Lillian H. Florsheim Foundation for Fine Arts

IL. EIN 23-7052993

Ruling Year 1966

Creator: The artist

Function: Grantmaking foundation supporting culture and education, primarily in the Chicago region

URL:

2005 Assets: \$1,395,723

2005 Charitable Purpose Disbursements: Grants of \$66,000

2008 Assets: \$1,600,571

2008 Charitable Purpose Disbursements: \$81,384, including grants of \$80,500

2010 Assets: \$1,291,617

2010 Charitable Purpose Disbursements: \$109,688, including grants of \$106,068

SAM FRANCIS, Painter and Printmaker

1923-1994

Sam Francis Foundation. (fka Samuel L. Francis Art Museum)

CA. EIN 95-4336984

Ruling Year 1995

Creator: The artist

Function: Study and exhibition foundation

URL: [www.samfrancisfoundation.com](http://www.samfrancisfoundation.com)

2005 Assets: \$11,275,880

2005 Charitable Purpose Disbursements: \$166,261

2008 Assets: \$10,382,641

2008 Charitable Purpose Disbursements: \$383,558

2010 Assets: \$7,767,292

2010 Charitable Purpose Disbursements: \$677,222, including grants of \$292,838

HELEN FRANKENTHALER, Painter

1928-2011

Helen Frankenthaler Foundation Inc.

NY. EIN 13-3244308

Ruling Year 1985

Creator: The artist

Function: Grantmaking foundation supporting culture, education, community betterment, and medical services

URL:

2005 Assets: \$1,767,604

2005 Charitable Purpose Disbursements: \$177,351, including grants of \$175,285

2008 Assets: \$17,154,708

2008 Charitable Purpose Disbursements: \$203,229, including grants of \$197,045

2010 Assets: \$17,550,998

2010 Charitable Purpose Disbursements: \$120,065, including grants of \$115,200

SUZY FRELINGHUYSEN, Painter and Collector

1911–1988

GEORGE LOVETT KINGSLAND MORRIS, Painter and Collector

1905–1975

Frelinghuysen Morris Foundation

MA, NY. EIN 13-3471554

Ruling Year 1988

Creator: Suzy Frelinghuysen

Function: House museum foundation operating the Frelinghuysen Morris House and Studio

URL: [www.frelinghuysen.org](http://www.frelinghuysen.org)

2005 Assets: \$63,651,602

2005 Charitable Purpose Disbursements: \$328,729

2008 Assets: \$60,916,807

2008 Charitable Purpose Disbursements: \$487,072

2010 Assets: \$85,569,146

2010 Charitable Purpose Disbursements: \$421,682

VIOLA FREY, Sculptor, Ceramist, and Educator

1933–2004

SQUEAK CARNWATH, Painter and Educator

Born 1947

Artists' Legacy Foundation (aka Carnwath, Knecht, Frey Foundation)

CA. EIN 94-3357343



Ruling Year 2001

Creator: The artists

Function: Comprehensive foundation operating a study and exhibition program and making grants to artists

URL: [www.artistslegacyfoundation.org](http://www.artistslegacyfoundation.org)

2005 Assets: \$22,430,788

2005 Charitable Purpose Disbursements: \$43,195, including grants of \$1,500

2008 Assets: \$21,890,744

2008 Charitable Purpose Disbursements: \$153,441, including grants of \$45,000

2010 Assets: \$22,034,536

2010 Charitable Purpose Disbursements: \$181,639, including grants of \$50,000

LEE FRIEDLANDER, Photographer

Born 1934

Lee and Maria Friedlander Family Foundation\*

DE, NY. EIN 20-5599631

Ruling Year 2006

Creator: The artist and his spouse

Function: Grantmaking foundation supporting youth services, community betterment, social services, education, and medical research

URL:

2008 Assets: \$305,401

2008 Charitable Purpose Disbursements: \$54,474, including grants of \$47,550

2010 Assets: \$2,477,813

2010 Charitable Purpose Disbursements: \$351,065, including grants of \$95,284

THEODOR SEUSS GEISEL, Children's Book Illustrator and Author

1904–1991

Dr. Seuss Foundation

CA. EIN 95-6029752

Ruling Year 1960

Creator: The artist

Function: Grantmaking foundation supporting literacy, culture, education, and community betterment, primarily in the San Diego region, including support to University of California San Diego, whose Geisel Library houses the Dr. Seuss collection

URL:

2005 Assets: \$1,712,627

2005 Charitable Purpose Disbursements: \$208,426, including grants of \$205,264

2008 Assets: \$943,844

2008 Charitable Purpose Disbursements: \$241,388, including grants of \$237,963

2010 Assets: \$753,197

2010 Charitable Purpose Disbursements: \$238,599, including grants of \$234,205

M. ARTHUR GENSLER, JR., Architect

Born 1935

Gensler Family Foundation\*

CA. EIN 94-3331601

Ruling Year 2000

Creator: The artist and his spouse

Function: Grantmaking foundation supporting arts organizations, education, community betterment, medical research, and social services

URL:

2005 Assets: \$2,371,500

2005 Charitable Purpose Disbursements: Grants of \$153,820

2008 Assets: \$2,669,238

2008 Charitable Purpose Disbursements: \$473,601, including grants of \$473,435

2010 Assets: \$3,723,124

2010 Charitable Purpose Disbursements: \$459,306, including grants of \$457,290

WILLIAM GLACKENS, Painter and Illustrator

1870–1938

EDITH DIMOCK Glackens, Painter

1876–1955

Sansom Foundation Inc.

NY, NJ. EIN 13-6136127

Ruling Year 1959

Creator: The artists' son, deceased

Function: Grantmaking foundation supporting animal welfare, culture, education, and humanitarian programs, primarily in New York and Florida, including support to Museum of Art Fort Lauderdale, Nova Southeastern University, FL, for the Glackens Wing

URL:

2005 Assets: \$20,844,230

2005 Charitable Purpose Disbursements: \$668,868, including grants of \$456,227

2008 Assets: \$18,436,447

2008 Charitable Purpose Disbursements: \$879,646, including grants of \$560,000

2010 Assets: \$21,278,867

2010 Charitable Purpose Disbursements: \$889,118, including grants of \$619,000

EDWARD GOREY, Illustrator and Author

1925–2000

Edward Gorey Charitable Trust

MA, NY. EIN 02-0590852

Ruling Year 2008

Creator: The artist

Function: Grantmaking foundation supporting animal welfare and assisting the Edward Gorey House, Strawberry Lane Foundation, MA

URL:

2005 Assets: \$5,165,253

2005 Charitable Purpose Disbursements: \$80,364, including grants of \$50,000

2008 Assets: \$5,025,534

2008 Charitable Purpose Disbursements: \$68,771, including grants of \$50,000

2010 Assets: \$4,949,913

2010 Charitable Purpose Disbursements: \$71,557, including grants of \$50,000

#### ADOLPH GOTTLIEB, Painter

1903–1974

The Adolph and Esther Gottlieb Foundation Inc.

NY. EIN 13-2853957

Ruling Year 1975

Creator: The artist and his surviving spouse, deceased

Function: Comprehensive foundation operating a study and exhibition program, and making grants to artists

URL: [www.gottliebfoundation.org](http://www.gottliebfoundation.org)

2005 Assets: \$28,778,366

2005 Charitable Purpose Disbursements: \$829,294, including grants of \$461,505

2008 Assets: \$31,528,550

2008 Charitable Purpose Disbursements: \$938,880, including grants of \$490,100

2010 Assets: \$31,375,510

2010 Charitable Purpose Disbursements: \$938,413, including grants of \$429,200

#### ERNEST R. GRAHAM, Architect

1866–1936

Graham Foundation for Advanced Studies in the Fine Arts (fka American School of Fine Arts)

IL. EIN 36-2356089

Ruling Year 1959

Creator: The artist

Function: Comprehensive foundation making grants to individuals and organizations for projects advancing new perspectives in architecture, and operating public programs and exhibitions

URL: [www.grahamfoundation.org](http://www.grahamfoundation.org)

2005 Assets: \$38,829,572

2005 Charitable Purpose Disbursements: \$1,689,151, including grants of \$1,067,653

2008 Assets: \$33,185,517

2008 Charitable Purpose Disbursements: \$2,559,528, including grants of \$1,588,752

2010 Assets: \$42,774,447

2010 Charitable Purpose Disbursements: \$2,012,034, including grants of \$1,011,750

MORRIS GRAVES, Painter

1910–2001

Morris Graves Foundation

CA. EIN 68-0445017

Ruling Year 2000

Creator: The artist

Function: Program foundation operating an artists' residency program

URL: [www.woodsidebrasethgallery.com/artists/morris-graves-foundation](http://www.woodsidebrasethgallery.com/artists/morris-graves-foundation)

2005 Assets: \$2,654,909

2005 Charitable Purpose Disbursements: \$4,818

2008 Assets: \$2,455,817

2008 Charitable Purpose Disbursements: \$73,670

2010 Assets: \$2,462,860

2010 Charitable Purpose Disbursements: \$72,769, including grants of \$600

NANCY GRAVES, Sculptor, Painter, and Filmmaker

1940–1995

Nancy Graves Foundation Inc.

NY. EIN 13-3885307

Ruling Year 1997

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program, and making grants to artists

URL: [www.nancygravesfoundation.org](http://www.nancygravesfoundation.org)

2005 Assets: \$11,524,648

2005 Charitable Purpose Disbursements: \$421,966, including grants of \$87,800

2008 Assets: \$10,749,944

2008 Charitable Purpose Disbursements: \$455,460, including grants of \$75,000

2010 Assets: \$9,926,842

2010 Charitable Purpose Disbursements: \$343,350, including grants of \$10,000

CHAIM GROSS, Sculptor, Painter, and Printmaker

1904–1991

Chaim Gross Museum

NY. EIN 13-3556699

Ruling Year 1990. Foundation terminated 2012.

Creator: The artist and his spouse, deceased

Function: Program foundation operating activities related to the Chaim Gross Studio and Residence

URL:

2005 Assets: \$14,824

2005 Charitable Purpose Disbursements: \$0

2008 Assets: \$14,824  
2008 Charitable Purpose Disbursements: \$0  
2010 Assets: N/A  
2010 Charitable Purpose Disbursements: N/A

The Renee and Chaim Gross Foundation Inc.  
NY. EIN 13-34900101989  
Ruling Year 1989

Creator: The artist and his spouse, deceased  
Function: House museum foundation operating the Chaim Gross Studio and Residence and  
conducting a study and exhibition program

URL: [www.rcgrossfoundation.org](http://www.rcgrossfoundation.org)

2005 Assets: \$5,174,607  
2005 Charitable Purpose Disbursements: Grants of \$21,500  
2008 Assets: \$17,766,034  
2008 Charitable Purpose Disbursements: \$0  
2010 Assets: \$20,340,954  
2010 Charitable Purpose Disbursements: \$448,249

GRAHAM GUND, Architect and Collector  
Born 1922

Gund Art Foundation  
MA. EIN 04-2714713  
Ruling Year 1980

Creator: The artist  
Function: Program foundation operating an art collection and exhibition program

URL:

2005 Assets: \$2,074,384  
2005 Charitable Purpose Disbursements: \$4,696  
2008 Assets: \$5,187,000  
2008 Charitable Purpose Disbursements: \$3,597  
2010 Assets: \$5,187,000  
2010 Charitable Purpose Disbursements: \$5,231

FREDERICK HAMMERSLEY, Painter  
1919–2009

Frederick Hammersley Foundation\*  
NM. EIN 26-4790167  
Ruling Year 2009

Creator: The artist  
Function: Comprehensive foundation operating a study and exhibition program, maintaining the  
artist's home and studio, and making grants of artworks to museums

URL: [www.hammersleyfoundation.org](http://www.hammersleyfoundation.org)  
2010 Assets: \$10,159,962  
2010 Charitable Purpose Disbursements: \$33,029

KEITH HARING, Painter, Muralist, and Cartoonist  
1958–1990

The Keith Haring Foundation Inc.  
NY. EIN 11-0249024  
Ruling Year 1991  
Creator: The artist  
Function: Comprehensive foundation operating a study and exhibition program, and making grants supporting HIV/AIDS services and youth services  
URL: [www.haring.com/foundation/](http://www.haring.com/foundation/)  
2005 Assets: \$2,459,908  
2005 Charitable Purpose Disbursements: \$208,570, including grants of \$171,370  
2008 Assets: \$12,634,098  
2008 Charitable Purpose Disbursements: \$652,360, including grants of \$594,000  
2010 Assets: \$39,066,711  
2010 Charitable Purpose Disbursements: \$1,751,744, including grants of \$702,500

JOHN BURTON HARTER, Painter and Curator  
1940–2002

John Burton Harter Foundation Charitable Trust  
KY, OH. EIN 30-6048115  
Ruling Year 2004  
Creator: The artist  
Function: Comprehensive foundation maintaining an exhibition collection and making grants supporting culture, education, and community betterment, including projects addressing gender orientation  
URL: [www.jbharter.org](http://www.jbharter.org)  
2005 Assets: \$3,917,835  
2005 Charitable Purpose Disbursements: \$232,810, including grants of \$59,505  
2008 Assets: \$3,120,431  
2008 Charitable Purpose Disbursements: \$145,977, including grants of \$67,142  
2010 Assets: \$4,028,870  
2010 Charitable Purpose Disbursements: \$154,026, including grants of \$81,300

AL HELD, Painter  
1928–2005

Al Held Foundation Inc.  
NY. EIN 13-3596614  
Ruling Year 1991

Creator: The artist  
Function: Study and exhibition foundation  
URL: [www.alheldfoundation.org](http://www.alheldfoundation.org)  
2005 Assets: \$443,089  
2005 Charitable Purpose Disbursements: \$151,321  
2008 Assets: \$9,487,581  
2008 Charitable Purpose Disbursements: \$457,043, including grants of \$17,000  
2010 Assets: \$9,182,091  
2010 Charitable Purpose Disbursements: \$581,553, including grants of \$15,000

JOHN EDWARD HELIKER, Painter and Educator

1909–2000

ROBERT L. LAHOTAN, Painter and Educator

1927–2002

Heliker-LaHotan Foundation Inc.  
NY, ME. EIN 13-7262537  
Ruling Year 2001  
Creator: The artists  
Function: Program foundation operating an artists' residency program  
URL: [www.heliker-lahotan.org](http://www.heliker-lahotan.org)  
2005 Assets: \$3,367,286  
2005 Charitable Purpose Disbursements: \$138,588, including grants of \$8,500  
2008 Assets: \$3,593,531  
2008 Charitable Purpose Disbursements: \$165,310, including grants of \$51,390  
2010 Assets: \$3,595,081  
2010 Charitable Purpose Disbursements: \$162,534, including grants of \$1,060

CLINTON HILL, Painter

1922–2003

The Clinton Hill-Allen Tran Foundation\*  
NY. EIN 20-6439616  
Ruling Year 2006  
Creator: The artist and his life partner, deceased  
Function: Comprehensive foundation operating a study and exhibition program and making grants to art museums  
URL: [www.clintonhillartist.com](http://www.clintonhillartist.com)  
2008 Assets: \$2,434,735  
2008 Charitable Purpose Disbursements: \$63,926  
2010 Assets: \$2,001,210  
2010 Charitable Purpose Disbursements: \$170,934, including grants of \$25,000

JEROME HILL, Painter, Filmmaker, and Philanthropist

1905–1972

Camargo Foundation

NY, MN. EIN 13-2622714

Ruling Year 1968

Creator: The artist

Function: Program foundation operating a scholars' and artists' residency program in France

URL: [www.camargofoundation.org](http://www.camargofoundation.org)

2005 Assets: \$23,884,406

2005 Charitable Purpose Disbursements: \$847,622, including grants of \$86,500

2008 Assets: \$19,008,719

2008 Charitable Purpose Disbursements: \$1,091,915, including grants of 75,460

2010 Assets: \$19,555,784

2010 Charitable Purpose Disbursements: \$896,612, including grants of \$38,423

Jerome Foundation Inc. (fka Avon Foundation)

MN, OR. EIN 41-6035163

Ruling Year 1964

Creator: The artist

Function: Grantmaking foundation supporting artist-support programs, and making travel and study grants to artists and production grants to filmmakers, exclusively in Minnesota and New York City

URL: [www.jeromefdn.org](http://www.jeromefdn.org)

2005 Assets: \$77,092,175

2005 Charitable Purpose Disbursements: \$3,835,433, including grants of \$3,130,060

2008 Assets: \$88,24,520

2008 Charitable Purpose Disbursements: \$3,459,810, including grants of \$2,759,065

2010 Assets: \$75,509,756

2010 Charitable Purpose Disbursements: \$3,565,224, including grants of \$2,899,081

AL HIRSCHFELD, Caricaturist

1903–2003

Al Hirschfeld Foundation

DE, NY. EIN 20-0908729

Ruling Year 2004

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program and making grants to support arts and educational organizations

URL: [www.alhirschfeld.org](http://www.alhirschfeld.org)

2005 Assets: \$7,441,334

2005 Charitable Purpose Disbursements: \$119,321, including grants of \$23,239



2008 Assets: \$7,093,292

2008 Charitable Purpose Disbursements: \$132,041, including grants of \$58,045

2010 Assets: \$6,904,448

2010 Charitable Purpose Disbursements: \$84,039, including grants of \$10,907

DAVID HOCKNEY, Painter, Printmaker, and Photographer

Born 1937

The David Hockney Foundation\*

CA. EIN 26-2906501

Ruling Year 2010

Creator: The artist

Function: Comprehensive foundation operating an exhibition program and making grants of artworks to museums

URL: [www.hockneyfoundation.org](http://www.hockneyfoundation.org)

2010 Assets: \$120,000,000

2010 Charitable Purpose Disbursements: \$607,543, including grants of \$223,702

HANS HOFMANN, Painter and Educator

1880–1966

Renate Hofmann Charitable Trust

NY. EIN 13-7102174

Ruling Year 1997

Creator: The artist's surviving spouse, deceased

Function: Grantmaking foundation supporting culture, education, and mental health

URL:

2005 Assets: \$3,851,207

2005 Charitable Purpose Disbursements: \$174,860, including grants of \$150,000

2008 Assets: \$3,423,224

2008 Charitable Purpose Disbursements: \$147,206, including grants of \$113,000

2010 Assets: \$3,363,033

2010 Charitable Purpose Disbursements: \$141,626, including grants of \$125,000

Renate, Hans and Maria Hofmann Trust

NY. EIN 13-7102172

Ruling Year 1997

Creator: The artist's surviving spouse, deceased

Function: Grantmaking foundation supporting visual arts, arts education, and humanitarian programs, and providing support to a named institution (Association of German Dioceses, German Bishops' Conference, Bonn, Germany)

URL: [www.hanshofmann.org](http://www.hanshofmann.org)

2005 Assets: \$38,627,476

2005 Charitable Purpose Disbursements: \$778,965, including grants of \$467,940

2008 Assets: \$49,128,690

2008 Charitable Purpose Disbursements: \$2,191,634, including grants of \$1,435,000

2010 Assets: \$42,960,066

2010 Charitable Purpose Disbursements: \$1,635,354, including grants of \$813,500

CLAUS HOIE, Painter

1911–2007

HELEN HOIE, Painter

1911–2000

The Helen and Claus Hoie Charitable Foundation\*

NY. EIN 26-3285804

Ruling Year 2008

Creator: Claus Hoie

Function: Estate distribution foundation making grants of artworks to arts organizations, historical societies, medical institutions, and educational institutions, and financial grants to assist community betterment projects

URL:

2008 Assets: \$9,000,008

2008 Charitable Purpose Disbursements: \$2,211,787, including grants of \$2,194,460

2010 Assets: \$7,767,983

2010 Charitable Purpose Disbursements: \$386,667, including grants of \$362,753

WILLIAM ADDISON IRELAND, Editorial Cartoonist

1880–1935

Elizabeth Ireland Graves Charitable Trust

VA. EIN 54-6421160

Ruling Year 1998

Creator: The artist's daughter, deceased

Function: Grantmaking foundation supporting animal welfare, arts, and community betterment, primarily in Virginia, as well as support to the Ohio State University Billy Ireland Cartoon Library and Museum

URL:

2005 Assets: \$13,080,734

2005 Charitable Disbursements: \$857,048, including grants of \$839,645

2008 Assets: \$11,348,765

2008 Charitable Purpose Disbursements: \$1,007,223, including grants of \$990,350

2010 Assets: \$5,996,663

2010 Charitable Purpose Disbursements: \$119,867, including grants of \$94,941

JASPER JOHNS, Painter, Sculptor, and Printmaker

Born 1930

Low Road Foundation

CT. EIN 20-1737242

Ruling Year 2004

Creator: The artist

Function: Grantmaking foundation supporting culture, education, artist-support programs, and community betterment, primarily in the New York City region and Connecticut, including support to the Foundation for Contemporary Arts Inc., NY

URL:

2005 Assets: \$967,267

2005 Charitable Purpose Disbursements: Grants of \$127,700

2008 Assets: \$1,218,286

2008 Charitable Purpose Disbursements: Grants of \$336,000

2010 Assets: \$2,122,906

2010 Charitable Purpose Disbursements: Grants of \$62,750

J. SEWARD JOHNSON JR., Sculptor and Philanthropist

Born 1930

Atlantic Foundation

NJ. EIN 22-6054882

Ruling Year 1964

Creator: The artist's father, deceased

Function: Program foundation assisting charitable organizations associated with the artist's philanthropic interests, including support to Johnson Art and Education Foundation and the Sculpture Foundation Inc., both in NJ

URL:

2005 Assets: \$159,370,767

2005 Charitable Purpose Disbursements: \$2,172,379, including grants of \$226,667

2008 Assets: \$54,813,376

2008 Charitable Purpose Disbursements: \$3,698,379, including grants of \$655,855

2010 Assets: \$61,777,063

2010 Charitable Purpose Disbursements: \$2,952,560, including grants of \$1,051,678

Johnson Art and Education Foundation Inc.

NJ. EIN 22-3808507

Ruling Year 2001

Creator: The artist

Function: Program foundation assisting charitable organizations associated with the artist's philanthropic interests, including support to the Sculpture Foundation Inc., NJ

URL:

2005 Assets: \$144,121,184  
2005 Charitable Purpose Disbursements: \$2,695,268, including grants of \$1,741,000  
2008 Assets: \$82,687,991  
2008 Charitable Purpose Disbursements: \$6,973,135, including grants of \$3,649,729  
2010 Assets: \$75,799,979  
2010 Charitable Purpose Disbursements: \$8,437,267, including grants of \$6,272,000

Sculpture Foundation Inc.

NJ. EIN 22-3694372

Ruling Year 2000

Creator: The artist

Function: Program foundation operating a sculpture collection and exhibition program

URL: [www.sculpturefoundation.com](http://www.sculpturefoundation.com)

2005 Assets: \$34,865,542

2005 Charitable Purpose Disbursements: \$1,807,893, including grants of \$50,000

2008 Assets: \$41,905,185

2008 Charitable Purpose Disbursements: \$3,497,214

2010 Assets: \$57,028,415

2010 Charitable Purpose Disbursements: \$3,901,670, including grants of \$25

CHUCK JONES, Animator

1912–2002

Chuck Jones Center for Creativity

CA. EIN 33-6262849

Ruling Year 2001

Creator: The artist

Function: Program foundation operating a visual art education workshop program

URL: [www.chuckjonescenter.org](http://www.chuckjonescenter.org)

2005 Assets: \$4,044,621

2005 Charitable Purpose Disbursements: \$89,264

2008 Assets: \$3,944,891

2008 Charitable Purpose Disbursements: \$80,421, including grants of \$2,995

2010 Assets: \$3,977,463

2010 Charitable Purpose Disbursements: \$47,214

DONALD JUDD, Sculptor, Painter, and Author

1928–1994

Judd Foundation

TX, NY. EIN 74-2798673

Ruling Year 1997

Creator: The artist

Function: House museum foundation operating the artist's residences, studios, archives, and libraries in New York and Texas

URL: [www.juddfoundation.org](http://www.juddfoundation.org)

2005 Assets: \$211,848,305

2005 Charitable Purpose Disbursements: \$840,230

2008 Assets: \$239,660,558

2008 Charitable Purpose Disbursements: \$1,291,462

2010 Assets: \$315,061,070

2010 Charitable Purpose Disbursements: \$1,926,705

REUBEN KADISH, Sculptor, Painter, and Printmaker

1913–1992

The Reuben Kadish Art Foundation Inc.\*

NY. EIN 31-1631167

Ruling Year 1999

Creator: The artist

Function: Study and exhibition foundation making grants of artworks to museums

URL: [www.reubenkadish.org](http://www.reubenkadish.org)

2005 Assets: \$612,166

2005 Charitable Purpose Disbursements: \$27,100, including grants of \$27,000

2008 Assets: \$1,202,522

2008 Charitable Purpose Disbursements: \$0

2010 Assets: \$1,125,531

2010 Charitable Purpose Disbursements: \$15,481

WOLF KAHN, Painter

Born 1927

EMILY MASON, Painter

Born 1932

Wolf Kahn and Emily Mason Foundation Inc.

NY, VT. EIN 13-4036532

Ruling Year 2000

Creator: The artists

Function: Grantmaking foundation supporting visual art education, artist-support programs, and community betterment, primarily in the New York City region and Vermont

URL: [www.kahnmasonfoundation.org](http://www.kahnmasonfoundation.org)

2005 Assets: \$3,397,517

2005 Charitable Purpose Disbursements: Grants of \$163,876

2008 Assets: \$3,518,783

2008 Charitable Purpose Disbursements: Grants of \$160,000

2010 Assets: \$2,484,607

2010 Charitable Purpose Disbursements: Grants of \$175,000

HOWARD KANOVITZ, Painter

1929–2009

The Howard Kanovitz Foundation Inc.\*

NY. EIN 13-3859430

Ruling Year 1996

Creator: The artist

Function: Study and exhibition foundation

URL:

2005 Assets: \$191

2005 Charitable Purpose Disbursements: \$525

2008 Assets: \$225

2008 Charitable Purpose Disbursements: \$249

2010 Assets: \$1,549,943

2010 Charitable Purpose Disbursements: \$6,152, including grants of \$2,500

ALEX KATZ, Painter and Printmaker

Born 1927

Alex Katz Foundation Inc.

DE, NY. EIN 51-0529249

Ruling Year 2005

Creator: The artist

Function: Program foundation facilitating museums' acquisitions of works by artists, living and deceased

URL:

2005 Assets: \$2,035,225

2005 Charitable Purpose Disbursements: Grants of \$267,600

2008 Assets: \$12,779,927

2008 Charitable Purpose Disbursements: \$2,927,680, including grants of \$2,969,548

2010 Assets: \$18,385,059

2010 Charitable Purpose Disbursements: \$910,265, including grants of \$889,390

EZRA JACK KEATS, Children's Book Illustrator and Author

1916–1983

Ezra Jack Keats Foundation Inc.

NY. EIN 23-7072750

Ruling Year 1970

Creator: The artist

Function: Grantmaking foundation supporting public schools and libraries for children's literacy and creativity projects

URL: [www.ezra-jack-keats.org](http://www.ezra-jack-keats.org)

2005 Assets: \$5,377,119

2005 Charitable Purpose Disbursements: \$149,445, including grants of \$100,000

2008 Assets: \$4,548,763

2008 Charitable Purpose Disbursements: \$158,918, including grants of \$65,594

2010 Assets: \$4,958,998

2010 Charitable Purpose Disbursements: \$275,368, including grants of \$144,469

ELLSWORTH KELLY, Painter and Sculptor

Born 1923

Ellsworth Kelly Foundation Inc.

NY. EIN 22-3132379

Ruling Year 1991

Creator: The artist

Function: Grantmaking foundation supporting arts education, environmental conservation, and community betterment, primarily in New York's Hudson Valley/Taconic region, and museum art conservation programs, nationally

URL:

2005 Assets: \$22,858,174

2005 Charitable Purpose Disbursements: \$827,731, including grants of \$825,000

2008 Assets: \$15,301,991

2008 Charitable Purpose Disbursements: \$1,102,588, including grants of \$1,100,000

2010 Assets: \$20,197,211

2010 Charitable Purpose Disbursements: \$808,108, including grants of \$800,000

ANDRÉ KERTÉSZ, Photographer

1894–1985

The Andre and Elizabeth Kertesz Foundation Inc.

NY. EIN 133136378

Ruling Year 1983

Creator: The artist

Function: Grantmaking foundation supporting photography, visual art education, and community betterment, primarily in the New York City region

URL:

2005 Assets: \$3,618,135

2005 Charitable Purpose Disbursements: \$154,786, including grants of \$101,037

2008 Assets: \$4,005,327

2008 Charitable Purpose Disbursements: \$153,605, including grants of \$57,150

2010 Assets: \$4,056,902

2010 Charitable Purpose Disbursements: \$219,029, including grants of \$117,202

KARL KNATHS, Painter

1891–1971

Karl O. and Helen W. Knaths Trust\*

MA. EIN 04-6937814

Ruling Year 2001

Creator: The artist and his surviving spouse, deceased

Function: Grantmaking foundation providing support to named institutions (The Art Institute of Chicago, IL and The Phillips Collection, DC)

URL:

2005 Assets: \$1,720,412

2005 Charitable Purpose Disbursements: \$53,064, including grants of \$37,167

2008 Assets: \$2,299,652

2008 Charitable Purpose Disbursements: \$88,392, including grants of \$69,655

2010 Assets: \$1,925,475

2010 Charitable Purpose Disbursements: \$75,433, including grants of \$65,958

KIKI KOGELNIK, Painter, Sculptor, and Designer

1935–1997

Kiki Kogelnik Foundation

NY. EIN 13-7101223

Ruling Year 1997

Creator: The artist

Function: Study and exhibition foundation

URL: [www.kogelnikfoundation.org](http://www.kogelnikfoundation.org)

2005 Assets: \$8,814,386

2005 Charitable Purpose Disbursements: \$127,081

2008 Assets: \$12,849,573

2008 Charitable Purpose Disbursements: \$88,394

2010 Assets: \$12,784,921

2010 Charitable Purpose Disbursements: \$191,500

RONALD KRUECK, Architect

Born 1946

Anstiss and Ronald Krueck Foundation

IL. EIN 36-3855553

Ruling Year 1993

Creator: The artist and his spouse

Function: Grantmaking foundation supporting culture, historic preservation, and community betterment, primarily in the Chicago region

URL:

2005 Assets: \$1,240,046

2005 Charitable Purpose Disbursements: Grants of \$329,064

2008 Assets: \$286,896

2008 Charitable Purpose Disbursements: Grants of \$57,660

2010 Assets: 1,023,310

2010 Charitable Purpose Disbursements: Grants of \$39,155



GASTON LACHAISE, Sculptor

1882–1925

Lachaise Foundation

MA. EIN 04-6113196

Ruling Year 1964

Creator: The artist's surviving spouse, deceased

Function: Study and exhibition foundation

URL: [www.lachaisefoundation.org](http://www.lachaisefoundation.org)

2005 Assets: \$5,280,536

2005 Charitable Purpose Disbursements: \$382,206, including grants of \$19,020

2008 Assets: \$3,943,738

2008 Charitable Purpose Disbursements: \$270,130, including grants of \$3,000

2010 Assets: \$3,801,093

2010 Charitable Purpose Disbursements: \$277,155

PETER A. LAIRD, Animator

Born 1954

Xeric Foundation

MA. EIN 22-3149258

Ruling Year 1992

Creator: The artist

Function: Grantmaking foundation supporting community betterment programs in western Massachusetts and self-publishing comic book artists in North America (grants to comic book artists ceased in 2012)

URL: [www.xericfoundation.org](http://www.xericfoundation.org)

2005 Assets: \$2,483,070

2005 Charitable Purpose Disbursements: \$326,830, including grants of \$298,194

2008 Assets: \$2,503,482

2008 Charitable Purpose Disbursements: \$200,815, including grants of \$173,865

2010 Assets: \$3,367,304

2010 Charitable Purpose Disbursements: \$182,735, including grants of \$143,085

CLAY LANCASTER, Illustrator and Architectural Historian

1917–2000

Warwick Foundation Inc.\*

KY. EIN 91-2162110

Ruling Year 2002

Creator: The artist

Function: House museum foundation operating the Warwick Compound

URL: [www.warwickfoundation.org](http://www.warwickfoundation.org)

2005 Assets: \$2,325,870

2005 Charitable Purpose Disbursements: \$33,578, including grants of \$2,600  
2008 Assets: \$2,142,160  
2008 Charitable Purpose Disbursements: \$54,890, including grants of \$1,800  
2010 Assets: \$2,335,111  
2010 Charitable Purpose Disbursements: \$25,007, including grants of \$1,000

WALTER LANTZ, Animator  
1899–1994

Walter Lantz Foundation  
CA. EIN 95-3994420  
Ruling Year 1985  
Creator: The artist  
Function: Grantmaking foundation supporting visual art education, culture, and community  
betterment, primarily in southern California  
URL:  
2005 Assets: \$13,752,882  
2005 Charitable Purpose Disbursements: Grants of \$752,579  
2008 Assets: \$7,682,251  
2008 Charitable Purpose Disbursements: Grants of \$1,101,628  
2010 Assets: \$7,894,409  
2010 Charitable Purpose Disbursements: Grants of \$805,423

JACOB LAWRENCE, Painter  
1917–2000

GWENDOLYN KNIGHT LAWRENCE, Painter  
1914–2005

Jacob and Gwendolyn Lawrence Foundation\*  
WA. EIN: 91-2015166  
Ruling Year 2000  
Creator: The artists  
Function: Program foundation operating a website as a scholarly and educational resource and  
making grants to arts and educational organizations  
URL: [www.jacobandgwenlawrence.org](http://www.jacobandgwenlawrence.org)  
2005 Assets: \$853,282  
2005 Charitable Purpose Disbursements: \$13,767  
2008 Assets: \$977,686  
2008 Charitable Purpose Disbursements: \$57,809, including grants of \$50,000  
2010 Assets: \$1,051,708  
2010 Charitable Purpose Disbursements: \$65,310, including grants of \$50,000

ABBY LEIGH, Painter

Born 1948

The Viola Fund (fka The Mandrake Fund)

NY. EIN 13-3398045

Ruling Year 1987

Creator: The artist and her spouse

Function: Grantmaking foundation supporting culture, education, humanitarian programs, and community betterment, primarily in the New York City region

URL:

2005 Assets: \$11,816,409

2005 Charitable Purpose Disbursements: \$769,313, including grants of \$765,345

2008 Assets: \$7,268,393

2008 Charitable Purpose Disbursements: Grants of \$767,654

2010 Assets: \$7,990,351

2010 Charitable Purpose Disbursements: \$539,583, including grants of \$539,583

ROY LICHTENSTEIN, Painter, Sculptor, and Printmaker

1923–1997

Roy Lichtenstein Foundation Inc.

DE, NY. EIN 91-1898350

Ruling Year 1998

Creator: The artist

Function: Study and exhibition foundation

URL: [www.lichtensteinfoundation.org](http://www.lichtensteinfoundation.org)

2005 Assets: \$32,805,703

2005 Charitable Purpose Disbursements: \$1,021,500

2008 Assets: \$58,668,767

2008 Charitable Purpose Disbursements: \$1,628,921, including grants of \$34,314

2010 Assets: \$85,268,126

2010 Charitable Purpose Disbursements: \$1,826,144, including grants of \$16,500

SCHOMER FRANK LICHTNER, Painter and Printmaker

1905–2006

RUTH GROTENRATH, Painter

1912–1988

Lichtner-Grotenrath Foundation

WI. EIN 26-0580464

Ruling Year 2007. Foundation terminated 2011.

Creator: Schomer F. Lichtner

Function: Estate distribution foundation making grants of artworks to museums and educational institutions

URL:

2007 Assets: \$1,695,896

2007 Charitable Purpose Disbursements: \$37,989

2010 Assets: \$133,716

2010 Charitable Purpose Disbursements: \$78,417, including grants of \$50,000

JACQUES LIPCHITZ, Sculptor

1891–1973

YULLA HALBERSTADT LIPCHITZ, Sculptor

1911–2003

Jacques and Yulla Lipchitz Foundation Inc.

NY. EIN 13-6151503

Ruling Year 1963

Creator: The artists

Function: Estate distribution foundation making grants of artworks to museums internationally

URL:

2005 Assets: \$2,503,190

2005 Charitable Purpose Disbursements: Grants of \$737,500

2008 Assets: \$1,726,804

2008 Charitable Purpose Disbursements: \$19,833, including grants of \$11,000

2010 Assets: \$1,462,317

2010 Charitable Purpose Disbursements: \$93,734, including grants of \$56,500

BORIS LURIE, Painter, Photographer, and Collagist

1924–2008

The Boris Lurie Art Foundation\*

NY. EIN 98-0590515

Ruling Year 2009

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program and making grants to cultural and educational organizations and youth services programs; plans pending for grants to artists

URL: [www.borislurieart.org](http://www.borislurieart.org)

2010 Assets: \$29,716,698

2010 Charitable Purpose Disbursements: \$979,516, including grants of \$65,500

EDITH LUTYENS, Costume Designer

1907–2002

NORMAN BEL GEDDES, Designer and Architect

1893–1958

Edith Lutyens and Norman Bel Geddes Foundation Inc.

NY. EIN 36-7429814

Ruling Year 2004

Creator: Edith Lutyens

Function: Grantmaking foundation supporting theater design primarily in the New York City region

URL:

2005 Assets: \$817, 123

2005 Charitable Purpose Disbursements: \$36,755, including grants of \$35,000

2008 Assets: \$1,091,709

2008 Charitable Purpose Disbursements: \$73,968, including grants of \$70,000

2010 Assets: \$1,377,765

2010 Charitable Purpose Disbursements: \$5,013, including grants of \$2,000

KASIMIR MALEVICH, Painter, Printmaker, and Theorist

1879–1935

The Malevich Society\*

NY. EIN: 13-4181214

Ruling Year 2002

Creator: The artist's descendants

Function: Grantmaking foundation providing grants to scholars

URL: [www.malevichsociety.org](http://www.malevichsociety.org)

2005 Assets: \$767,424

2005 Charitable Purpose Disbursements: \$44,301, including grants of \$20,000

2008 Assets: \$1,158,508

2008 Charitable Purpose Disbursements: \$36,714, including grants of \$14,690

2010 Assets: \$1,025,078

2010 Charitable Purpose Disbursements: \$89,032, including grants of \$41,500

BEATRICE MANDELMAN, Painter

1912–1998

LOUIS RIBAK, Painter

1902–1979

Mandelman-Ribak Foundation

NM. EIN 86-0865222

Ruling Year 1998

Creator: Beatrice Mandelman

Function: Study and exhibition foundation

URL: [www.mandelman-ribak.org](http://www.mandelman-ribak.org)

2005 Assets: \$4,719,263

2005 Charitable Purpose Disbursements: \$154,358, including grants of \$5,000

2008 Assets: \$4,332,337

2008 Charitable Purpose Disbursements: \$195,043, including grants of \$46,035

2010 Assets: \$3,530,852

2010 Charitable Purpose Disbursements: \$677,222, including grants of \$292,838

ROBERT MAPPLETHORPE, Photographer

1946–1989

The Robert Mapplethorpe Foundation Inc.

NY. EIN 13-3480472

Ruling Year 1989

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program, and making grants supporting photography and HIV/AIDS research

URL: [www.mapplethorpe.org](http://www.mapplethorpe.org)

2005 Assets: \$145,731,265

2005 Charitable Purpose Disbursements: Grants of \$512,490

2008 Assets: \$150,341,290

2008 Charitable Purpose Disbursements: \$2,034,036, including grants of \$1,039,594

2010 Assets: \$149,075,551

2010 Charitable Purpose Disbursements: \$1,192,804, including grants of \$627,000

JANINA MONKUTE MARKS, Textile Designer and Painter

1923–2010

Ira and Janina Marks Charitable Trust\*

IL. EIN 36-3620787

Ruling Year 1989

Creator: The artist and her spouse, deceased

Function: Grantmaking foundation supporting the arts, education, community betterment, medical research, and social services, primarily in the Chicago, IL region

URL:

2005 Assets: \$1,344,282

2005 Charitable Purpose Disbursements: \$85,677, including grants of \$85,662

2008 Assets: \$865,507

2008 Charitable Purpose Disbursements: \$99,248, including grants of \$94,248

2010 Assets: \$892,349

2010 Charitable Purpose Disbursements: \$79,136, including grants of \$75,636

Janina Marks Charitable Foundation\*

IL. EIN 36-4312295

Ruling Year 2000

Creator: The artist

Function: Grantmaking foundation providing single organization support (Janina Monkute Marks Museum, Kedainiai, Lithuania)

URL:

2005 Assets: \$1,196,564

2005 Charitable Purpose Disbursements: \$97,757, including grants of \$85,000

2008 Assets: \$853,754

2008 Charitable Purpose Disbursements: \$80,000, including grants of \$75,000

2010 Assets: \$865,501

2010 Charitable Purpose Disbursements: \$77,187, including grants of \$70,000

ROSALIE THORNE MCKENNA, Photographer

1919–2003

HARRIET V. S. THORNE, Photographer

1823–1926

Rosalie Thorne McKenna Foundation\*

MA. EIN 05-6149225

Ruling Year 2007

Creator: Rosalie Thorne McKenna

Function: Grantmaking foundation making grants of artworks to museums

URL:

2008 Assets: \$1,333,243

2008 Charitable Purpose Disbursements: \$3,165

2010 Assets: \$1,201,180

2010 Charitable Purpose Disbursements: \$374,862, including grants of \$353,694

RICHARD MEIER, Architect and Collagist

Born 1934

Richard Meier Foundation

NY. EIN 13-3978415

Ruling Year 1998

Creator: The artist

Function: Grantmaking foundation supporting visual arts, culture, historic preservation, and community betterment, primarily in the New York City region

URL:

2005 Assets: \$3,130,930

2005 Charitable Purpose Disbursements: \$74,395, including grants of \$74,145

2008 Assets: \$3,030,674

2008 Charitable Purpose Disbursements: \$201,241, including grants of \$200,991

2010 Assets: \$4,230,466

2010 Charitable Purpose Disbursements: \$249,750, including grants of \$249,500

HENRY CHAPMAN MERCER, Sculptor, Scholar, and Anthropologist

1856–1930

Trustees of the Mercer Fonthill Museum\*

PA. EIN 23-1976299

Ruling Year 1975

Creator: The artist

Function: House museum foundation operating Fonthill Castle and the Mercer Collection of pre-industrial American material culture

URL:

2005 Assets: \$1,067,517

2005 Charitable Purpose Disbursements: \$85,477

2008 Assets: \$887,023

2008 Charitable Purpose Disbursements: \$126,609

2010 Assets: \$778,820

2010 Charitable Purpose Disbursements: \$76,068

#### JOAN MITCHELL, Painter and Printmaker

1926–1992

Joan Mitchell Foundation Inc.

NY. EIN 11-3161054

Ruling Year 1998. Initial entity established 1993.

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program, art education classes, and artists' residency program, and making grants to artists and artist-support programs

URL: [www.joanmitchellfoundation.org](http://www.joanmitchellfoundation.org)

2005 Assets: \$61,362,765

2005 Charitable Purpose Disbursements: \$1,398,396, including grants of \$744,500

2008 Assets: \$123,671,527

2008 Charitable Purpose Disbursements: \$4,402,770, including grants of \$2,320,557

2010 Assets: \$201,854,942

2010 Charitable Purpose Disbursements: \$4,557,091, including grants of \$1,616,741

#### CARL MORRIS, Painter

1911–1993

#### Hilda Morris, Sculptor

1911–1991

Carl and Hilda Morris Foundation

OR, NY. EIN 93-6285843

Ruling Year 1995

Creator: The artists

Function: Study and exhibition foundation

URL:

2005 Assets: \$2,330,806

2005 Charitable Purpose Disbursements: \$0

2008 Assets: \$2,219,533

2008 Charitable Purpose Disbursements: \$0

2010 Assets: \$2,197,860

2010 Charitable Purpose Disbursements: \$19,220



HELEN BALFOUR MORRISON, Photographer

1901–1984

Morrison-Shearer Foundation\*

IL. EIN 36-3783438

Ruling Year 1992

Creator: The artist's life partner, choreographer Sybil Shearer, deceased

Function: Study and exhibition foundation maintaining the artists' home and studio

URL: [www.morrisonsshearer.org](http://www.morrisonsshearer.org)

2005 Assets: \$18,063

2005 Charitable Purpose Disbursements: \$0

2008 Assets: \$4,879,231

2008 Charitable Purpose Disbursements: \$227,238, including grants of \$5,500

2010 Assets: \$5,970,385

2010 Charitable Purpose Disbursements: \$129,801, including grants of \$2,500

ROBERT MOTHERWELL, Painter, Printmaker, and Author

1915–1991

The Dedalus Foundation Inc. (fka Robert Motherwell Foundation Inc.)

CT, NY. EIN 13-3091704

Ruling Year 1983

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program, and making grants supporting artists and scholars and fine arts education, exhibitions, conservation, and publications

URL: [www.dedalusfoundation.org](http://www.dedalusfoundation.org)

2005 Assets: \$51,789,556

2005 Charitable Purpose Disbursements: \$2,566,995, including grants of \$564,497

2008 Assets: \$51,867,915

2008 Charitable Purpose Disbursements: \$3,510,099, including grants of \$609,630

2010 Assets: \$52,020,587

2010 Charitable Purpose Disbursements: \$3,582,439, including grants of \$613,150

ALBERT KETCHAM MURRAY, Portraitist and Combat Artist

1906–1992

The Albert K. Murray Fine Arts Educational Fund

OH. EIN 31-1404573

Ruling Year 1994

Creator: The artist

Function: Grantmaking foundation supporting scholarships for college art students

URL:

2005 Assets: \$1,426,884

2005 Charitable Purpose Disbursements: Grants of \$69,750  
2008 Assets: \$922,177  
2008 Charitable Purpose Disbursements: Grants of \$77,220  
2010 Assets: \$1,091,872  
2010 Charitable Purpose Disbursements: Grants of \$49,075

LEROY NEIMAN, Painter and Printmaker

1921-2012

LeRoy Neiman Foundation Inc.

NY. EIN 13-3385053

Ruling Year 1987

Creator: The artist and his surviving spouse

Function: Grantmaking foundation supporting visual art education and urban community art programs

URL: [www.leroyneimanfoundation.org](http://www.leroyneimanfoundation.org)

2005 Assets: \$7,135,579

2005 Charitable Purpose Disbursements: Grants of \$390,000

2008 Assets: \$11,521,101

2008 Charitable Purpose Disbursements: Grants of \$748,334

2010 Assets: \$11,839,490

2010 Charitable Purpose Disbursements: Grants of \$860,000

NELTJE, Painter and Printmaker

Born 1934

Jentel Foundation

WY. EIN 83-0331644

Ruling Year 2000

Creator: The artist

Function: Program foundation operating an artists' and writers' residency program

URL: [www.jentelarts.org](http://www.jentelarts.org)

2005 Assets: \$3,006,900

2005 Charitable Purpose Disbursements: \$311,505

2008 Assets: \$2,468,739

2008 Charitable Purpose Disbursements: \$396,454

2010 Assets: \$2,341,346

2010 Charitable Purpose Disbursements: \$409,533

ARNOLD NEWMAN, Photographer

1918–2006

Arnold and Augusta Newman Foundation

MN. EIN: 36-4632880

Ruling Year 2009

Creator: The artist's surviving spouse, deceased  
Function: Comprehensive foundation operating a study and exhibition program, and making grants supporting photography  
URL: [www.arnoldnewmanarchive.com](http://www.arnoldnewmanarchive.com)  
2005 Assets: N/A  
2005 Charitable Purpose Disbursements: N/A  
2008 Assets: \$6,156,236  
2008 Charitable Purpose Disbursements: \$0  
2010 Assets: \$6,123,457  
2010 Charitable Purpose Disbursements: \$71,883, including grants of \$58,000

**BARNETT NEWMAN, Painter**  
1905–1970

The Barnett Newman Foundation  
NY. EIN 13-2989464  
Ruling Year 1980  
Creator: The artist's surviving spouse, deceased  
Function: Study and exhibition foundation  
URL: [www.barnettnewman.org](http://www.barnettnewman.org)  
2005 Assets: \$238,435  
2005 Charitable Purpose Disbursements: \$562,329  
2008 Assets: \$80,616  
2008 Charitable Purpose Disbursements: \$285,654  
2010 Assets: \$78,772  
2010 Charitable Purpose Disbursements: \$312,720

Barnett and Annalee Newman Foundation Trust  
NY. EIN 13-7105549  
Ruling Year 1997  
Creator: The artist's surviving spouse, deceased  
Function: Grantmaking foundation supporting visual arts and community betterment and making grants to artists, primarily in the New York City region, and supporting the Barnett Newman Foundation, NY  
URL:  
2005 Assets: \$32,539,036  
2005 Charitable Purpose Disbursements: \$1,023,335, including grants of \$938,000  
2008 Assets: \$29,716,316  
2008 Charitable Purpose Disbursements: \$361,643, including grants of \$310,000  
2010 Assets: \$32,996,243  
2010 Charitable Purpose Disbursements: \$948,186, including grants of \$900,000

KENNETH NOLAND, Painter

1924–2010

The Kenneth Noland Foundation\*

DE, ME. EIN 26-2817642

Ruling Year 2010

Creator: The artist

Function: Study and exhibition foundation

URL:

2010 Assets: \$1,206,729

2010 Charitable Purpose Disbursements: \$0

CHARLES Z. OFFIN, Illustrator, Printmaker, and Collector

1899–1989

Offin Charitable Trust

NY. EIN 13-6944122

Ruling Year 1991

Creator: The artist

Function: Grantmaking foundation supporting medical research

URL:

2005 Assets: \$2,567,923

2005 Charitable Purpose Disbursements: \$110,401, including grants of \$95,000

2008 Assets: \$2,017,208

2008 Charitable Purpose Disbursements: \$117,624, including grants of \$102,000

2010 Assets: \$2,383,270

2010 Charitable Purpose Disbursements: \$106,011, including grants of \$90,000

GEORGIA O'KEEFFE, Painter

1887–1986

Georgia O'Keeffe Foundation

NM. EIN 85-0375930

Ruling Year 1989. Remaining assets distributed to Georgia O'Keeffe Museum 2006. Foundation terminated 2009.

Creator: Executors of the artist's estate

Function: Estate distribution foundation operating a study and exhibition program, and making grants of artworks to museums

URL:

2005 Assets: \$12,407,956

2005 Charitable Purpose Disbursements: \$665,246

2008 Assets: \$428,701

2008 Charitable Purpose Disbursements: \$146,614, including grants of \$100,000

MATTIE LOU O'KELLEY, Painter

1908–1997

Mattie Lou O'Kelley Trust\*

GA. EIN 58-6386902

Ruling Year 2000

Creator: The artist

Function: Grantmaking foundation supporting named institutions (American Folk Art Museum, NY and The High Museum of Art, GA)

URL:

2005 Assets: \$1,549,778

2005 Charitable Purpose Disbursements: Grants of \$45,478

2008 Assets: \$1,484,811

2008 Charitable Purpose Disbursements: \$61,799, including grants of \$50,095

2010 Assets: \$1,781,022

2010 Charitable Purpose Disbursements: \$45,208, including grants of \$38,668

YOKO ONO, Sculptor and Conceptual Artist

Born 1933

JOHN LENNON, Musician, Songwriter, and Illustrator

1940–1980

Spirit Foundations Inc.

NY. EIN 13-2971714

Ruling Year 1979

Creator: The artists

Function: Grantmaking foundation supporting humanitarian programs, education, and youth services internationally

URL:

2005 Assets: \$915,921

2005 Charitable Purpose Disbursements: Grants of \$368,352

2008 Assets: \$1,349,078

2008 Charitable Purpose Disbursements: Grants of \$253,156

2010 Assets: \$1,497,228

2010 Charitable Purpose Disbursements: Grants of \$364,078

GORDON ONSLOW FORD, Painter, Author, and Collector

1912–2003

FARIBA BOGZARAN, Painter, Author, and Educator

Born 1958

Lucid Art Foundation

CA. EIN 94-3316074

Ruling Year 1999

Creator: The artists and others

Function: Program foundation operating a study and exhibition program, artists' residency program, and seminar program exploring the link between creativity, consciousness, and nature

URL: [www.lucidart.org](http://www.lucidart.org)

2005 Assets: \$80,563,909

2005 Charitable Purpose Disbursements: \$341,372

2008 Assets: \$78,512,650

2008 Charitable Purpose Disbursements: \$358,297

2010 Assets: \$63,994,947

2010 Charitable Purpose Disbursements: \$411,193, including grants of \$1,195

#### ALFONSO OSSORIO, Painter and Collector

1916–1990

Ossorio Foundation

DE, NY. EIN 11-3270671

Ruling Year 1996

Creator: The artist's beneficiary

Function: Study and exhibition foundation making grants of artworks to museums

URL: [www.ossoriofoundation.org](http://www.ossoriofoundation.org)

2005 Assets: \$2,909,870

2005 Charitable Purpose Disbursements: \$93,051

2008 Assets: \$2,275,827

2008 Charitable Purpose Disbursements: \$288,999, including grants of \$230,500

2010 Assets: \$2,190,664

2010 Charitable Purpose Disbursements: \$164,290, including grants of \$108,000

#### GORDON PARKS, Photographer, Author, and Film Director

1912–2006

Gordon Parks Charitable Trust

NY. EIN 42-1703837

Ruling Year 2008. Foundation terminated 2011.

Creator: The artist

Function: Estate distribution foundation making grants to the Gordon Parks Foundation, a program of the Meserve-Kunhardt Foundation Inc., NY

URL:

2005 Assets: N/A

2005 Charitable Purpose Disbursements: N/A

2008 Assets: \$14,364,137

2008 Charitable Purpose Disbursements: Grants of \$5,892,873

2010 Assets: \$14,394,595

2010 Charitable Purpose Disbursements: Grants of \$10,000

IRVING PENN, Photographer

1917–2009

Irving Penn Foundation

DE, NY. EIN 20-2649118

Ruling Year 2005

Creator: The artist

Function: Study and exhibition foundation

URL: [www.irvingpenn.org](http://www.irvingpenn.org)

2005 Assets: \$894

2005 Charitable Purpose Disbursements: \$10,649

2008 Assets: \$1,510,176

2008 Charitable Purpose Disbursements: \$8,609

2010 Assets: \$3,457,010

2010 Charitable Purpose Disbursements: \$558,580

Irving Penn Trust

NY. EIN 13-7081071

Ruling Year 1997

Creator: The artist

Function: Study and exhibition foundation

URL:

2005 Assets: \$178,649

2005 Charitable Purpose Disbursements: \$1,157

2008 Assets: \$175,537

2008 Charitable Purpose Disbursements: \$1,009

2010 Assets: \$697,379

2010 Charitable Purpose Disbursements: \$944

ALBIN POLASEK, Sculptor and Educator

1879–1965

RUTH SHERWOOD, Sculptor

1889–1953

Albin Polasek Foundation Inc. (dba Albin Polasek Museum and Sculpture Garden)

FL. EIN 59-1102352

Ruling Year 1966. Foundation converted to public charity status 2009.

Creator: Albin Polasek

Function: House museum foundation operating the Albin Polasek House and Garden

URL: [www.polasek.org](http://www.polasek.org)

2005 Assets: \$4,022,128

2005 Charitable Purpose Disbursements: \$292,884

2008 Assets: \$3,408,109

2008 Charitable Purpose Disbursements: \$428,572

JACKSON POLLOCK, Painter

1912–1956

LEE KRASNER, Painter

1908–1984

The Pollock-Krasner Foundation Inc.

DE, NY. EIN 13-3455693

Ruling Year 1985

Creator: Lee Krasner

Function: Grantmaking foundation making grants to artists internationally and to artist-support programs, and assisting the Pollock-Krasner House and Study Center, Stony Brook Foundation, NY

URL: [www.pkf.org](http://www.pkf.org)

2005 Assets: \$60,720,134

2005 Charitable Purpose Disbursements: \$3,769,810, including grants of \$2,690,200

2008 Assets: \$64,561,152

2008 Charitable Purpose Disbursements: \$4,453,812, including grants of \$3,273,500

2010 Assets: \$54,990,965

2010 Charitable Purpose Disbursements: \$3,327,243, including grants of \$2,044,800

LESLIE POWELL, Painter

1906–1978

Leslie Powell Foundation Inc.

OK. EIN 73-1190206

Ruling Year 1983

Creator: The artist

Function: Program foundation operating a community art gallery and related public programs, and making grants to culture and education in southwestern Oklahoma

URL: [www.lpgallery.org](http://www.lpgallery.org)

2005 Assets: \$1,166,321

2005 Charitable Purpose Disbursements: \$93,115, including grants of \$13,625

2008 Assets: \$1,056,066

2008 Charitable Purpose Disbursements: \$104,057, including grants of \$20,280

2010 Assets: \$1,171,535

2010 Charitable Purpose Disbursements: \$54,230, including grants of \$6,434

Leslie Powell Trust

OK. EIN 73-6206326

Ruling Year 1983

Creator: The artist

Function: Grantmaking foundation providing single organization support (Leslie Powell Foundation Inc., OK)



URL:

2005 Assets: \$1,688,912

2005 Charitable Purpose Disbursements: Grants of \$82,000

2008 Assets: \$1,082,438

2008 Charitable Purpose Disbursements: Grants of \$72,000

2010 Assets: \$1,333,610

2010 Charitable Purpose Disbursements: Grants of \$79,500

ROBERT RAUSCHENBERG, Painter, Sculptor, Photographer, and Printmaker

1925–2008

Robert Rauschenberg Foundation

DE, NY, FL. EIN 65-0200989

Ruling Year 1992

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program, project space, and artists' residency program, and making grants to support arts organizations and social change initiatives

URL: [www.rauschenbergfoundation.org](http://www.rauschenbergfoundation.org)

2005 Assets: \$11,583,705

2005 Charitable Purpose Disbursements: \$253,987

2008 Assets: \$15,712,679

2008 Charitable Purpose Disbursements: \$291,776

2010 Assets: \$14,914,620

2010 Charitable Purpose Disbursements: \$785,905, including grants of \$509,655

HILLA REBAY, Painter, Museum Director, and Collector

1890–1967

Hilla von Rebay Foundation

CT. EIN 23-7112973

Ruling Year 1971

Creator: The artist

Function: Grantmaking foundation supporting nonrepresentational visual arts, as well as museum education programs of the Solomon R. Guggenheim Museum, NY

URL:

2005 Assets: \$3,562,806

2005 Charitable Purpose Disbursements: \$262,547, including grants of \$235,000

2008 Assets: \$3,054,788

2008 Charitable Purpose Disbursements: \$156,349, including grants of \$121,750

2010 Assets: \$3,326,942

2010 Charitable Purpose Disbursements: \$122,745, including grants of \$110,000

HERB RITTS JR., Photographer

1952–2002

Herb Ritts Jr. Foundation (dba Herb Ritts Foundation)

CA. EIN 81-0593759

Ruling Year 2005

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program, and making grants supporting photography and HIV/AIDS services

URL: [www.herbritts.com/foundation/](http://www.herbritts.com/foundation/)

2005 Assets: \$26,330,032

2005 Charitable Purpose Disbursements: \$199,883, including grants of \$133,500

2008 Assets: \$35,384,646

2008 Charitable Purpose Disbursements: \$1,103,612, including grants of \$807,660

2010 Assets: \$34,833,728

2010 Charitable Purpose Disbursements: \$2,283,464, including grants of \$897,000

LARRY RIVERS, Painter and Sculptor

1923–2002

Larry Rivers Foundation Inc.

DE, NY. EIN 11-3137296

Ruling Year 1993

Creator: The artist

Function: Study and exhibition foundation

URL: [www.larryriversfoundation.org](http://www.larryriversfoundation.org)

2005 Assets: \$732,307

2005 Charitable Purpose Disbursements: Grants of \$2,500

2008 Assets: \$1,933,450

2008 Charitable Purpose Disbursements: \$0

2010 Assets: \$1,927,359

2010 Charitable Purpose Disbursements: \$98,445, including grants of \$2,000

NORMAN ROCKWELL, Illustrator

1984–1978

Norman Rockwell Art Collection Trust

MA. EIN 04-6538205

Ruling Year 1973

Creator: The artist

Function: Study and exhibition foundation providing single institution support (Norman Rockwell Museum, MA)

URL:

2005 Asset: \$43,570,000

2005 Charitable Purpose Disbursements: \$0  
2008 Assets: \$43,570,000  
2008 Charitable Purpose Disbursements: \$0  
2010 Assets: \$43,570,000  
2010 Charitable Purpose Disbursements: \$0

GUY ROSE, Painter

1867–1925

Rose Art Foundation

CA. EIN 33-0863146

Ruling Year 1999

Creator: The artist's grand-nephew

Function: Study and exhibition foundation

URL:

2005 Assets: \$1,228,898

2005 Charitable Purpose Disbursements: \$0

2008 Assets: \$1,849,960

2008 Charitable Purpose Disbursements: \$0

2010 Assets: \$2,149,058

2010 Charitable Purpose Disbursements: \$802

ARTHUR ROTCH, Architect

1850–1894

BENJAMIN SMITH ROTCH, Landscape Painter

1817–1882

Rotch Travelling Scholarship Inc.

MA. EIN 04-6062249

Ruling Year 1942. Initial trust established 1883.

Creator: Arthur Rotch and his siblings, deceased

Function: Program foundation operating an architecture design competition awarding grants to young architects for travel and study abroad

URL: [www.rotch.org](http://www.rotch.org)

2005 Assets: \$1,438,575

2005 Charitable Purpose Disbursements: \$71,513, including grants of \$37,000

2008 Assets: \$1,204,276

2008 Charitable Purpose Disbursements: \$60,330, including grants of \$53,000

2010 Assets: \$1,316,535

2010 Charitable Purpose Disbursements: \$79,171, including grants of \$49,500

JUDITH ROTHSCHILD, Painter and Collector

1922–1993

The Judith Rothschild Foundation Inc.

NY. EIN 13-3736320

Ruling Year 1993

Creator: The artist

Function: Estate distribution foundation operating a study and exhibition program, making grants of artworks to museums, and making grants supporting projects about works by deceased visual artists (grant program suspended in 2010)

URL: [www.judithrothschildfdn.org](http://www.judithrothschildfdn.org)

2005 Assets: \$27,524,343

2005 Charitable Purpose Disbursements: \$63,082,297, including grants of \$60,855,837, of which \$60,000,000 was a onetime grant of artworks

2008 Assets: \$7,532,596

2008 Charitable Purpose Disbursements: \$1,846,828, including grants of \$521,325

2010 Assets: \$7,000,360

2010 Charitable Purpose Disbursements: \$229,189, including grants of \$105,100

ROBERT RYMAN, Painter and Printmaker

Born 1930

Greenwich Collection LTD

NY. EIN 13-3354167

Ruling Year 1987

Creator: The artist and his spouse

Function: Grantmaking foundation supporting visual arts and artist-support programs, primarily in the New York City region

URL:

2005 Assets: \$2,660,935

2005 Charitable Purpose Disbursements: \$130,084, including grants of \$126,000

2008 Assets: \$2,181,741

2008 Charitable Purpose Disbursements: \$62,786, including grants of \$50,000

2010 Assets: \$3,415,545

2010 Charitable Purpose Disbursements: \$163,621, including grants of \$135,000

NIKI DE SAINT-PHALLE, Sculptor, Writer, and Scenographer

1930–2002

Niki Charitable Art Foundation

CA, UT. EIN 47-6245971

Ruling Year 2002

Creator: The artist

Function: Study and exhibition foundation

URL: [www.nikidesaintphalle.org](http://www.nikidesaintphalle.org)

2005 Assets: \$31,231,992

2005 Charitable Purpose Disbursements: \$127,500, including grants of \$25,000

2008 Assets: \$83,467,387

2008 Charitable Purpose Disbursements: \$598,236, including grants of \$15,665

2010 Assets: \$82,959,978

2010 Charitable Purpose Disbursements: \$413,566, including grants of \$500

#### CONSTANCE SALTONSTALL, Painter and Photographer

1944–1994

Constance Saltonstall Foundation for the Arts Inc.

NY. EIN 16-1481219

Ruling Year 1996

Creator: The artist

Function: Program foundation operating an artists' and writers' residency program

URL: [www.saltonstall.org](http://www.saltonstall.org)

2005 Assets: \$4,836,871

2005 Charitable Purpose Disbursements: \$206,353, including grants of \$44,300

2008 Assets: \$4,611,182

2008 Charitable Purpose Disbursements: \$195,319, including grants of \$41,500

2010 Assets: \$4,896,741

2010 Charitable Purpose Disbursements: \$174,501, including grants of \$11,250

#### GORDON SAMSTAG, Painter and Educator

1906–1990

Gordon Samstag Fine Arts Trust

FL. EIN 65-6064217

Ruling Year 1992

Creator: The artist

Function: Grantmaking foundation supporting international study by Australian art students

URL: [www.unisa.edu.au/samstag](http://www.unisa.edu.au/samstag)

2005 Assets: \$10,159,346

2005 Charitable Purpose Disbursements: \$606,259, including grants of \$382,702

2008 Assets: \$7,189,670

2008 Charitable Purpose Disbursements: \$720,203, including grants of \$428,816

2010 Assets: \$8,910,692

2010 Charitable Purpose Disbursements: \$281,836, including grants of \$69,504

#### EMILIO SANCHEZ, Painter and Printmaker

1921–1999

Emilio Sanchez Foundation

NY. EIN 57-6215647

Ruling Year 2005

Creator: The artist

Function: Estate distribution foundation operating a study and exhibition program, making grants supporting medical research and artist-support programs, and making grants of artworks to museums and educational institutions

URL: [www.emiliosanchezfoundation.org](http://www.emiliosanchezfoundation.org)

2005 Assets: \$3,955,129

2005 Charitable Purpose Disbursements: \$260,376, including grants of \$33,100

2008 Assets: \$3,507,380

2008 Charitable Purpose Disbursements: \$294,321, including grants of \$38,325

2010 Assets: \$2,131,207

2010 Charitable Purpose Disbursements: \$1,480,973, including grants of \$1,181,310

ELLEN R. SANDOR, Photographer

Born 1943

Richard and Ellen Sandor Art Foundation\*

IL. EIN 27-1518774

Ruling Year 2008

Creator: The artist and her spouse

Function: Program foundation operating an art collection and exhibition program

URL:

2010 Assets: \$1,235,354

2010 Charitable Purpose Disbursements: \$5,227

MURIEL SAVIN, Designer

1909–2004

Reuben and Muriel Savin Foundation

CA, NJ. EIN 94-3399358

Ruling Year 2001

Creator: The artist

Function: Grantmaking foundation supporting visual arts, arts education, and community betterment, primarily in the Oakland, CA, region and in Iowa

URL:

2005 Assets: \$6,612,307

2005 Charitable Purpose Disbursements: \$290,773, including grants of \$276,275

2008 Assets: \$7,829,271

2008 Charitable Purpose Disbursements: \$422,066, including grants of \$368,026

2010 Assets: \$5,572,582

2010 Charitable Purpose Disbursements: \$342,503, including grants of \$281,000

ITALO SCANGA, Sculptor

1932–2001

Italo Scanga Foundation\*

CA. EIN 33-6311051

Ruling Year 2003

Creator: The artist

Function: Study and exhibition foundation making grants of artworks to museums and educational institutions and supporting visual art education scholarships

URL:

2005 Assets: \$1,171,573

2005 Charitable Purpose Disbursements: \$90,002, including grants of \$63,250

2008 Assets: \$796,381

2008 Charitable Purpose Disbursements: \$148,806, including grants of \$131,250

2010 Assets: \$596,088

2010 Charitable Purpose Disbursements: \$79,136, including grants of \$75,636

BERNARD LEE SCHWARTZ, Photographer

1914–1978

Bernard Lee Schwartz Foundation\*

NY. EIN 13-6096198

Ruling Year 1953

Creator: The artist

Function: Comprehensive foundation maintaining an exhibition collection and making grants to support photography programs, arts organizations, community betterment, education, and medical research

URL: [www.bernschwartz.org](http://www.bernschwartz.org)

2005 Assets: \$18,690,771

2005 Charitable Purpose Disbursements: \$901,853, including grants of \$853,978

2008 Assets: \$17,292,740

2008 Charitable Purpose Disbursements: \$760,579, including grants of \$704,094

2010 Assets: \$21,365,558

2010 Charitable Purpose Disbursements: \$802,479, including grants of \$780,195

JULIUS A. SCHWEINFURTH, Architect

1858–1931

Schweinfurth Memorial Art Center

NY. EIN 16-1097876

Ruling Year 1978

Creator: The artist

Function: Program foundation operating a community visual arts center

URL: [www.schweinfurthartcenter.org](http://www.schweinfurthartcenter.org)

2005 Assets: \$3,340,591  
2005 Charitable Purpose Disbursements: \$314,594  
2008 Assets: \$3,311,415  
2008 Charitable Purpose Disbursements: \$493,521  
2010 Assets: \$3,487,468  
2010 Charitable Purpose Disbursements: \$588,014

GEORGE SEGAL, Sculptor

1924–2000

George and Helen Segal Foundation Inc.

NJ. EIN 22-3744151

Ruling Year 2000

Creator: The artist and his surviving spouse

Function: Grantmaking foundation making grants biennially to artists in New Jersey, and making grants of artworks biennially to museums nationally

URL: [www.segalfoundation.org](http://www.segalfoundation.org)

2005 Assets: \$15,007,274

2005 Charitable Purpose Disbursements: Grants of \$713,000

2008 Assets: \$19,352,531

2008 Charitable Purpose Disbursements: Grants of \$1,755,000

2010 Assets: \$17,106,321

2010 Charitable Purpose Disbursements: Grants of \$1,175,000

MAURICE SENDAK, Illustrator and Author

1928–2012

Maurice Sendak Foundation Inc.\*

DE, NY. EIN 13-3807627

Ruling Year 1995

Creator: The artist

Function: Grantmaking foundation supporting social services, animal welfare, community betterment, and the Rosenbach Museum and Library, PA, which houses the Maurice Sendak Collection

URL:

2005 Assets: \$251,399

2005 Charitable Purpose Disbursements: Grants of \$59,032

2008 Assets: \$170,042

2008 Charitable Purpose Disbursements: Grants of \$5,000

2010 Assets: \$2,637,335

2010 Charitable Purpose Disbursements: Grants of \$150,000



JOEL SHAPIRO, Sculptor

Born 1941

Joel Shapiro Foundation Inc.

NY. EIN 13-3923000

Ruling Year 1998

Creator: The artist

Function: Grantmaking foundation supporting culture, education, and community betterment, primarily in New York City region

URL:

2005 Assets: \$1,785,959

2005 Charitable Purpose Disbursements: Grants of \$22,300

2008 Assets: \$849,056

2008 Charitable Purpose Disbursements: Grants of \$6,500

2010 Assets: \$992,102

2010 Charitable Purpose Disbursements: \$30,250, including grants of \$26,800

AARON SISKIND, Photographer

1903–1991

Aaron Siskind Foundation\*

NY. EIN 52-1359961

Ruling Year 1984

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program and making grants to photographers

URL: [www.aaronsiskind.org](http://www.aaronsiskind.org)

2005 Assets: \$82,951

2005 Charitable Purpose Disbursements: Grants of \$25,750

2008 Assets: \$208,085

2008 Charitable Purpose Disbursements: Grants of \$30,000

2010 Assets: \$8,107,941

2010 Charitable Purpose Disbursements: \$152,897, including grants of \$50,000

ESPHYR SLOBODKINA, Painter, Illustrator, and Textile Designer

1908–2002

Slobodkina Foundation Inc.

NY. EIN 11-3549979

Ruling Year 2002

Creator: The artist

Function: House museum foundation operating the Slobodkina House and Studio

URL: [www.slobodkina.org](http://www.slobodkina.org)

2005 Assets: \$1,706,008

2005 Charitable Purpose Disbursements: Grants of \$12,000  
2008 Assets: \$1,545,722  
2008 Charitable Purpose Disbursements: \$0  
2010 Assets: 2,147,954  
2010 Charitable Purpose Disbursements: \$436,798

LEON POLK SMITH, Painter and Sculptor  
1906–1996

Leon Polk Smith Foundation Trust  
NY. EIN 13-7147740  
Ruling Year 1998  
Creator: The artist  
Function: Study and exhibition foundation  
URL: [www.leonpolksmithfoundation.org](http://www.leonpolksmithfoundation.org)  
2005 Assets: \$8,267,926  
2005 Charitable Purpose Disbursements: \$66,815  
2008 Assets: \$8,579,378  
2008 Charitable Purpose Disbursements: \$106,834, including grants of \$1,500  
2010 Assets: \$8,452,384  
2010 Charitable Purpose Disbursements: \$109,144

The Leon Polk Smith Foundation Inc.  
NY. EIN 45-4110224  
Ruling Year 2012  
Creator: N/A  
Function: N/A  
ULR:

FREDERICK SOMMER, Photographer and Collagist  
1905–1999

Frederick and Frances Sommer Foundation  
AZ. EIN 86-0745338  
Ruling Year 1994  
Creator: The artist and his spouse, deceased  
Function: Study and exhibition foundation  
URL: [www.fredericksommer.org](http://www.fredericksommer.org)  
2005 Assets: \$6,613,101  
2005 Charitable Purpose Disbursements: \$165,807  
2008 Assets: \$6,577,162  
2008 Charitable Purpose Disbursements: \$63,533  
2010 Assets: \$6,367,178  
2010 Charitable Purpose Disbursements: \$61,068

POLLY THAYER STARR, Painter

1904–2006

Polly Thayer Starr Charitable Trust\*

MA. EIN 22-2756435

Ruling Year 1987

Creator: The artist

Function: Grantmaking foundation supporting art museums and educational organizations

URL: [www.pollythayerstarr.org](http://www.pollythayerstarr.org)

2005 Assets: \$5,384

2005 Charitable Purpose Disbursements: \$15,340, including grants of \$15,000

2008 Assets: \$5,631,289

2008 Charitable Purpose Disbursements: \$1,562

2010 Assets: \$ 5,944,330

2010 Charitable Purpose Disbursements: \$276,010, including grants of \$250,000

SAUL STEINBERG, Illustrator and Painter

1913–1999

The Saul Steinberg Foundation Inc.

DE, NY. EIN 13-4115047

Ruling Year 2000

Creator: The artist

Function: Study and exhibition foundation

URL: [www.saulsteinbergfoundation.org](http://www.saulsteinbergfoundation.org)

2005 Assets: \$8,420,214

2005 Charitable Purpose Disbursements: \$60,408

2008 Assets: \$8,451,740

2008 Charitable Purpose Disbursements: \$91,683

2010 Assets: \$8,380,460

2010 Charitable Purpose Disbursements: \$160,586

ARY STILLMAN, Painter

1891–1967

The Stillman-Lack Foundation

TX, GA. EIN 74-6120167

Ruling Year 1971. Foundation terminated 2012.

Creator: The artist's surviving spouse, deceased

Function: Study and exhibition foundation making grants to educational institutions

URL: [www.stillmanlack.org](http://www.stillmanlack.org)

2005 Assets: \$2,194,883

2005 Charitable Purpose Disbursements: \$109,256, including grants of \$15,000

2008 Assets: \$1,212,202

2008 Charitable Purpose Disbursements: \$349,789, including grants of \$2,500  
2010 Assets: \$90,485  
2010 Charitable Purpose Disbursements: \$864,376, including grants of \$800,000

GEORGE SUGARMAN, Sculptor

1912–1999

The George Sugarman Foundation Inc.

NY, CA. EIN 13-4147012

Ruling Year 2001

Creator: The artist

Function: Estate distribution foundation that, prior to 2009, made grants to artists, and as of 2009, makes grants of artworks to museums and charitable organizations

URL: [www.georgesugarman.com](http://www.georgesugarman.com)

2005 Assets: \$1,234,912

2005 Charitable Purpose Disbursements: \$47,055

2008 Assets: \$325,647

2008 Charitable Purpose Disbursements: \$557,153, including grants of \$508,950

2010 Assets: \$107,309

2010 Charitable Purpose Disbursements: \$156,022, including grants of \$146,950

LENORE G. TAWNEY, Sculptor and Fiber Artist

1907–2007

LGT Foundation (dba Lenore G. Tawney Foundation)\*

DE, NY. EIN 06-1281494

Ruling Year 1991

Creator: The artist

Function: Comprehensive foundation operating a study and exhibition program and making grants to support visual art education

URL: [www.lenoretawney.org](http://www.lenoretawney.org)

2005 Assets: \$595,215

2005 Charitable Purpose Disbursements: Grants of \$30,000

2008 Assets: \$568,002

2008 Charitable Purpose Disbursements: Grants of \$31,000

2010 Assets: \$5,734,876

2010 Charitable Purpose Disbursements: Grants of \$25,000

FLORENCE THOMAS, Painter and Educator

1909–2007

The Paul and Florence Thomas Memorial Art School Inc.

NC. EIN 20-8899047

Ruling Year 2009

Creator: The artist

Function: Program foundation operating a community visual art education center

URL: [www.florencethomas.org](http://www.florencethomas.org)

2005 Assets: N/A

2005 Charitable Purpose Disbursements: N/A

2008 Assets: \$2,505,378

2008 Charitable Purpose Disbursements: \$141,596

2010 Assets: \$2,274,561

2010 Charitable Purpose Disbursements: \$107,968

LOUIS COMFORT TIFFANY, Painter, Designer, and Philanthropist  
1848–1933

Louis Comfort Tiffany Foundation

NY. EIN 13-1689389

Ruling Year 1938. Initial entity established 1918.

Creator: The artist

Function: Grantmaking foundation supporting artists and designers biennially. (Initially it was a program foundation operating an artists' and designers' residency program in a house museum setting.)

URL: [www.louiscomforttiffanyfoundation.org](http://www.louiscomforttiffanyfoundation.org)

2005 Assets: \$7,757,797

2005 Charitable Purpose Disbursements: \$662,250, including grants of \$600,000

2008 Assets: \$5,911,905

2008 Charitable Purpose Disbursements: \$98,702

2010 Assets: \$6,030,632

2010 Charitable Purpose Disbursements: \$111,040, including grants of \$20,000

JAMES TURRELL, Sculptor

Born 1943

Skystone Foundation Inc.

AZ. EIN 94-2842873

Ruling Year 1999

Creator: The artist

Function: Program foundation operating an earth art installation project

URL:

2005 Assets: \$12,740,224

2005 Charitable Purpose Disbursements: \$146,280

2008 Assets: \$14,973,121

2008 Charitable Purpose Disbursements: \$476,944

2010 Assets: \$15,054,136

2010 Charitable Purpose Disbursements: \$1,509,649

CY TWOMBLY, Painter, Printmaker, and Sculptor

1928-2011

Cy Twombly Foundation

DE, NY. EIN 20-2572529

Ruling Year 2005

Creator: The artist

Function: Grantmaking foundation supporting humanitarian and artist-support programs

URL:

2005 Assets: \$258,443

2005 Charitable Purpose Disbursements: \$0

2008 Assets: \$3,091,036

2008 Charitable Purpose Disbursements: Grants of \$100,000

2010 Assets: \$4,448,692

2010 Charitable Purpose Disbursements: Grants of \$200,000

ESTEBAN VICENTE, Painter

1903–2001

The Harriet and Esteban Vicente Foundation Inc.

NY. EIN 13-4182614

Ruling Year 2001

Creator: The artist and his surviving spouse, deceased

Function: Grantmaking foundation supporting humanitarian programs, culture, and education, including support to Museo de Arte Contemporáneo Esteban Vicente, Barcelona, Spain

URL:

2005 Assets: \$366,061

2005 Charitable Purpose Disbursements: \$272,766, including grants of \$263,671

2008 Assets: \$1,075,435

2008 Charitable Purpose Disbursements: \$788,214, including grants of \$777,099

2010 Assets: \$28,980,084

2010 Charitable Purpose Disbursements: \$6,043,661, including grants of \$5,440,074

ANDY WARHOL, Painter, Printmaker, and Filmmaker

1928–1987

The Andy Warhol Foundation for the Visual Arts Inc.

NY. EIN 13-3410749

Ruling Year 1988

Creator: The artist

Function: Grantmaking foundation supporting contemporary visual arts, artist-support programs, and freedom of artistic expression, as well as support to the Andy Warhol Museum, Carnegie Museums of Pittsburgh, PA; Andy Warhol Nature Preserve, the Nature Conservancy, NY; and Creative Capital Foundation, NY

URL: [www.warholfoundation.org](http://www.warholfoundation.org)

2005 Assets: \$230,461,192

2005 Charitable Purpose Disbursements: \$7,421,852, including grants of \$6,010,471

2008 Assets: \$395,237,215

2008 Charitable Purpose Disbursements: \$16,323,637, including grants of \$13,402,970, of which \$3,947,695 were onetime grants of artworks

2010 Assets: \$316,547,132

2010 Charitable Purpose Disbursements: \$17,614,644, including grants of \$12,456,738

#### AGNES WEINRICH, Painter

1873–1946

Helen W. Knaths and Agnes Weinrich Trust\*

MA. EIN 04-6937816

Ruling Year 2001

Creator: The artist's surviving sibling, deceased

Function: Grantmaking foundation providing support to named institutions (The Art Institute of Chicago, IL and The Phillips Collection, DC)

URL:

2005 Assets: \$1,268,881

2005 Charitable Purpose Disbursements: \$38,180, including grants of \$26,952

2008 Assets: \$1,676,943

2008 Charitable Purpose Disbursements: \$62,830, including grants of \$49,166

2010 Assets: \$1,338,332

2010 Charitable Purpose Disbursements: \$54,924, including grants of \$46,782

#### HAROLD WESTON, Painter

1894–1972

Harold Weston Foundation

NY. EIN 11-3559712

Ruling Year 2001

Creator: The artist's children

Function: Study and exhibition foundation

URL: [www.haroldweston.org](http://www.haroldweston.org)

2005 Assets: \$2,627,658

2005 Charitable Purpose Disbursements: \$12,931

2008 Assets: \$2,569,825

2008 Charitable Purpose Disbursements: \$70,314

2010 Assets: \$2,427,241

2010 Charitable Purpose Disbursements: \$10,677

FREDERIC WHITAKER, Painter and Author

1891–1980

EILEEN MONAGHAN WHITAKER, Painter

1911–2005

The Frederic Whitaker and Eileen Monaghan Whitaker Foundation

CA, CO. EIN 33-0265872

Ruling Year 2001

Creator: Eileen Monaghan Whitaker

Function: Study and exhibition foundation

URL: [www.whitakerwatercolors.org](http://www.whitakerwatercolors.org)

2005 Assets: \$102,416

2005 Charitable Purpose Disbursements: \$202,174, including grants of \$5,350

2008 Assets: \$1,665,522

2008 Charitable Purpose Disbursements: Grants of \$5,350

2010 Assets: \$1,358,741

2010 Charitable Purpose Disbursements: \$62,366

ANDREW WYETH, Painter

1917–2009

Andrew and Betsy Wyeth Foundation for American Art

DE. EIN 06-1662503

Ruling Year 2003

Creator: The artist and his surviving spouse

Function: Grantmaking foundation supporting visual arts, historic preservation, and art history fellowships, including support to Brandywine River Museum, PA, for its online *N. C. Wyeth, A Catalogue Raisonné of Paintings*

URL:

2005 Assets: \$1,986,834

2005 Charitable Purpose Disbursements: \$136,508, including grants of \$129,665

2008 Assets: \$2,776,766

2008 Charitable Purpose Disbursements: \$653,437, including grants of \$621,400

2010 Assets: \$3,224,330

2010 Charitable Purpose Disbursements: \$408,067, including grants of \$383,336

Up East Inc.

DE, PA, ME. EIN 51-0367586

Ruling Year 1997

Creator: The artist and his surviving spouse

Function: Program foundation supporting island-based research on marine livelihoods in Maine

URL:

2005 Assets: \$14,331,067



2005 Charitable Purpose Disbursements: \$470,380, including grants of \$102,895  
2008 Assets: \$14,244,492  
2008 Charitable Purpose Disbursements: \$468,288, including grants of \$21,330  
2010 Assets: \$12,113,671  
2010 Charitable Purpose Disbursements: \$716,015, including grants of \$225,988

Wyeth Endowment for American Art

MA, PA. EIN 04-6191579

Ruling Year 1968. Foundation terminated 2009.

Creator: The artist and his surviving spouse

Function: Grantmaking foundation supporting visual arts and art history scholarship

URL:

2005 Assets: \$469,571

2005 Charitable Purpose Disbursements: \$270,183, including grants of \$257,875

2008 Assets: \$1,054

2008 Charitable Purpose Disbursements: \$40,153, including grants of \$40,000

JAMES BROWNING WYETH, Painter

Born 1946

Wyeth Foundation

DE, PA. EIN 26-0002833

Ruling Year 2002

Creator: The artist

Function: Grantmaking foundation supporting culture, education, and environmental conservation, primarily in Maine

URL:

2005 Assets: \$9,799,257

2005 Charitable Purpose Disbursements: \$166,942, including grants of \$150,741

2008 Assets: \$8,274,830

2008 Charitable Purpose Disbursements: \$344,590, including grants of \$333,210

2010 Assets: \$9,194,354

2010 Charitable Purpose Disbursements: \$341,730, including grants of \$330,250

JOHN CHIN YOUNG, Painter and Collector

1909–1997

John Chin Young Foundation

HI. EIN 99-6081402

Ruling year 1998

Creator: The artist

Function: Grantmaking foundation supporting culture, education, and scholarships for college art students, primarily in Hawai'i, as well as support to the John Young Museum of Art, University

of Hawai'i at Manoa Outreach College, endowed with the artist's Asian art collection as its founding gift.

URL:

2005 Assets: \$4,979,907

2005 Charitable Purpose Disbursements: Grants of \$191,596

2008 Assets: \$4,126,628

2008 Charitable Purpose Disbursements: Grants of \$251,942

2010 Assets: \$4,776,425

2010 Charitable Purpose Disbursements: \$236,315, including grants of \$228,315

---

<sup>1</sup> If multiple foundations are associated with an artist, all foundations of any asset scale have been included.

<sup>2</sup> See **Volume I**, Appendix A.3 Quantitative Profile of the Artist-Endowed Foundation Field.

<sup>3</sup> Trends in the scale of assets held by foundations are discussed in **Volume I**, Part A. Chapter 2.1 The Artist-Endowed Foundation Field: Scope, Scale, and Development.

<sup>4</sup> The lack of fine art filmmakers, new media artists, and conceptual artists or performance artists possibly reflects the fact that larger numbers of artists with primary roles creating in these forms are only beginning to enter their seventh decades, the point at which the Study's findings indicate artists typically create their foundations.



# A. Identified Artist-Endowed Foundations - Updated

For the purpose of this research, artist-endowed foundations are tax-exempt, private foundations created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries, to own the artist's assets for use in furthering exempt charitable and educational activities serving a public benefit.

	<b>EIN</b>	<b>FOUNDATION NAME</b>	<b>RYR</b>	<b>TYR</b>	<b>ARTIST NAME</b>	<b>ROLE</b>	<b>YOB</b>	<b>YOD</b>
1	13-6053133	ABBEY MEMORIAL SCHOLARSHIPS TRUST (Initial entity established 1926)	1982		Abbey, Edwin Austin	Painter	1852	1911
2	13-3157934	RUTH ABRAMS FOUNDATION INC.	1983		Abrams, Ruth	Painter	1912	1986
3	11-3506582	TEE AND CHARLES ADDAMS FOUNDATION	2000		Addams, Charles	Cartoonist	1912	1988
4	23-7104223	JOSEF ALBERS FOUNDATION INC. (dba Josef and Anni Albers Foundation)	1972		Albers, Josef Albers, Anni	Painter Designer	1888 1899	1976 1994
5	30-0377654	HERMAN J. ALBRECHT LIBRARY OF HISTORICAL ARCHITECTURE INC.	2008		Albrecht, Herman J.	Architect	1896	1961
6	13-3777483	THE LARRY L. ALDRICH FOUNDATION INC.	1994	2005	Aldrich, Larry	Designer	1906	2001
7	23-2727140	LEEWAY FOUNDATION	1994		Alter, Linda Lee	Painter	1939	
8	39-6614493	DONALD M. ANDERSON FOUNDATION	1995		Anderson, Donald M.	Designer	1915	1995
9	26-3554414	CARL ANDRE AND MELISSA L. KRETSCHMER FOUNDATION	2009		Andre, Carl Kretschmer, Melissa L.	Sculptor Sculptor	1935 1962	
10	51-0655879	THE ANDREWS-HUMPHREY FAMILY FOUNDATION	2010		Andrews, Benny Humphrey, Nene	Painter Sculptor	1930 1947	2006
11	45-1534468	THE ANTONAKOS FOUNDATION	2011		Antonakos, Stephen	Sculptor	1926	2013
12	13-4123083	THE ALEXANDER ARCHIPENKO FOUNDATION INC. (dba Archipenko Foundation)	2000		Archipenko, Alexander	Sculptor	1887	1964
13	06-1442201	SARAH G. AUSTIN FOUNDATION INC.	1996		Austin, Sarah G.	Sculptor	1935	1994
14	20-1275443	THE RICHARD AVEDON FOUNDATION	2004		Avedon, Richard	Photographer	1923	2004
15	13-3093638	MILTON AND SALLY AVERY ARTS FOUNDATION INC.	1983		Avery, Milton Avery, Sally Michel	Painter Painter	1885 1902	1965 2003
16	13-3511667	ALICE BABER ART FUND INC.	1989	2005	Baber, Alice	Painter	1928	1982
17	45-2280518	WILL AND ELENA BARNET FOUNDATION INC.	2011		Barnet, Will	Painter	1911	2012

	EIN	FOUNDATION NAME	RJR	TYR	ARTIST NAME	ROLE	YOB	YOD
18	13-6902775	ROMARE BEARDEN FOUNDATION INC. (PC)	1989	2003	Bearden, Romare	Painter	1911	1988
19	73-1663290	ROSEMARIE BECK FOUNDATION	2006		Beck, Rosemarie	Painter	1923	2003
20	22-2672246	THE GERSHON BENJAMIN FOUNDATION INC.	1993		Benjamin, Gershon	Painter	1899	1985
21	74-3159508	THE STAN BERENSTAIN MEMORIAL FUND	2006	2008	Berenstain, Stan Berenstain, Jan	Illustrator Illustrator	1923 1923	2005 2012
22	20-1550668	ELEANORE BERMAN ART FOUNDATION	2005		Berman, Eleanore	Painter	1929	2004
23	43-6512119	GERTRUDE AND WILLIAM A. BERNOUDY FOUNDATION	1995		Bernoudy, William Adair	Architect	1910	1988
24	13-3054669	THE THERESA BERNSTEIN AND WILLIAM MEYEROWITZ FOUNDATION	1983		Bernstein, Theresa Meyerowitz, William	Painter Painter	1890 1887	2002 1981
25	20-7188011	BROTHER THOMAS CHARITABLE FOUNDATION	2007	2007	Bezanson, Charles	Designer	1929	2007
26	91-1505735	BLAKEMORE FOUNDATION	1996		Blakemore, Frances	Painter	1906	1997
27	48-1216501	ALBERT BLOCH FOUNDATION	2003		Bloch, Albert	Painter	1882	1961
28	26-0008276	THE HERB BLOCK FOUNDATION	2002		Block, Herb	Cartoonist	1909	2001
29	13-3564317	EDITH C. BLUM FOUNDATION INC. (Successor to 1976 charitable trust)	1990		Blum, Edith C.	Painter	1892	1976
30	43-6269867	RUTH H. BOHAN FOUNDATION	1987		Bohan, Ruth H.	Painter	1891	1981
31	13-3190220	THE EASTON FOUNDATION INC.	1984		Bourgeois, Louise	Sculptor	1911	2010
32	95-4492575	SASCHA BRASTOFF FOUNDATION	1994		Brastoff, Sascha	Designer	1918	1993
33	30-6093702	RUTH LIGHT BRAUN ARTWORK TRUST	2005	2011	Braun, Ruth Light	Illustrator	1906	2003
34	20-2217753	ROY BREIMON ART FUND INC.	2007	2011	Breimon, Roy	Painter	1950	2004
35	75-2879821	JAMES BROOKS AND CHARLOTTE PARK BROOKS FOUNDATION	2000		Brooks, James Park, Charlotte	Painter Painter	1906 1918	1992 2011
36	05-3842834	FREDERICK BROWN MUSEUM INC.	1995	2005	Brown, Frederick James	Painter	1945	2012
37	26-4010221	WILLIAM BROWN AND PAUL WONNER FOUNDATION	2009		Brown, William Theo Wonner, Paul	Painter Painter	1919 1920	2012 2008
38	26-6305490	COLLEEN BROWNING WAGNER TRUST	2008	2010	Browning, Colleen	Painter	1918	2003
39	13-3772926	V. I. A. ART INC.	1995		Bunts, Frank	Painter	1932	
40	16-6073522	CHARLES E. BURCHFIELD FOUNDATION INC.	1967		Burchfield, Charles Ephraim	Painter	1893	1967

	<b>EIN</b>	<b>FOUNDATION NAME</b>	<b>RYR</b>	<b>TYR</b>	<b>ARTIST NAME</b>	<b>ROLE</b>	<b>YOB</b>	<b>YOD</b>
41	95-4392905	HANS G. AND THORDIS W. BURKHARDT FOUNDATION	1993		Burkhardt, Hans Gustav	Painter	1904	1994
42	13-3466986	CALDER FOUNDATION (fka Alexander and Louisa Calder Foundation Inc.)	1991		Calder, Alexander	Sculptor	1898	1976
43	13-3952016	PAINTER HILL FOUNDATION INC.	1997	2006	Calder, Alexander	Sculptor	1989	1976
44	04-3296725	THE ERIC AND BARBARA CARLE FOUNDATION	1997		Carle, Eric	Illustrator	1929	
45	91-2125950	MUSEO EDUARDO CARRILLO	2002		Carrillo, Eduardo	Painter	1937	1997
46	13-3324068	CHEN CHI FOUNDATION INC.	1987	2011	Chi, Chen	Painter	1912	2005
47	27-0771638	THE DALE AND LESLIE CHIHULY FOUNDATION	2009		Chihuly, Dale	Sculptor	1941	
48	13-5638284	LA NAPOULE ART FOUNDATION-HENRY CLEWS MEMORIAL (PC)	1952	N/A	Clews, Henry	Painter	1876	1937
49	54-2066856	CHUCK CLOSE FOUNDATION	2003		Close, Chuck	Painter	1940	
50	04-6094293	BLANCHE E. COLMAN TRUST	1962		Colman, Blanche Emily	Designer	1874	1959
51	36-6051856	SEDOH FOUNDATION (fka Cassandra Foundation, fka William and Noma Copley Foundation)	1955		Copley, William Nelson	Painter	1919	1996
52	N/A	C AND B (CORNELL AND BENTON) FOUNDATION TRUST	1976	1980	Cornell, Joseph	Sculptor	1903	1972
53	13-3097502	THE JOSEPH AND ROBERT CORNELL MEMORIAL FOUNDATION	1984		Cornell, Joseph	Sculptor	1903	1972
54	04-6460555	MARY J. COULTER CLARK TRUST	1967		Coulter, Mary Jencques	Painter	1880	1966
55	45-3796756	COURTRIGHT-ROMEDA FOUNDATION	2012		Courtright, Robert Romeda, Bruno	Painter Sculptor	1926 1933	2012
56	06-0972155	NEWINGTON-CROPSEY FOUNDATION	1978		Cropsey, Jasper Francis	Painter	1823	1900
57	52-6860481	BERNICE CROSS TRUST	1997		Cross, Bernice	Painter	1912	1996
58	55-0841750	BRIGITTE AND WILLIAM CROVELLO FOUNDATION INC.	2004		Crovello, William	Sculptor	1929	
59	58-2667459	WALLACE CUNNINGHAM FOUNDATION FOR ARCHITECTURAL RESEARCH	2004		Cunningham, Wallace E.	Architect	1954	
60	91-2094316	PHILIP C. CURTIS CHARITABLE TRUST FOR THE ENCOURAGEMENT OF ART	2002		Curtis, Philip Campbell	Painter	1907	2000
61	13-4151973	THE WILLEM DE KOONING FOUNDATION INC.	2001		De Kooning, Willem	Painter	1904	1997

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
62	95-6061759	ELSIE DE WOLFE FOUNDATION INC.	1964		De Wolfe, Elsie	Designer	1865	1950
63	11-3343213	ROY AND SHERRY DECARAVA FOUNDATION	1999		DeCarava, Roy	Photographer	1919	2009
64	94-6642644	THE JAY DEFEO TRUST	1998		DeFeo, Jay	Painter	1929	1989
65	86-0339837	DEGRAZIA ART AND CULTURAL FOUNDATION INC.	1979		DeGrazia, Ettore	Painter	1909	1982
66	20-0741840	ADOLF AND VIRGINIA DEHN FOUNDATION	2005		Dehn, Adolf	Painter	1895	1968
					Dehn, Virginia Engelman	Painter	1922	2005
67	13-3830526	DOROTHY DEHNER FOUNDATION FOR THE VISUAL ARTS INC.	1995		Dehner, Dorothy	Sculptor	1901	1994
68	26-1517545	THE RICHARD DIEBENKORN FOUNDATION	2009		Diebenkorn, Richard	Painter	1922	1993
69	06-0974154	ATHENA FOUNDATION INC.	1978		Di Suvero, Mark	Sculptor	1933	
70	13-6319615	THE E D FOUNDATION	1969		Donati, Enrico	Painter	1909	2008
71	38-6058512	ALDEN AND VADA DOW FUND	1962		Dow, Alden Ball	Architect	1904	1983
72	38-2852321	ALDEN B. AND VADA B. DOW CREATIVITY FOUNDATION	1989		Dow, Alden Ball	Architect	1904	1983
73	95-3450028	ANTHONY AND ELIZABETH DUQUETTE FOUNDATION FOR THE LIVING ARTS	2010		Duquette, Anthony	Designer	1914	1999
					Duquette, Elizabeth J.	Painter	1918	1995
74	94-2693309	PAUL DYCK FOUNDATION RESEARCH INSTITUTION OF AMERICAN INDIAN CULTURE	1981		Dyck, Paul	Painter	1917	2006
75	20-0276962	CHARLES AND RAY EAMES HOUSE PRESERVATION FOUNDATION INC.	2004		Eames, Charles	Architect	1907	1978
					Eames, Ray	Designer	1916	1988
76	04-3104763	WORDS AND PICTURES	1992	2011	Eastman, Kevin B.	Animator	1962	
77	65-0309613	WILL AND ANN EISNER FAMILY FOUNDATION INC.	1992		Eisner, Will	Cartoonist	1917	2005
78	87-0491761	LARRY ELSNER ART FOUNDATION	1992		Elsner, Larry	Designer	1930	1990
79	23-2334277	WHARTON ESHERICK FOUNDATION	1986		Esherick, Wharton	Designer	1887	1970
80	20-8046397	ACADIA FOUNDATION	2009		Estes, Richard	Painter	1932	
81	95-4721433	FALKENSTEIN FOUNDATION	1999		Falkenstein, Claire	Sculptor	1908	1997
82	13-3763399	ROBERT D. FARBER FOUNDATION	1994	2003	Farber, Robert	Painter	1948	1995
83	95-3451355	LORSER FEITELSON AND HELEN LUNDEBERG FEITELSON ARTS FOUNDATION	1980		Feitelson, Lorser	Painter	1898	1978
					Lundeberg, Helen	Painter	1908	1999

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
84	13-2923712	THE HERBERT FERBER FOUNDATION INC.	1978		Ferber, Herbert	Sculptor	1906	1991
85	30-0475431	FISCHL GORNIK FAMILY FOUNDATION INC.	2009		Fischl, Eric Gornik, April	Painter Painter	1948 1953	
86	11-3081355	DAN FLAVIN ART FOUNDATION INC.	1992	INAC	Flavin, Dan	Sculptor	1933	1996
87	23-7052993	LILLIAN H. FLORSHEIM FOUNDATION FOR FINE ARTS	1966		Florsheim, Lillian	Sculptor	1896	1989
88	36-3047617	RICHARD FLORSHEIM ART FUND	1980	2007	Florsheim, Richard Aberle	Painter	1916	1979
89	13-7024539	LISA FONSSAGRIVES-PENN TRUST	1994		Fonssagrives-Penn, Lisa	Sculptor	1911	1992
90	22-2618186	THE KATHERINE FOREST CRAFTS FOUNDATION INC.	1985		Forest, Katherine	Painter	1883	1952
91	36-7281827	VERITAS FOUNDATION	2000		Foster, Edward	Photographer	1940	
92	95-4336984	SAM FRANCIS FOUNDATION INC. (fka Samuel L. Francis Art Museum)	1995		Francis, Sam	Painter	1923	1994
93	13-3857299	THE ANDREA FRANK FOUNDATION INC.	1996		Frank, Robert Leaf, June	Photographer Painter	1924 1929	
94	13-3244308	HELEN FRANKENTHALER FOUNDATION INC.	1985		Frankenthaler, Helen	Painter	1928	2011
95	38-6154750	MARSHALL FREDERICKS FOUNDATION	1965		Fredericks, Marshall M.	Sculptor	1908	1998
96	13-3471554	FRELINGHUYSEN MORRIS FOUNDATION	1988		Frelinghuysen, Suzy Morris, George Lovett Kingsland	Painter Painter	1912 1905	1988 1975
97	94-3357343	ARTISTS' LEGACY FOUNDATION	2001		Frey, Viola Carnwath, Squeak	Sculptor Painter	1933 1947	2004
98	20-5599631	LEE AND MARIA FRIEDLANDER FAMILY FOUNDATION	2006		Friedlander, Lee	Photographer	1934	
99	31-1811031	THE GABARRON FOUNDATION INC.	2002		Gabarron, Cristobal	Painter	1945	
100	95-6029752	DR. SEUSS FOUNDATION	1960		Geisel, Theodore Seuss	Illustrator	1904	1991
101	94-3331601	GENSLER FAMILY FOUNDATION	2000		Gensler, M. Arthur, Jr	Architect	1935	
102	13-3271090	DESIGN INSIGHT FOUNDATION	1985		Gersin, Robert P.	Designer	1929	1989
103	13-4138652	DOROTHY M. GILLESPIE FOUNDATION INC.	2001		Gillespie, Dorothy Merle	Painter	1920	
104	85-6011297	GIRARD FOUNDATION	1962	1998	Girard, Alexander Hayden	Designer	1907	1993
105	13-6136127	SANSOM FOUNDATION INC.	1959		Glackens, William James Glackens, Edith Dimock	Painter Painter	1870 1876	1938 1955



	<b>EIN</b>	<b>FOUNDATION NAME</b>	<b>RYR</b>	<b>TYR</b>	<b>ARTIST NAME</b>	<b>ROLE</b>	<b>YOB</b>	<b>YOD</b>
106	13-3754244	MILTON AND SHIRLEY GLASER FOUNDATION INC.	1994		Glaser, Milton	Designer	1929	
107	01-0733159	FELIX GONZALEZ-TORRES FOUNDATION	2003		Gonzalez-Torres, Felix	Sculptor	1957	1996
108	02-0590852	EDWARD GOREY CHARITABLE TRUST	2008		Gorey, Edward	Illustrator	1925	2000
109	20-4711374	ARSHILE GORKY FOUNDATION	2006		Gorky, Arshile	Painter	1904	1948
110	85-0350072	R. C. GORMAN FOUNDATION	1987		Gorman, Rudolph Carl	Painter	1932	2005
111	13-2853957	THE ADOLPH AND ESTHER GOTTLIEB FOUNDATION INC.	1976		Gottlieb, Adolph	Painter	1903	1974
112	36-2356089	GRAHAM FOUNDATION FOR ADVANCED STUDIES IN THE FINE ARTS (fka American School of Fine Arts)	1959		Graham, Ernest R.	Architect	1866	1936
113	68-0445017	MORRIS GRAVES FOUNDATION	2000		Graves, Morris	Painter	1910	2001
114	13-3885307	NANCY GRAVES FOUNDATION INC.	1997		Graves, Nancy	Sculptor	1939	1995
115	20-4701981	CLEVE GRAY FOUNDATION	2006		Gray, Cleve	Painter	1918	2004
116	13-4154166	THE STEPHEN GREENE FOUNDATION	2001		Greene, Stephen	Painter	1918	1999
117	04-6653279	ARTHUR GRIFFIN CENTER FOR PHOTOGRAPHIC ART (PC)	1991	2002	Griffin, Arthur	Photographer	1903	2001
118	30-0051028	ARTHUR GRIFFIN FAMILY FOUNDATION	2002		Griffin, Arthur	Photographer	1903	2001
119	39-1553615	OWEN AND ANNE GROMME SCHOLARSHIP FUND INC.	1986	2009	Gromme, Owen J.	Painter	1896	1991
120	41-1733396	OWEN J GROMME FOUNDATION	1993		Gromme, Owen J.	Painter	1896	1991
121	13-3556699	CHAIM GROSS MUSEUM	1990	2012	Gross, Chaim	Sculptor	1904	1991
122	13-3490010	THE RENEE AND CHAIM GROSS FOUNDATION INC.	1989		Gross, Chaim	Sculptor	1904	1991
123	04-2714713	GUND ART FOUNDATION	1980		Gund, Graham	Architect	1922	
124	51-0188142	GRAHAM GUND CHARITABLE TRUST	1976	2003	Gund, Graham	Architect	1922	
125	46-1575176	GUSTON FOUNDATION	2013		Guston, Philip Guston, Musa McKim	Painter Painter	1913 1908	1980 1992
126	13-4044535	CHARLES AND BETTE-ANN GWATHMEY FOUNDATION INC.	2002		Gwathmey, Charles	Architect	1938	2009
127	85-0387488	ARTHUR HADDOCK FOUNDATION	1994		Haddock, Arthur Earl	Painter	1895	1980
128	13-3759863	RAOUL HAGUE FOUNDATION INC.	1994		Hague, Raoul	Sculptor	1905	1993
129	26-4790167	FREDERICK HAMMERSLEY FOUNDATION	2009		Hammersley, Frederick	Painter	1919	2009

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
130	11-0249024	KEITH HARING FOUNDATION INC.	1991		Haring, Keith	Painter	1958	1990
131	84-0845015	FRED HARMAN ART MUSEUM	1981		Harman, Fred	Cartoonist	1902	1982
132	13-7245228	LILY HARMON CHARITABLE TRUST	2000		Harmon, Lily	Painter	1912	1998
133	27-2915847	THE FREDERICK HART FOUNDATION	2010		Hart, Frederick	Sculptor	1943	1999
134	30-6048115	JOHN BURTON HARTER FOUNDATION CHARITABLE TRUST	2004		Harter, John Burton	Painter	1940	2002
135	99-0319239	HON CHEW HEE ESTATE FOUNDATION	1996		Hee, Hon-Chew	Painter	1906	1992
136	13-4147079	SOUNDINGS- THE JOHN HEJDUK FOUNDATION FOR ARCHITECTURAL RESEARCH	2002	INAC	Hejduk, John Quentin	Architect	1929	2000
137	13-3596614	AL HELD FOUNDATION INC.	1991		Held, Al	Painter	1928	2005
138	13-7262537	HELIKER-LAHOTAN FOUNDATION INC.	2001		Heliker, John Edward LaHotan, Robert L.	Painter Painter	1909 1927	2000 2002
139	11-3726166	HEMENWAY FOUNDATION	2006	2011	Hemenway, Nancy	Sculptor	1921	2008
140	52-1219337	TEXTILE ARTS FOUNDATION	1981	1994	Hemenway, Nancy	Sculptor	1921	2008
141	72-1430321	HENRY HENSCHKE FOUNDATION	2000	2011	Henschke, Henry	Painter	1901	1992
142	25-0974305	JOHN A. HERMANN JR MEMORIAL ART MUSEUM	1944		Hermann, John A.	Painter	1858	1942
143	25-6024793	HERMANN MEMORIAL ART MUSEUM TRUST NO 2	1970		Hermann, John A.	Painter	1858	1942
144	25-6024622	HERMANN MEMORIAL ART MUSEUM TRUST	1973		Hermann, John A.	Painter	1858	1942
145	20-6439616	THE CLINTON HILL-ALLEN TRAN FOUNDATION	2006		Hill, Clinton	Painter	1922	2003
146	13-2622714	CAMARGO FOUNDATION	1968		Hill, Jerome	Painter	1905	1972
147	41-6035163	JEROME FOUNDATION INC. (fka Avon Foundation)	1964		Hill, Jerome	Painter	1905	1972
148	20-0908729	AL HIRSCHFELD FOUNDATION	2004		Hirschfeld, Al	Caricaturist	1903	2003
149	26-2906501	DAVID HOCKNEY FOUNDATION INC.	2010		Hockney, David	Painter	1937	
150	13-7102174	RENATE HOFMANN CHARITABLE TRUST	1997		Hofmann, Hans	Painter	1880	1966
151	13-7102172	RENATE, HANS AND MARIA HOFMANN TRUST	1997		Hofmann, Hans	Painter	1880	1966
152	26-3285804	THE HELEN AND CLAUS HOIE CHARITABLE FOUNDATION	2008		Hoie, Claus Hoie, Helen	Painter Painter	1911 1911	2007 2000

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
153	36-7118707	MILTON HORN TRUST (dba Milton Horn Art Trust)	1996	2005	Horn, Milton	Sculptor	1906	1994
154	85-0449009	THE ALLAN HOUSER FOUNDATION	1998		Houser, Allan	Sculptor	1914	1994
155	N/A	THE ALEXIS GRITCHENKO FOUNDATION INC.	1963	N/A	Hryshchenko, Oleksa	Painter	1893	1977
156	26-4116050	500 CAPP STREET FOUNDATION	2009		Ireland, David	Sculptor	1930	2009
157	54-6421160	ELIZABETH IRELAND GRAVES CHARITABLE TRUST	1998		Ireland, William Addison	Cartoonist	1880	1935
158	26-3882051	JAHN FOUNDATION	2009		Jahn, Helmut	Architect	1940	
159	31-6654721	LONG MARCH FOUNDATION	2001		Jie, Lu	Sculptor	1964	
160	20-1737242	LOW ROAD FOUNDATION	2004		Johns, Jasper	Painter	1930	
161	22-3694371	GROUNDS FOR SCULPTURE (PC)	1992	2000	Johnson, J. Seward Jr.	Sculptor	1930	
162	22-3808507	JOHNSON ART AND EDUCATION FOUNDATION	2001		Johnson, J. Seward Jr.	Sculptor	1930	
163	22-3694372	SCULPTURE FOUNDATION INC.	2000		Johnson, J. Seward Jr.	Sculptor	1930	
164	22-6054882	THE ATLANTIC FOUNDATION	1964		Johnson, J. Seward Jr.	Sculptor	1930	
165	33-6262849	CHUCK JONES CENTER FOR CREATIVITY (fka Chuck Jones Foundation)	2001		Jones, Chuck	Animator	1912	2002
166	74-2798673	JUDD FOUNDATION	1997		Judd, Donald	Sculptor	1928	1994
167	43-2014212	ROBERT KABAK FOUNDATION	2004	2011	Kabak, Robert	Painter	1930	
168	35-6906882	ILYA AND EMILIA KABAKOV FOUNDATION	2012		Kabakov, Ilya Kabakov, Emilia	Sculptor Sculptor	1933 1945	
169	31-1631167	THE REUBEN KADISH ART FOUNDATION INC.	1999		Kadish, Reuben	Sculptor	1913	1992
170	35-6609501	MARGERIE FLORENCE KAHN CHARITABLE TRUST	1997		Kahn, Margery Florence	Sculptor	1916	1995
171	13-4036532	WOLF KAHN AND EMILY MASON FOUNDATION INC.	2000		Kahn, Wolf Mason, Emily	Painter Painter	1927 1932	
172	13-3859430	HOWARD KANOVITZ FOUNDATION INC.	1996		Kanovitz, Howard	Painter	1929	2009
173	51-0529249	ALEX KATZ FOUNDATION INC.	2005		Katz, Alex	Painter	1927	
174	23-7072750	EZRA JACK KEATS FOUNDATION INC.	1970		Keats, Ezra Jack	Illustrator	1916	1983
175	30-0434789	THE MIKE KELLEY FOUNDATION FOR THE ARTS	2008		Kelley, Mike	Sculptor	1954	2012
176	22-3132379	ELLSWORTH KELLY FOUNDATION INC.	1991		Kelly, Ellsworth	Painter	1923	
177	13-3136378	THE ANDRÉ AND ELIZABETH KERTÉSZ FOUNDATION INC.	1983		Kertész, André	Photographer	1894	1985

	EIN	FOUNDATION NAME	RZR	TYR	ARTIST NAME	ROLE	YOB	YOD
178	84-1390225	THE EDWARD AND NANCY KIENHOLZ FOUNDATION INC.	1997		Kienholz, Edward	Sculptor	1927	1994
					Keinholz, Nancy Reddin	Sculptor	1943	
179	84-1360133	KIRKLAND MUSEUM OF FINE AND DECORATIVE ART	1996		Kirkland, Vance Hall	Painter	1904	1981
180	13-3228325	THE FRANZ KLINE FOUNDATION INC.	1987	1995	Kline, Franz	Painter	1910	1962
181	04-6937814	KARL O. AND HELEN W. KNATHS TRUST	2001		Knaths, Karl	Painter	1891	1971
182	13-7101223	KIKI KOGELNIK FOUNDATION	1997		Kogelnik, Kiki	Painter	1935	1997
183	65-0676162	KONI FOUNDATION INC.	2001		Koni, Nikolaus	Sculptor	1911	2000
184	94-3090173	HOWARD KOTTLER TESTAMENTARY TRUST	1989		Kottler, Howard	Sculptor	1930	1989
185	36-3855553	ANSTISS AND RONALD KRUECK FOUNDATION	1993		Krueck, Ronald A.	Architect	1946	
186	14-1485217	YASUO KUNIYOSHI FUND INC.	1953	2007	Kuniyoshi, Yasuo	Painter	1889	1953
187	20-5907069	SARA AND YASUO KUNIYOSHI FOUNDATION	2007		Kuniyoshi, Yasuo	Painter	1889	1953
188	04-6113196	LACHAISE FOUNDATION	1964		Lachaise, Gaston	Sculptor	1882	1935
189	11-3190228	AMERICAN FOUNDATION FOR THE VISUAL ARTS INC.	1995	2006	Laikin, Adam	Illustrator	1962	
190	22-3149258	XERIC FOUNDATION	1992		Laird, Peter	Animator	1954	
191	91-2162110	WARWICK FOUNDATION INC.	2002		Lancaster, Clay	Illustrator	1917	2000
192	95-3994420	WALTER LANTZ FOUNDATION	1985		Lantz, Walter	Animator	1899	1994
193	13-4068333	LASSAW FOUNDATION INC.	2006	2010	Lassaw, Ibram	Sculptor	1913	2003
194	91-2015166	JACOB AND GWENDOLYN LAWRENCE FOUNDATION	2000		Lawrence, Jacob	Painter	1917	2000
					Lawrence, Gwendolyn Knight	Painter	1914	2005
195	13-3680342	GERSON AND JUDITH LEIBER FOUNDATION INC.	1994		Leiber, Gerson A.	Painter	1921	
					Leiber, Judith	Designer	1921	
196	13-4197644	JUDITH AND GERSON LEIBER FOUNDATION INC.	2002		Leiber, Gerson A.	Painter	1921	
					Leiber, Judith	Designer	1921	
197	13-3398045	THE VIOLA FUND (fka The Mandrake Fund)	1987		Leigh, Abby	Painter	1948	
198	25-6022923	CHARLES H. LEISSER CHARITABLE TRUST	1942		Leisser, Martin	Painter	1846	1940
199	25-6022924	MARTIN B. LEISSER TRUST	1942	INAC	Leisser, Martin	Painter	1846	1940
200	25-7422376	MARTIN B LEISSER ART FUND	1942		Leisser, Martin	Painter	1845	1940

	EIN	FOUNDATION NAME	RJR	TYR	ARTIST NAME	ROLE	YOB	YOD
201	20-4926823	HARPO FOUNDATION INC.	2006		Levine, Edward M.	Sculptor	1935	
202	13-7154412	HELEN LEVITT CHARITABLE TRUST	1998		Levitt, Helen	Photographer	1913	2009
203	91-1898350	ROY LICHTENSTEIN FOUNDATION	1998		Lichtenstein, Roy	Painter	1923	1997
204	26-0580464	LICHTNER-GROTENRATH FOUNDATION	2007	2011	Lichtner, Schomer Frank Grotenrath, Ruth	Painter Painter	1905 1912	2006 1988
205	13-6151503	JACQUES AND YULLA LIPCHITZ FOUNDATION INC.	1963		Lipchitz, Jacques Lipchitz, Yulla Halberstadt	Sculptor Sculptor	1891 1911	1973 2003
206	11-2726311	THE RICHARD LIPPOLD FOUNDATION INC.	1985	2011	Lippold, Richard	Sculptor	1915	2002
207	52-2322473	MORRIS LOUIS CONSERVATION FUND INC.	2002		Louis, Morris	Painter	1912	1962
208	98-0590515	THE BORIS LURIE ART FOUNDATION	2009		Lurie, Boris	Painter	1924	2008
209	36-7429814	EDITH LUTYENS AND NORMAN BEL GEDDES FOUNDATION INC.	2004		Lutyens, Edith Bel Geddes, Norman	Designer Designer	1907 1893	2002 1958
210	74-2571541	CORNUDAS MOUNTAIN FOUNDATION	1990		Magee, James R.	Sculptor	1948	
211	13-4181214	THE MALEVICH SOCIETY	2002		Malevich, Kazimir	Painter	1879	1935
212	86-0865222	MANDELMAN-RIBAK FOUNDATION	1998		Mandelman, Beatrice Ribak, Louis	Painter Painter	1912 1902	1998 1979
213	13-3480472	THE ROBERT MAPPLETHORPE FOUNDATION INC.	1989		Mapplethorpe, Robert	Photographer	1946	1989
214	20-4220947	HERMAN MARIL FOUNDATION INC.	2007		Maril, Herman	Painter	1908	1986
215	04-3367812	NORMA MARIN FOUNDATION FOR THE ARTS	1997	2011	Marin, John	Painter	1870	1953
216	36-3620787	IRA AND JANINA MARKS CHARITABLE TRUST	1989		Marks, Janina Monkute	Designer	1923	2010
217	36-4312295	JANINA MARKS CHARITABLE FOUNDATION	2000		Marks, Janina Monkute	Designer	1923	2010
218	31-1724644	AGNES MARTIN FOUNDATION	2000	2004	Martin, Agnes	Painter	1912	2004
219	94-3113049	PETER AND MADELEINE MARTIN FOUNDATION FOR THE CREATIVE ARTS	1991		Martin, Madeleine Dimond	Painter	1922	1991
220	13-6199411	WILLIAM H. MAULDIN FOUNDATION	1966	2011	Mauldin, William Henry	Cartoonist	1921	2003
221	05-6149225	ROSALIE THORNE MCKENNA FOUNDATION	2007		McKenna, Rosalie Thorne Thorne, Harriet V.S.	Photographer Photographer	1919 1823	2003 1926

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
222	13-7063382	GEORGE MCNEIL TRUST	1995		McNeil, George	Painter	1908	1995
223	20-6955131	CLEMENT MEADMORE 2002 TRUST (dba Clement Meadmore Foundation)	2008		Meadmore, Clement	Sculptor	1929	2005
224	23-1976299	TRUSTEES OF THE MERCER FONTHILL MUSEUM	1975		Mercer, Henry Chapman	Sculptor	1856	1930
225	13-3978415	THE RICHARD MEIER FOUNDATION	1998		Meier, Richard	Architect	1934	
226	11-3161054	JOAN MITCHELL FOUNDATION INC. (Initial entity established 1993)	1998		Mitchell, Joan	Painter	1925	1992
227	13-3591085	LISETTE MODEL FOUNDATION INC.	1996		Model, Lisette	Photographer	1901	1983
228	77-0612896	MOHOLY-NAGY FOUNDATION	2004		Moholy-Nagy, Laszlo	Photographer	1894	1946
229	95-3963532	GEORGE MONTGOMERY FOUNDATION OF THE ARTS	1990	2009	Montgomery, George	Sculptor	1916	2000
230	20-3245678	INGE MORATH FOUNDATION	2006		Morath, Inge	Photographer	1923	2002
231	93-6285843	CARL AND HILDA MORRIS FOUNDATION	1995		Morris, Carl Morris, Hilda	Painter Sculptor	1911 1911	1993 1991
232	36-3783438	MORRISON-SHEARER FOUNDATION	1992		Morrison, Helen Balfour	Photographer	1901	1984
233	13-3091704	THE DEDALUS FOUNDATION INC. (fka Robert Motherwell Foundation Inc.)	1983		Motherwell, Robert	Painter	1915	1991
234	31-1404573	ALBERT K MURRAY FINE ARTS EDUCATIONAL FUND	1994		Murray, Albert Ketcham	Painter	1906	1992
235	91-6063190	NARAMORE FOUNDATION	1966	2006	Naramore, Floyd A.	Architect	1879	1970
236	13-3385053	LEROY NEIMAN FOUNDATION INC.	1987		Neiman, LeRoy	Painter	1921	2012
237	83-0331644	JENTEL FOUNDATION	2000		Neltje	Painter	1934	
238	36-4632880	ARNOLD AND AUGUSTA NEWMAN FOUNDATION	2009		Newman, Arnold	Photographer	1918	2006
239	13-2989464	THE BARNETT NEWMAN FOUNDATION	1980		Newman, Barnett	Painter	1905	1970
240	13-7105549	BARNETT AND ANNALEE NEWMAN FOUNDATION TRUST	1997		Newman, Barnett	Painter	1905	1970
241	65-1170235	NIMOY FOUNDATION	2004		Nimoy, Leonard	Photographer	1931	
242	13-3059538	ISAMU NOGUCHI FOUNDATION INC. (fka Akari Foundation) (PC)	1968	2004	Noguchi, Isamu	Sculptor	1904	1988
243	26-2817642	THE KENNETH NOLAND FOUNDATION	2010		Noland, Kenneth	Painter	1924	2010
244	13-6271772	CHARLES Z. OFFIN ART FUND INC.	1967	1991	Offin, Charles Z.	Illustrator	1899	1989

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
245	13-6944122	OFFIN CHARITABLE TRUST	1991		Offin, Charles Z.	Illustrator	1899	1989
246	85-0375930	GEORGIA O'KEEFFE FOUNDATION	1989	2009	O'Keeffe, Georgia	Painter	1887	1986
247	58-6386902	MATTIE LOU O'KELLEY TRUST	2000		O'Kelley, Mattie Lou	Painter	1908	1997
248	13-4122015	OLDENBURG VAN BRUGGEN FOUNDATION	2000		Oldenburg, Claes van Bruggen, Coosje	Sculptor Sculptor	1929 1942	2009
249	13-2971714	SPIRIT FOUNDATIONS INC.	1979		Ono, Yoko Lennon, John	Sculptor Illustrator	1933 1940	1980
250	94-3316074	LUCID ART FOUNDATION	1999		Onslow Ford, Gordon Bogzaran, Fariba	Painter Painter	1912 1958	2003
251	20-1896064	THE LILLIAN ORLOWSKY WILLIAM FREED FOUNDATION INC.	2007	2011	Orlowsky, Lillian Freed, William	Painter Painter	1914 1902	2004 1984
252	11-3270671	OSSORIO FOUNDATION	1996		Ossorio, Alfonso	Painter	1916	1990
253	42-1703837	GORDON PARKS CHARITABLE TRUST	2008	2011	Parks, Gordon	Photographer	1912	2006
254	13-3193737	BETTY PARSONS FOUNDATION	1984		Parsons, Betty	Painter	1900	1982
255	20-2649118	IRVING PENN FOUNDATION INC.	2005		Penn, Irving	Photographer	1917	2009
256	13-7081071	IRVING PENN TRUST	1997		Penn, Irving	Photographer	1917	2009
257	26-2468807	PERPETUA FOUNDATION	2008		Phelan, Ellen	Painter	1943	
258	77-0562084	WILLIAM DAVID AND MARY W PHILLIPS FOUNDATION	2001		Phillips, Mary Walker	Designer	1923	2007
259	20-3153438	CARLO PITTORE FOUNDATION FOR THE FIGURATIVE ARTS	2006		Pittore, Carlo	Painter	1943	2005
260	59-1102352	ALBIN POLASEK FOUNDATION INC. (PC)	1966	2009	Polasek, Albin Sherwood, Ruth	Sculptor Sculptor	1879 1889	1965 1953
261	13-3255693	THE POLLOCK-KRASNER FOUNDATION INC.	1985		Pollock, Jackson Krasner, Lee	Painter Painter	1912 1908	1956 1984
262	N/A	ANNE E. C. PORTER CHARITABLE TRUST	N/A	N/A	Porter, Fairfield	Painter	1907	1975
263	06-1157164	THE MARTHA BOSCHEN PORTER FUND INC.	1986	2008	Porter, Martha Boschen	Photographer	1915	2011
264	59-6832335	THE LESLIE T. POSEY AND FRANCES U. POSEY FOUNDATION	1988		Posey, Leslie T.	Sculptor	1900	1985

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
265	73-1190206	LESLIE POWELL FOUNDATION INC.	1983		Powell, Leslie	Painter	1906	1978
266	73-6206326	LESLIE POWELL TRUST	1983		Powell, Leslie	Painter	1906	1978
267	N/A	EUGENIE PRENDERGAST FOUNDATION	1970	1993	Prendergast, Maurice Braz Prendergast, Charles	Painter Painter	1858 1863	1924 1948
268	95-4768744	NOAH PURIFOY FOUNDATION	1999		Purifoy, Noah	Sculptor	1917	2004
269	65-0860681	FLORENCE PUTTERMAN FOUNDATION INC.	1998		Putterman, Florence	Painter	1927	
270	13-4091650	THE DOROTHEA AND LEO RABKIN FOUNDATION	2000		Rabkin, Leo	Painter	1919	
271	65-0200989	ROBERT RAUSCHENBERG FOUNDATION	1992		Rauschenberg, Robert	Painter	1925	2008
272	23-7112973	HILLA VON REBAY FOUNDATION	1971		Rebay, Hilla	Painter	1890	1967
273	45-6420217	DEBORAH REMINGTON CHARITABLE TRUST FOR THE VISUAL ARTS	2012		Remington, Deborah	Painter	1930	2010
274	14-1768291	GEORGE RICKEY FOUNDATION INC.	1994		Rickey, George	Sculptor	1907	2002
275	22-3762980	THE ANYONE CAN FLY FOUNDATION INC.	2002		Ringgold, Faith	Painter	1930	
276	81-0593759	HERB RITTS, JR. FOUNDATION (dba Herb Ritts Foundation)	2005		Ritts, Herb	Photographer	1952	2002
277	27-1154200	MANUEL RIVERA-ORTIZ FOUNDATION FOR INTERNATIONAL PHOTOGRAPHY	2011	2013	Rivera-Ortiz, Manuel	Photographer	1968	
278	11-3137296	LARRY RIVERS FOUNDATION INC.	1993		Rivers, Larry	Painter	1923	2002
279	04-6538205	NORMAN ROCKWELL ART COLLECTION TRUST	1973		Rockwell, Norman	Illustrator	1894	1978
280	45-2483492	JAMES ROSENQUIST FOUNDATION INC.	2011		Rosenquist, James	Painter	1933	
281	33-0863146	ROSE ART FOUNDATION	1999		Rose, Guy	Painter	1867	1925
282	20-4263527	LAND LIGHT FOUNDATION	2006		Ross, Charles	Sculptor	1937	
283	86-0897710	THE GLORIA F ROSS CENTER FOR TAPESTRY STUDIES INC.	1998	2010	Ross, Gloria F.	Designer	1923	1998
284	23-7055699	GLORIA F ROSS FOUNDATION	1970		Ross, Gloria F.	Designer	1923	1998
285	04-6062249	ROTCH TRAVELLING SCHOLARSHIP INC. (Initial entity established 1883)	1942		Rotch, Arthur Rotch, Benjamin Smith	Architect Painter	1850 1817	1894 1882
286	23-7106604	THE MARK ROTHKO FOUNDATION INC.	1971	1990	Rothko, Mark	Painter	1903	1970
287	13-3736320	THE JUDITH ROTHSCHILD FOUNDATION INC.	1993		Rothschild, Judith	Painter	1921	1993



	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
288	95-1051084	RYMAN-CARROLL FOUNDATION (PC)	1994	2001	Ryman, Herbert Dickens	Illustrator	1910	1989
289	13-3354167	GREENWICH COLLECTION, LTD.	1987		Ryman, Robert	Painter	1930	
290	47-6245971	NIKI CHARITABLE ART FOUNDATION	2002		Saint Phalle, Niki de	Sculptor	1930	2002
291	91-2146665	NOAH'S ART FOUNDATION INC.	2001	2004	Saint Phalle, Niki de	Sculptor	1930	2002
292	16-1481219	CONSTANCE SALTONSTALL FOUNDATION FOR THE ARTS INC.	1996		Saltonstall, Constance	Painter	1944	1994
293	04-6124122	NATHANIEL SALTONSTALL ARTS FUND	1961		Saltonstall, Nathaniel	Architect	1903	1968
294	65-6064217	GORDON SAMSTAG FINE ARTS TRUST	1992		Samstag, Gordon	Painter	1906	1990
295	57-6215647	EMILIO SANCHEZ FOUNDATION	2005		Sanchez, Emilio	Painter	1921	1999
296	20-8600128	FRED SANDBACK ARCHIVE	2007		Sandback, Fred	Sculptor	1943	2003
297	27-1518774	RICHARD AND ELLEN SANDOR ART FOUNDATION	2010		Sandor, Ellen R.	Photographer	1943	
298	94-3399358	REUBEN AND MURIEL SAVIN FOUNDATION	2001		Savin, Muriel	Designer	1909	2004
299	33-6311051	ITALO SCANGA FOUNDATION	2003		Scanga, Italo	Sculptor	1932	2001
300	11-3583193	THE FRANCESCO SCAVULLO FOUNDATION INC.	2001		Scavullo, Francesco	Photographer	1921	2004
301	04-2748882	EDWIN SCHLOSSBERG FOUNDATION	1982		Schlossberg, Edwin I.	Designer	1945	
302	94-2715935	CHARLES M. SCHULZ FOUNDATION	1981		Schulz, Charles	Cartoonist	1922	2000
303	13-6096198	BERNARD LEE SCHWARTZ FOUNDATION	1953		Schwartz, Bernard Lee	Photographer	1914	1978
304	16-1097876	SCHWEINFURTH MEMORIAL ART CENTER	1978		Schweinfurth, Julius A.	Architect	1858	1931
305	22-3744151	GEORGE AND HELEN SEGAL FOUNDATION INC.	2000		Segal, George	Sculptor	1924	2000
306	13-3807627	MAURICE SENDAK FOUNDATION INC.	1995		Sendak, Maurice Bernard	Illustrator	1928	2012
307	13-3923000	JOEL SHAPIRO FOUNDATION INC.	1998		Shapiro, Joel	Sculptor	1941	
308	38-2910325	MAXIMILLAN SHAYE ART FOUNDATION	1990	2011	Shaye, Max	Painter	1912	2004
309	57-0953887	PHILIP SIMMONS FOUNDATION (PC)	1992	2009	Simmons, Philip	Designer	1912	2009
310	52-1359961	AARON SISKIND FOUNDATION	1984		Siskind, Aaron	Photographer	1903	1991
311	13-2988798	JOHN SLOAN MEMORIAL FOUNDATION INC.	1980	1996	Sloan, John	Painter	1871	1951
					Sloan, Helen Farr	Painter	1911	2005
312	11-3549979	SLOBODKINA FOUNDATION	2002		Slobodkina, Esphyr	Painter	1908	2002
313	13-7147740	LEON POLK SMITH FOUNDATION TRUST	1998		Smith, Leon Polk	Painter	1906	1996

	<b>EIN</b>	<b>FOUNDATION NAME</b>	<b>RYR</b>	<b>TYR</b>	<b>ARTIST NAME</b>	<b>ROLE</b>	<b>YOB</b>	<b>YOD</b>
314	45-4110224	THE LEON POLK SMITH FOUNDATION INC.	2012		Smith, Leon Polk	Painter	1906	1996
315	20-1737522	THE TONY AND JANE SMITH FOUNDATION	2004	2007	Smith, Tony	Sculptor	1912	1980
316	31-1599286	SASSON SOFFER FOUNDATION INC.	1999		Soffer, Sasson	Sculptor	1925	2009
317	86-0745338	FREDERICK AND FRANCES SOMMER FOUNDATION	1994		Sommer, Frederick	Photographer	1905	1999
318	27-2753066	NANCY SPERO AND LEON A. GOLUB FOUNDATION FOR THE ARTS	2011		Spero, Nancy	Painter	1926	2009
					Golub, Leon Albert	Painter	1922	2004
319	22-2756435	POLLY THAYER STARR CHARITABLE TRUST	1987		Starr, Polly Thayer	Painter	1904	2006
320	13-4115047	THE SAUL STEINBERG FOUNDATION INC.	2000		Steinberg, Saul	Illustrator	1914	1999
321	13-4032127	BERT STERN FOUNDATION FOR THE VISUAL ARTS INC.	2000		Stern, Bert	Photographer	1929	
322	46-1812072	THE HEDDA STERNE FOUNDATION INC.	2013		Sterne, Hedda	Painter	1910	2011
323	74-6120167	THE STILLMAN-LACK FOUNDATION	1971	2012	Stillman, Ary	Painter	1891	1967
324	13-2954114	THE PAUL STRAND FOUNDATION INC.	1977	1982	Strand, Paul	Photographer	1890	1976
					Strand, Hazel Kingsbury	Photographer	1907	1982
325	04-6024650	HENRY STRATER CHARITABLE TRUST	1970		Strater, Henry H.	Painter	1896	1987
326	95-4287128	THE JAN STUSSY FOUNDATION	1990	2008	Stussy, Jan	Painter	1921	1990
327	13-4147012	THE GEORGE SUGARMAN FOUNDATION INC.	2001		Sugarman, George	Sculptor	1912	1999
328	20-1245597	TOSHIKO TAKAEZU CHARITABLE FOUNDATION	2006		Takaezu, Toshiko	Sculptor	1922	2011
329	13-3864335	THE DOROTHEA TANNING FOUNDATION INC.	1997		Tanning, Dorothea	Painter	1910	2012
330	06-1281494	LGT FOUNDATION (dba Lenore G. Tawney Foundation)	1991		Tawney, Lenore G.	Sculptor	1907	2007
331	99-0108484	TENNENT ART FOUNDATION	1955	INAC	Tennent, Madeline G.	Painter	1889	1972
332	20-8899047	THE PAUL AND FLORENCE THOMAS MEMORIAL ART SCHOOL INC.	2009		Thomas, Florence	Painter	1909	2007
333	13-1689389	LOUIS COMFORT TIFFANY FOUNDATION (Initial entity established 1918)	1938		Tiffany, Louis Comfort	Designer	1848	1933
334	86-1154888	TIGERMAN MCCURRY FAMILY FOUNDATION	2007		Tigerman, Stanley	Architect	1930	
					McCurry, Margaret	Architect	1941	
335	56-1874500	BOB AND KAY TIMBERLAKE FOUNDATION	1995		Timberlake, Bob	Painter	1937	

	EIN	FOUNDATION NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
336	94-2842873	SKYSTONE FOUNDATION INC.	1999		Turrell, James	Sculptor	1943	
337	20-2572529	CY TWOMBLY FOUNDATION	2005		Twombly, Cy	Painter	1928	2011
338	13-4182614	THE HARRIET AND ESTEBAN VICENTE FOUNDATION INC.	2001		Vicente, Esteban	Painter	1903	2001
339	13-3386415	HARRIET G. AND ESTEBAN VICENTE CHARITABLE TRUST	1987	2004	Vicente, Esteban	Painter	1903	2001
340	65-0869895	JOHN L. VOLK FOUNDATION	1999		Volk, John L.	Architect	1901	1984
341	94-6696632	LAURA VOLKERDING CHARITABLE TRUST	1996		Volkerding, Laura	Photographer	1939	1996
342	56-6638252	WAITZKIN MEMORIAL LIBRARY TRUST	2004		Waitzkin, Stella	Sculptor	1920	2003
343	03-0562344	SYLVIA WALD AND PO KIM ART GALLERY	2006		Wald, Sylvia Kim, Po	Painter Painter	1915 1917	
344	13-3410749	THE ANDY WARHOL FOUNDATION FOR THE VISUAL ARTS INC.	1988		Warhol, Andy	Painter	1928	1987
345	45-0533589	WOODSON FOUNDATION	2004		Watts, Joan	Painter	1939	
346	31-1525332	BRUCE WEBER NAN BUSH FOUNDATION INC.	1997		Weber, Bruce	Photographer	1946	
347	13-3878893	WILLIAM WEGMAN FOUNDATION INC.	1996		Wegman, William	Photographer	1943	
348	20-5125654	SUSAN WEIL KIRSCHENBAUM AND BERNARD E. KIRSCHENBAUM FOUNDATION	2006		Weil, Susan Kirschenbaum, Bernard Edwin	Painter Sculptor	1930 1924	
349	22-3711311	WEININGER FOUNDATION INC.	2000		Weininger, Andor Weininger, Eva Fernbach	Painter Designer	1899 1903	1986 2007
350	04-6937816	HELEN W. KNATHS AND AGNES WEINRICH TRUST	2001		Weinrich, Agnes	Painter	1873	1946
351	24-1414860	JOYCE WEINSTEIN AND STANLEY BOXER FOUNDATION	2008	2011	Weinstein, Joyce Boxer, Stanley Robert	Painter Sculptor	1931 1926	 2000
352	11-3559712	HAROLD WESTON FOUNDATION	2001		Weston, Harold	Painter	1894	1972
353	13-3673063	HERBERT AND IRENE WHEELER FOUNDATION	1993	2013	Wheeler, Irene	Sculptor	1917	2003
354	33-0265872	FREDERIC WHITAKER AND EILEEN MONAGHAN WHITAKER FOUNDATION	1988		Whitaker, Frederic Whitaker, Eileen Monaghan	Painter Painter	1891 1911	1980 2005
355	31-1813545	BEVERLY WILLIS ARCHITECTURE FOUNDATION INC.	2002		Willis, Beverly	Architect	1928	
356	91-2160877	THE MARTIN WONG FOUNDATION	2002		Wong, Martin	Painter	1946	1999

	<b>EIN</b>	<b>FOUNDATION NAME</b>	<b>RJR</b>	<b>TYR</b>	<b>ARTIST NAME</b>	<b>ROLE</b>	<b>YOB</b>	<b>YOD</b>
357	84-6271462	WOODMAN FAMILY FOUNDATION	1994		Woodman, Betty	Sculptor	1930	
					Woodman, George	Painter	1932	
358	06-1662503	ANDREW AND BETSY WYETH FOUNDATION FOR AMERICAN ART	2003		Wyeth, Andrew	Painter	1917	2009
359	51-0367586	UP EAST INC.	1997		Wyeth, Andrew	Painter	1917	2009
360	04-6191579	WYETH ENDOWMENT FOR AMERICAN ART	1968	2009	Wyeth, Andrew	Painter	1917	2009
361	26-0002833	WYETH FOUNDATION	2002		Wyeth, James Browning	Painter	1946	
362	11-3621304	C J YAO FOUNDATION	2001	2006	Yao, C J	Painter	1941	2000
363	99-6081402	JOHN CHIN YOUNG FOUNDATION	1998		Young, John Chin	Painter	1909	1997

INAC No reports filed for three or more years (N=4)  
TYR Termination Year (N=66)  
(PC) Converted to public charity status (N=8)

EIN	FOUNDATION NAME	RYP	TYR	ARTIST NAME	ROLE	YOB	YOD
-----	-----------------	-----	-----	-------------	------	-----	-----

## C. Artist-Endowed Public Charities Identified During Research

Public charities are tax-exempt entities supported by the general public, unlike private foundations which have a single source of support.

For the purpose of this research, artist-endowed public charities are those created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries, to own the artist's assets for use in exempt charitable and educational activities serving a public benefit. An artist-endowed foundation, as an artists' beneficiary, might create or endow a public charity.

EIN	PUBLIC CHARITY NAME	R/YR	TYR	ARTIST NAME	ROLE	YOB	YOD
<b>Community Foundation Funds</b>							
1	ARTISTS' RESOURCE TRUST (Berkshire-Taconic Community Foundation)			Anonymous Artist	N/A	N/A	N/A
2	BROTHER THOMAS FUND <sup>2</sup> (Boston Foundation)			Bezanson, Charles	Designer	1929	2007
3	JOHN GUTMANN PHOTOGRAPHY FELLOWSHIP TRUST (San Francisco Foundation)			Gutmann, John	Photographer	1905	1998
4	VICTOR THOMAS JACOBY FUND (Humboldt Area Foundation)			Jacoby, Victor Thomas	Designer	1944	1997
5	MACCOLL JOHNSON FELLOWSHIP FUND (Rhode Island Foundation)			Johnson, Robert M.	Designer	1916	1999
6	THELMA MATHIAS FUND (New Mexico Community Foundation)			Mathias, Thelma	Sculptor	1947	
7	MARY L. NOHL FUND (Greater Milwaukee Foundation Inc.)			Nohl, Mary L.	Sculptor	1914	2001
8	BOSCHEN FUND FOR ARTISTS <sup>2</sup> (Berkshire-Taconic Community Foundation)			Porter, Martha Boschen	Photographer	1915	2011

EIN	PUBLIC CHARITY NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
<b>Dedicated Programs of Public Charities</b>							
9	BENNY ANDREWS COLLECTION (United Negro College Fund)			Andrews, Benny Humphrey, Nene	Painter Sculptor	1930 1947	2006
10	ROGER BROWN STUDY COLLECTION (School of the Art Institute of Chicago)			Brown, Roger	Painter	1941	1997
11	COLLEEN BROWNING COLLECTION <sup>2</sup> (Southern Alleghenies Museum of Art)			Browning, Colleen	Painter	1918	2003
12	RANDALL DAVEY AUDUBON CENTER AND SANCTUARY (National Audubon Society)			Davey, Randall	Painter	1887	1964
13	DAVID C. DRISKELL CENTER (University of Maryland College Park)			Driskell, David Clyde	Painter	1931	
14	MARSHALL M. FREDERICKS SCULPTURE MUSEUM (Saginaw Valley State University)			Fredericks, Marshall M.	Sculptor	1908	1998
15	PHILIP JOHNSON GLASS HOUSE (National Trust for Historic Preservation)			Johnson, Philip	Architect	1906	2005
16	ALEX KATZ COLLECTION AND ARCHIVE (Colby College Museum of Art)			Katz, Alex	Painter	1927	
17	THE KOONS FAMILY INSTITUTE ON INTERNATIONAL LAW & POLICY (International Center for Missing and Exploited Children)			Koons, Jeff	Sculptor	1954	
18	GARI MELCHERS HOME AND STUDIO AT BELMONT (University of Mary Washington)			Melchers, Gari Melchers, Corinne Mackall	Painter Painter	1860 1880	1932 1955
19	GEORGE MONTGOMERY/NRA YOUTH WILDLIFE ART CONTEST <sup>2</sup> (National Rifle Association of America)			Montgomery, George	Sculptor	1916	2000
20	THE OKUBO COLLECTION (Riverside Community College)			Okubo, Miné	Painter	1912	2001
21	THE LILLIAN ORLOWSKY AND WILLIAM FREED FOUNDATION GRANT <sup>2</sup> (Provincetown Art Association and Museum Inc.)			Orlowsky, Lillian Freed, William	Painter Painter	1914 1902	2004 1984
22	GORDON PARKS FOUNDATION <sup>2</sup> (Meserve-Kunhardt Foundation)			Parks, Gordon	Photographer	1912	2006

	EIN	PUBLIC CHARITY NAME	R Y R	T Y R	ARTIST NAME	ROLE	Y O B	Y O D
23		PAUL L. PENCZNER RESEARCH FUND (University of Tennessee Health Science Center)			Penczner, Paul L.	Painter	1916	2010
24		POLLOCK-KRASNER HOUSE AND STUDY CENTER (Stony Brook Foundation)			Pollock, Jackson Krasner, Lee	Painter Painter	1912 1908	1956 1984
25		RANGER PURCHASE FUND (National Academy of Design)			Ranger, Henry Ward	Painter	1858	1916
26		GLORIA F. ROSS TAPESTRY PROGRAM <sup>2</sup> (Arizona State Museum, University of Arizona)			Ross, Gloria F.	Designer	1923	1998
27		HELEN FARR SLOAN LIBRARY <sup>2</sup> (Delaware Art Museum)			Sloan, John Sloan, Helen Farr	Painter Painter	1871 1911	1951 2005
28		PAUL STRAND ARCHIVE <sup>2</sup> (Aperture Foundation)			Strand, Paul Strand, Hazel	Photographer Photographer	1890 N/A	1976 1983
29		JAN STUSSY FOUNDATION ARCHIVES <sup>2</sup> (Woodbury University)			Stussy, Jan	Painter	1921	1990
30		TWINING HUMBER AWARD (Artist Trust)			Twining Humber, Yvonne	Painter	1907	2004
31		ANDY WARHOL MUSEUM (Carnegie Museums of Pittsburgh)			Warhol, Andy	Painter	1928	1987
32		ANDY WARHOL PRESERVE (Nature Conservancy)			Warhol, Andy	Painter	1928	1987
33		JOHN YOUNG MUSEUM (University of Hawaii Foundation)			Young, John Chin	Painter	1909	1997

**Public Charities: Museums**

34	16-1596245	BURCHFIELD PENNEY ART CENTER (Buffalo State College)	1967		Burchfield, Charles Ephraim	Painter	1893	1967
35	04-3542086	CARLE MUSEUM OF PICTURE BOOK ART INC.	2001		Carle, Eric	Illustrator	1929	
36	13-5638284	LA NAPOULE ART FOUNDATION-HENRY CLEWS MEMORIAL <sup>1</sup>	1952		Clews, Henry	Painter	1876	1937
37	85-0479005	COUSE FOUNDATION	2001		Couse, Eanger Irving	Painter	1866	1936
38	38-3540079	PAUL DICKERSON STUDIO ART MUSEUM	2002		Dickerson, Paul	Sculptor	1961	1997



	EIN	PUBLIC CHARITY NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
39	11-3066597	SOCRATES SCULPTURE PARK INC.	1992		Di Suvero, Mark	Sculptor	1933	
40	10-6004510	AIDRON DUCKWORTH ART PRESERVATION TRUST	2002		Duckworth, Aidron	Painter	1920	2001
41	23-1877555	WHARTON ESHERICK MUSEUM	1973		Esherick, Wharton	Designer	1887	1970
42	85-0286586	THE FECHIN INSTITUTE	1981	2011	Fechin, Nikolay	Sculptor	1881	1955
43	41-2031280	STRAWBERRY LANE FOUNDATION INC. (dba Edward Gorey House)	2004		Gorey, Edward	Illustrator	1925	2000
44	04-3517288	ARTHUR GRIFFIN MUSEUM OF PHOTOGRAPHY <sup>1</sup>	2001		Griffin, Arthur	Photographer	1903	2001
45	88-0400144	TRIPLE AUGHT FOUNDATION	1998		Heizer, Michael	Sculptor	1944	
46	83-0335467	HARRY JACKSON MUSEUM	2001		Jackson, Harry	Painter	1924	2011
47	22-3694371	GROUNDS FOR SCULPTURE INC. <sup>1</sup>	2000		Johnson, J. Seward Jr.	Sculptor	1930	
48	74-2340423	CHINATI FOUNDATION	1985		Judd, Donald	Sculptor	1928	1994
49	86-0585312	ELIPHANTE LTD.	1988		Kahn, Michael Livant, Leda	Sculptor Sculptor	1936 1926	2007
50	36-4261067	JUN KANEKO MUSEUM	1999		Kaneko, Jun	Sculptor	1942	
51	33-1058583	LONGHOUSE RESERVE LTD.	2004		Larsen, Jack Lenor	Designer	1927	
52	33-0631685	SAM AND ALFREDA MALOOF FOUNDATION FOR ARTS AND CRAFTS	1995		Malooof, Sam	Designer	1916	2009
53	74-2748092	CHARLES W. MOORE FOUNDATION INC.	1995		Moore, Charles Willard	Architect	1925	1993
54	61-1472746	ISAMU NOGUCHI FOUNDATION AND GARDEN MUSEUM <sup>1</sup>	2004		Noguchi, Isamu	Sculptor	1904	1988
55	23-6268601	VIOLET OAKLEY MEMORIAL FOUNDATION	1964	1986	Oakley, Violet	Painter	1874	1961
56	85-0437114	GEORGIA O'KEEFFE MUSEUM <sup>2</sup>	1996		O'Keeffe, Georgia	Painter	1887	1986
57	59-1102352	ALBIN POLASEK FOUNDATION INC. <sup>1</sup>	2009		Polasek, Albin Sherwood, Ruth	Sculptor Sculptor	1879 1889	1965 1953
58	46-0445310	REDLIN ART CENTER <sup>1</sup>	1997		Redlin, Terry	Painter	1937	
59	13-3179600	FREDERIC REMINGTON ART MUSEUM	1995		Remington, Frederic	Painter	1861	1909
60	04-2450813	NORMAN ROCKWELL MUSEUM AT STOCKBRIDGE INC	1969		Rockwell, Norman	Illustrator	1894	1978
61	48-0685625	BIRGER SANDZEN MEMORIAL FOUNDATION	1958		Sandzen, Birger	Painter	1871	1954

	EIN	PUBLIC CHARITY NAME	R Y R	TYR	ARTIST NAME	ROLE	YOB	YOD
62	68-0422370	CHARLES M. SCHULZ MUSEUM AND RESEARCH CENTER	1999		Schulz, Charles	Cartoonist	1922	2000
63	57-0953887	PHILIP SIMMONS FOUNDATION <sup>1</sup>	2009		Simmons, Philip	Designer	1912	2009
64	86-0208931	COSANTI FOUNDATION	1993		Soleri, Paolo	Architect	1919	2013
65	86-1147083	CLYFFORD STILL MUSEUM	2006		Still, Clyfford	Painter	1904	1980
66	51-0592742	TASHA TUDOR MUSEUM	2007		Tudor, Tasha	Illustrator	1915	2008
67	26-2635896	TURRELL ART FOUNDATION	2009		Turrell, James	Sculptor	1943	
68	58-2421911	STEFFEN THOMAS MUSEUM AND ARCHIVE INC.	1999		Thomas, Steffen	Sculptor	1906	1990
69	91-1944562	DR. JAMES W. WASHINGTON JR. AND MRS. JANIE ROGELLA WASHINGTON FOUNDATION	1999		Washington, James W., Jr.	Sculptor	1909	2000
70	13-2661632	BYRD HOFFMAN FOUNDATION	1970	2000	Wilson, Robert	Designer	1941	
71	13-4144013	BYRD HOFFMAN WATERMILL FOUNDATION	2001		Wilson, Robert	Designer	1941	
72	86-0197576	FRANK LLOYD WRIGHT FOUNDATION	1983		Wright, Frank Lloyd	Architect	1867	1959
73	13-3221841	MANITOGA INC./THE RUSSEL WRIGHT DESIGN CENTER	1984		Wright, Russel	Designer	1904	1976
<b>Public Charities: Other</b>								
74	27-3916150	MARINA ABRAMOVIC INSTITUTE FOR PRESERVATION OF PERFORMANCE ART	2011		Abramovic, Marina	Performance Artist	1946	
75	13-3413704	ARCHITECTURAL BODY RESEARCH FOUNDATION INC. (DBA Reversible Destiny Foundation)	1988		Arakawa, Shusaku Gines, Madeline	Architect Architect	1936 1941	2010
76	94-3231120	RUTH ASAWA FUND	1995		Asawa, Ruth	Sculptor	1926	2013
77	30-0207085	ROMARE BEARDEN FOUNDATION INC <sup>1</sup>	2004		Bearden, Romare	Painter	1911	1988
78	45-4612639	JAMES AND CHARLOTTE BROOKS FOUNDATION INC.	2012		Brooks, James Park, Charlotte	Painter Painter	1906 1918	1992 2011
79	36-4164988	FRANCIS CHAPIN ART FOUNDATION	1997		Chapin, Francis	Painter	1899	1965
80	99-0304662	JEAN CHARLOT FOUNDATION	1973		Charlot, Jean	Painter	1898	1979
81	953240695	THROUGH THE FLOWER CORP.	1979		Chicago, Judy	Painter	1939	
82	31-1724940	CHIHULY CHARITABLE ORGANIZATION	2000	2002	Chihuly, Dale	Sculptor	1941	

	<b>EIN</b>	<b>PUBLIC CHARITY NAME</b>	<b>RYR</b>	<b>TYR</b>	<b>ARTIST NAME</b>	<b>ROLE</b>	<b>YOB</b>	<b>YOD</b>
83	34-1935710	BERNICE AND DAVID E. DAVIS ART FOUNDATION	2000		Davis, David Ensos	Sculptor	1920	2002
84	95-3450028	ANTHONY AND ELIZABETH DUQUETTE FOUNDATION FOR THE LIVING ARTS <sup>3</sup>	1980	2010	Duquette, Tony	Designer	1914	1999
85	20-7441605	AGUSTIN FERNANDEZ FOUNDATION	2007		Fernandez, Agustin	Painter	1928	2006
86	20-4656091	PERLE FINE RESTROSPECTIVE	2007		Fine, Perle	Painter	1905	1988
87	27-1308845	THE REBUILD FOUNDATION	2011		Gates, Theaster	Sculptor	1973	
88	13-1978163	FOUNDATION FOR CONTEMPORARY ARTS INC.	1999		Johns, Jasper	Painter	1930	
89	95-4629545	JOHN LAUTNER FOUNDATION	1998		Lautner, John	Architect	1911	1994
90	06-1578647	LAWRENCE CENTER FOR THE VISUAL ARTS	2001	2005	Lawrence, Jacob Lawrence, Gwendolyn Knight	Painter Painter	1917 1914	2000 2005
91	65-0596823	MARGARET LEFRANC ART FOUNDATION INC.	1996		LeFranc, Margaret	Painter	1907	1988
92	23-2366695	NAKASHIMA FOUNDATION FOR PEACE	1986		Nakashima, George Nakashima, Mira	Designer Designer	1905 1942	1990
93	14-1926353	LOUISE NEVELSON FOUNDATION INC.	2006		Nevelson, Louise	Sculptor	1899	1988
94	20-6969553	ED PASCHKE FOUNDATION	2006		Paschke, Ed	Painter	1939	2004
95	05-0519118	ANTHONY QUINN FOUNDATION	2007		Quinn, Anthony	Sculptor	1915	2001
96	23-7086878	CHANGE INC.	1970		Rauschenberg, Robert	Painter	1925	2008
97	80-0434773	AD REINHARDT FOUNDATION INC.	2010		Reinhardt, Ad	Painter	1913	1967
98	95-1051084	RYMAN-CARROLL FOUNDATION <sup>1</sup> (dba Ryman Arts)	2000		Ryman, Herbert Dickens	Illustrator	1910	1989
99	51-0395707	FRANK E. SCHOONOVER FUND INC.	2000		Schoonover, Frank Earle	Illustrator	1877	1972
100	13-13937106	HARRY SMITH ARCHIVES INC.	1998		Smith, Harry	Filmmaker	1923	1991
101	45-1263531	FLORENCE THOMAS ART SCHOOL INC.	2012		Thomas, Florence	Painter	1909	2007
102	31-1605982	CREATIVE CAPITAL FOUNDATION	1998		Warhol, Andy	Painter	1928	1987

EIN	PUBLIC CHARITY NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
<b>Supporting Organizations of Public Charities</b>							
103	13-6031969	ABBEY MURAL SCHOLARSHIP FUND TRUST (S/O National Academy of Design)	1972		Abbey, Edwin Austin	Painter	1852 1911
104	06-1601560	BENNY ANDREWS FOUNDATION INC. (S/O Ogden Museum and Robert Woodruff Library)	2002	2009	Andrews, Benny Humphrey, Nene	Painter Sculptor	1930 2006 1947
105	91-6478619	THE FLOW CHART FOUNDATION (S/O Bard College and Harvard University)	1991		Ashbery, John	Painter, Poet	1927
106	13-7031717	JOHN CAGE TRUST (S/O Cunningham Dance Foundation Inc.)	1994		Cage, John	Printmaker, Composer	1912 1992
107	52-7046647	THE THOMAS KINKADE FOUNDATION CHARITABLE TRUST (S/O Class of Charities Promoting Religious/Educational Activities)	2003		Kinkade, Thomas	Painter	1958 2012
108	95-4508376	LEONARD AND SUSAN BAY NIMOY FAMILY FOUNDATION (S/O Jewish Community Foundation)	1995	2006	Nimoy Leonard	Photographer	1931
109	13-7048968	EUGENIE PRENDERGAST TRUST (S/O Williams College Museum of Art)	1995		Prendergast, Maurice Brazil Prendergast, Charles	Painter Painter	1858 1924 1863 1948

<sup>1</sup> Former private foundation that has converted to public charity

<sup>2</sup> Public charity that received assets of a terminated private

<sup>3</sup> Public charity that has reverted to private foundation status (N=1)

EIN	PUBLIC CHARITY NAME	RYR	TYR	ARTIST NAME	ROLE	YOB	YOD
-----	---------------------	-----	-----	-------------	------	-----	-----

the artist as philanthropist  
strengthening the next generation of  
artist-endowed foundations

a study of the emerging artist-endowed  
foundation field in the US

study report supplement 2013

**SUPPLEMENTS TO VOLUME II**

Part B.

CONSIDERATIONS IN FOUNDATION PRACTICE

Part C.

COLLECTED BRIEFING PAPERS



# PART B.

## CONSIDERATIONS IN FOUNDATION PRACTICE

### Appendix B.

#### FOUNDATION PRACTICE – SUPPLEMENTAL

##### **E. The Literature of Estate Planning As It Pertains to the Interests of Visual Artists**

The report of the Aspen Institute’s National Study of Artist-Endowed Foundations, published November 2010 and available online at [www.aspeninstitute.org/psi/a-ef-report](http://www.aspeninstitute.org/psi/a-ef-report), addresses the establishment and administration of private foundations created and endowed by visual artists and their heirs and beneficiaries. The Study’s focus was the opportunity to strengthen the viability of new artist-endowed foundations in realizing their charitable purposes. Recognizing that a foundation’s viability is determined in many instances by choices made during the estate planning process, critical factors in that process were given specific attention in the Study Report and its briefing papers. **Volume I I. Appendix B. C. Artist-Endowed Foundations in the Literature of Estate Planning** notes that connection. This bibliography supplements that attention.

An ever-increasing number of publications written for specialists, as well as for the general public, is available on the topic of estate planning generally, reflecting in part the many changes to law and regulation in this arena in recent years at both the federal and state levels. A smaller body of literature addresses the estate planning interests of visual artists. The bibliography provided here is a descriptive survey of select texts published for the most part within the past ten years that aim to assist artists and/or their legal advisors in the estate planning process. This is supplemented with a few texts from the estate planning field generally.

These publications do not reflect tax legislation, regulation, and case law beyond their publication dates. Few of them reflect the most significant recent development, which is the American Tax Payer Relief Act of 2012, approved by Congress on January 1, 2013. The choice to include publications without this information is based on the value of their discussions on nontechnical topics; in all instances, up-to-date information should be sought from expert estate planning counsel.

Artists have special needs and opportunities in estate planning. In all cases, they should undertake this process with the guidance of expert estate planning counsel knowledgeable also about the special concerns of artists. For example, given the increase in the use of will substitutes, such as revocable



trusts, it is important that artists be advised by counsel knowledgeable in how these techniques interact with other bodies of law, such as copyright law.

Likewise, if an artist's estate plan will provide for the posthumous creation or funding of a private foundation, an attorney who is expert in private foundation law should review the estate plan to ensure that the assets and insiders planned for the foundation comply with regulations for private foundations generally, as well as for charitable nonprofit organizations in the particular state.

As with the Study Report and its associated publications, the information in this bibliography is general and solely educational and nothing in the bibliography is intended as legal advice.

## **I. Publications Addressing Artists' Interests in Estate Planning**

Crawford, Bridget J., and John Sare. *Estate Planning for Authors and Artists (Portfolio 815)*. 2nd ed. Arlington, VA: Tax Management, Inc., 2004–2013.

This publication takes as its audience estate planning professionals familiar with estate planning concepts generally, but seeking focused information on the issues and rules that are particularly relevant to authors and artists (“creators”). It offers an introductory overview of key estate planning issues for creators in light of the particular nature of creative assets, the character of creative careers, and the various potential intentions of creators for their works. Among other topics, sections address creators' copyright interests, including copyright termination rights; income taxation of the creator, the creator's estate, and beneficiaries; and estate and gift taxation of creators, noting factors that favor lifetime gifts to beneficiaries and those that favor testamentary transfers. The authors discuss criteria by which the time frame for paying the estate tax may be extended for substantially nonliquid estates. The use of trusts is reviewed and the gift tax deduction and estate tax marital deduction are discussed, including treatment of the non-US citizen spouse. Charitable transfers eligible for deductions to the income, gift, and estate tax are discussed, noting special concerns for contributions of copyrighted property; split-interest trusts with both charitable and noncharitable beneficiaries are included in this. A section on valuation for tax purposes addresses intellectual property, as well as artworks. The authors comment on other practical concerns, including the inventory of an artist's works, what it should comprise, and its use in estate administration; appointment of an art or literary executor or advisor; and estate administration, including specific steps in administering the estate of an artist. The publication's technical updates reflect the most recent tax legislation as of its publication date, noting among other matters the basic estate tax exclusion amount of \$5 million per person indexed for inflation, per the American Tax Payer Relief Act of 2012. The next edition of the publication, pending, is expected to address issues that arise when estate plans include bequests of creators' corporations to creators' private foundations.

Crawford, Tad. "The Artist's Estate." In *The Legal Guide for the Visual Artist*. 5th ed., 223–231. New York: Allworth Press, 2010.

Written for visual artists, this publication addresses the legal aspects of the business of art specifically from the perspective of creators. The chapter on artists' estate plans is a survey that aims to alert artists to matters of importance in the estate planning process so that they will be more effective participants as they work with legal counsel. The author flags risks in posthumous stewardship of artists' works, such as failure to protect the physical integrity of art, unauthorized reproductions, violation of restrictions in charitable bequests to museums, and precipitous sales of works. A general discussion reviews considerations in selecting executors and explains basics of estate taxes, trusts, valuation, calculation of the gross and taxable estate (including charitable gifts and bequests), the federal estate tax marital deduction, lifetime gifts and the federal gift tax deduction, and the use of life insurance to achieve estate liquidity.

Lerner, Ralph E., and Judith Bresler. "Tax and Estate Planning for Artists." In *Art Law, The Guide for Collectors, Investors, Dealers & Artists*. 4th ed., 1409–1470. New York: Practising Law Institute, 2012.

This two-volume treatise addresses laws and regulations governing the creation and business of art in the US and abroad from the perspective of key actors, including artists and their legal advisors. Within this larger work, the chapter on tax and estate planning for artists comments on artists' willingness to undertake estate planning in light of their potential views about such matters as the value of their art, the fairness of the tax code, and the trustworthiness of legal advisement. The publication reviews estate valuation for tax purposes, including blockage discount and penalties for understatement. The authors discuss charitable transfers of artworks during artists' lives and posthumously, including the role of trusts and how copyright interests influence these, as well as outright bequests to charitable organizations. They comment on procedures to protect the charitable deduction for a charitable bequest conditioned on prior discretionary bequests to friends and family. Noncharitable transfers during artists' lives and posthumously are reviewed, noting the federal gift and estate tax marital deduction; the role of trusts and how copyright interests influence these is discussed. The use of lifetime gifts to remove works from an estate is highlighted. The authors outline criteria for executors of substantially nonliquid estates to elect payment of the estate tax by installment.

Marie Walsh Sharpe Art Foundation. *A Visual Artist's Guide to Estate Planning*. Edited by Barbara Hofmann. Colorado Springs, CO: Marie Walsh Sharpe Art Foundation, 1998.

Marie Walsh Sharpe Art Foundation. *A Visual Artist's Guide to Estate Planning: The 2008 Supplement Update*. Edited by Barbara Hofmann. Colorado Springs, CO: Marie Walsh Sharpe Art Foundation, 2008.

Written specifically for visual artists and their advisors, these two publications are focused on the topic of estate planning for visual artists. Drawing on the proceedings of a conference of artists and professional advisors, the first section of the initial publication highlights questions frequently asked by artists about estate planning, including considerations in estate planning generally, as well as how to choose an attorney, accountant, and an executor. The second section offers a legal analysis of

pertinent issues from members of the Committee on Art Law of the Association of the Bar of the City of New York. Among other topics, this includes an explanatory overview of tax and estate planning, commentary on the role of artists' spouses/partners and issues of liquidity for small estates, a discussion of art valuation for tax purposes with an overview of the appraisal process, an outline of considerations in making charitable and noncharitable gifts of art (including the importance of artists maintaining an up-to-date inventory of their works), a checklist for executors and estate administrators, an introduction to private foundations, highlights of intellectual property considerations in estate planning, a discussion of conflict of interest issues in estate planning noting considerations in selecting an attorney to prepare an estate plan and selecting an executor, and a glossary of terms used in estate planning and administration. Among other topics, the 2008 publication updates issues and expands sections presented in the initial publication and also includes a supplemental discussion of considerations in placing artists' archival materials in institutional repositories.

Stapper, Erik J. "Trusts and Estates." In *Art Law Handbook*. 2nd ed., 1033–1109. Edited by Roy S. Kaufman. Gaithersburg, MD: Aspen Law & Business, 2000–2004.

This edited collection of chapters by art law practitioners offers guidance on legal and business issues central to art transactions for a broad audience, including artists and their legal advisors. The chapter on trusts and estates provides an overview of laws affecting the transfer of property during life or at death, noting that whether or not an artist's assets will be worth less than the estate tax threshold, their posthumous disposition must be considered. Among other matters, the chapter reviews the process by which wills are probated and discusses administration of the estate. This includes considerations in selecting an executor and commentary on the multiple potentials for conflict of interest in estate administration. The review of transfer taxes discusses, among various topics, federal gift and estate taxes, income tax, and the impact of state taxes. With respect to tax planning, the chapter addresses such matters as the relationship among estates of married artists, including noncitizen spouses, the role of trusts, life insurance, valuation of artworks, and charitable gifts and bequests.

## **2. Publications Addressing Aspects of Artists' Interests in Estate Planning**

Aspen Institute. *A Reading Guide to the Study Report for Artists and Their Family Members*. Washington, DC: Aspen Institute, 2013.

Based on the report of the Aspen Institute's National Study of Artist-Endowed Foundations, this publication is designed to facilitate use of the Study Report by artists and the family members who are supporting their exploration of private foundation creation as one option for posthumous philanthropy.

Grant, Daniel. *The Business of Being an Artist*. 4th ed., 204–208. New York: Allworth Press, 2010.

This reference book addressing all aspects of artists' careers includes a section offering observations on factors that influence valuation of an artists' estate, among these being valuation for estate tax purposes.

Merryman, John Henry, Albert E. Elsen, and Stephen K. Urice, eds. "The Artist's Life: Transfer Taxes." In *Law, Ethics and the Visual Arts*. 5th ed., 922–960. The Hague: Kluwer Law International, 2007.

Offering analysis and commentary on case law, this publication includes a chapter discussing transfer tax on artists' estates, with a general discussion addressing major issues in planning artists' estates.

Moore, Patrick. *Future Safe: The Present is the Future*. Updated ed. New York: Estate Project for Artists with AIDS, Alliance for the Arts, 1997.

Among other topics, the publication emphasizes the importance of artists maintaining an inventory of their works and developing a plan for posthumous distribution and stewardship of those works.

Society of American Archivists. *A Guide to Donating Your Personal or Family Papers to a Repository*. Chicago: Society of American Archivists, 2013.

This brochure describes the considerations and procedures for placing archival materials in institutional repositories, including archives, special collection libraries, museums, and historical societies.

Theobald, Sharon Smith, and Laurette E. McCarthy. *To Give and to Receive, A Handbook on Gifts and Donations for Museums and Donors*. Washington, DC: American Association of Museums, 2011.

The publication aims to provide guidance to museums and donors on the donation process, current standards, and best practices. It notes considerations for artists as donors and discusses promised gifts and bequests.

Tritt, Lee-Ford. "Liberating Estates Law From the Constraints of Copyright." In *Rutgers Law Journal* (Fall 2006). Camden, NJ: Rutgers University School of Law, 2006.

The author provides an in-depth analysis of the statutory copyright termination right as it might interact, in some cases unexpectedly, with trust-based estate planning practices increasingly in use for artists and authors.

### **3. Publications on Estate Planning and Administration Generally**

Burda, Joan M. *Estate Planning for Same Sex Couples*. 2nd ed. Chicago: American Bar Association Publishing, 2013.

Among other topics, the author takes up matters pertaining to lifetime and posthumous transfer of property absent benefit of provisions afforded spouses whose marriages are recognized for purposes of estate and gift taxation.

Internal Revenue Service. *Publication 559: Survivors, Executors, and Administrators*. Washington, DC: Department of the Treasury, 2013.

Issued annually, this publication, written for persons in charge of administering estates, outlines requirements and procedures for filing federal tax returns and paying taxes owed by an estate. It provides a basic explanation of how much money or property a taxpayer can give away during their lifetime or leave to their heirs at their death before any tax will be owed. Among many other matters, it discusses the provisions of the estate tax that generally exclude a portion of an estate's value below a specified minimum amount, noting the current basic exclusion amount, approximately \$5 million per person as of 2012, to be indexed for inflation in subsequent years, and explaining computation of the amount.

Pennell, Jeffrey N., and A. James Casner. *Estate Planning*. 8th ed. Chicago: CCH Wolters Kluwer, 2012.

This comprehensive treatise on the topic of estate planning is the eighth edition of a long-standing reference, written for an audience of legal practitioners. The authors note that estate planners must have a working knowledge of many fields of law to solve problems related to increasingly complex considerations in estate planning, and this fact makes the willingness and ability to refer matters and consult with other specialists an important part of the estate planner's arsenal. The publication treats all dimensions of its topic fully. Among many aspects, it reviews wealth taxes generally, including the federal gift tax, federal estate tax, generation-skipping transfer tax, state wealth transfer taxes, and income taxes, including the federal income tax on individuals and corporations and state income taxes. The authors discuss intestacy as estate planning by state law, wills and trusts as estate planning instruments, income taxation of trusts, estates, grantors, and beneficiaries, inter vivos (lifetime) transfers of property and associated wealth transfer taxation, life insurance and retirement benefits as transfers not subject to probate, considerations in concurrent property interests and future interests, marital deduction planning, charitable deduction planning, and estate administration and compliance.

# PART C.

## COLLECTED BRIEFING PAPERS

### 9. BRIEFING PAPERS – SUPPLEMENTAL

#### **9.8 PLANNING IN LIGHT OF TRENDS**

9.8.1 Foreword to Supplemental Briefing Papers

9.8.2 Authors' Affiliations

9.8.3 Incorporating in New York State: Forming Charitable Organizations with  
Cultural and Philanthropic Purposes  
(James J. Fishman)

9.8.4 Artist-Endowed Foundations Holding Stock in Artists' Corporations: A Costly  
Arrangement  
(Jill S. Manny)

9.8.5 Statutory Copyright Termination and Artist-Endowed Foundations  
(Lee-Ford Tritt)



## 9.8.1 Foreword to Supplemental Briefing Papers

The aim of the Aspen Institute’s National Study of Artist-Endowed Foundations is to help the next generation of artist-endowed foundations make the most of its donors’ generosity in service to a charitable purpose. During the course of the Study’s research, a variety of issues were identified that bear on the prospects of this emerging field broadly and potentially influence new artist-endowed foundations specifically. A number of these issues have not yet been addressed in the established literature of relevant fields with respect to their potential impact on the unique characteristics of artist-endowed foundations. It is the purpose of the briefing papers prepared for the Study to take up these subjects, add to the relevant literature, and seed a process to broaden the conversation and enhance the information context for new artist-endowed foundations.

The collected briefing papers featured in the Study Report published in 2010 address a range of topics, including: the public benefit requirement of private foundations as it derives from tax exemption; the private foundation prohibition on self-dealing as it applies to artist-endowed foundations and their distinctive characteristics and activities; and the significant transformation inherent in the shift from private ownership of artworks by an artist or artist’s heirs to ownership by a tax-exempt, private foundation. The supplemental briefing papers presented here should be read within the context of those published in 2010.

For this publication—Study Report Supplement 2013—three authors recognized as authorities in their respective fields were invited to address particular issues that have come to the fore since publication of the Study Report in 2010 and could have an impact on new artist-endowed foundations. These authors include specialists in New York nonprofit law and practice, private foundation law, and estate planning and copyright law. The papers are based on authors’ presentations made as panelists during the Seminar for Artist-Endowed Foundation Leaders: Issues in Practice and Policy, which took place November 16 and 17, 2012, hosted by the Milano Management Programs, Milano School of International Affairs, Management, and Urban Policy, the New School for Public Engagement, in collaboration with the Aspen Institute’s National Study of Artist-Endowed Foundations.

Briefing papers were reviewed in draft by the Study’s scholarly advisors, whose comments were provided to authors prior to each paper’s finalization, however the papers represent the opinion of their individual authors exclusively. In all cases, the briefing papers are solely informational and educational in purpose; they are not intended as legal advice and cannot take the place of advice from qualified legal counsel.

Authors of briefing papers prepared for the study are encouraged to continue developing and disseminating their papers as opportunities arise with a view to broadening discussion about artist-endowed foundations in multiple fields. Finally, authors hold copyrights to their respective papers and publication requires approval of that individual author. Papers should be cited by author and title as



“Briefing paper prepared for *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations: Study Report Supplement 2013*. Washington, DC: The Aspen Institute, 2013.”

## **Planning in Light of Trends**

Since publication of the Study Report in November 2010, the artist-endowed foundation field has continued to grow apace. With the emergence of new foundations, three critical trends have become evident, as follows:

*Incorporating in New York State:* Artist-endowed foundations increasingly deploy their art assets in direct charitable activities, such as study centers and exhibition programs. Those foundations forming in New York may find that their process of incorporation could fall under the purview of the state’s regulatory system for collection-owning charitable organizations, which views such entities as educational institutions (as are museums) and their art assets as educational collections, potentially subject to limits on deaccessioning. Artist-donors generally intend their art in part to be sold by their foundations in order to fund operations and endow philanthropic programs and therefore don’t intend their foundations’ art assets to be accessioned. Such intentions are likely to be at odds with the state’s system.

*Artists’ Corporations:* Beginning in the 1970s, artists in some cases were advised to incorporate their studio practice, rather than operate as a sole proprietor. Some artists took this advice. They established a corporation in which they retained ownership of all shares and then contributed to this entity their extant inventory of artworks, intellectual property, and in some cases studios and facilities, subsequently producing art works that were owned, along with the rights in those works, by the corporation. As a result, a growing number of artist-endowed foundations are receiving bequests that include a controlling interest in the artist’s corporation and the governing bodies of these foundations are discovering the expensive nature of this situation arising from limits by law on the business holdings of private foundations.

*Statutory Copyright Termination:* Reflecting advances in estate planning practices, artists’ estate plans increasingly are prepared using will substitutes, such as trusts. Although 60 percent of larger artist-endowed foundations are associated with artists who had no lineal descendants, those formed in recent years are increasingly more likely to be associated with artists with children. On a technical basis, there remain questions as to whether transfer of copyrights by will substitute, as opposed to by will, leaves in place the statutory rights of family heirs to take possession of artists’ copyrights at a later date, potentially presenting a challenge for those artists who intend to bequeath their copyrights permanently to a foundation.

The authors of three briefing papers presented here address these issues:

James J. Fishman outlines the process of incorporation for nonprofit entities in New York State and discusses how this process intersects with that state’s regulation of collection-owning charitable organizations as educational institutions. Fishman points to considerations raised by this regulatory

perspective, designed to serve the museum field, when applied to artist-endowed foundations and their art assets.

Jill S. Manny discusses issues that arise when shares in an artist's corporation are bequeathed to a private foundation, noting the limitations under federal tax law on private foundations' ownership of interests in business entities. Manny outlines considerations in foundation planning presented by these limitations and highlights potential decisions to be made by artists and the governing bodies of their foundations.

Lee-Ford Tritt reviews the interplay of copyright law and modern estate planning practices, exploring how these practices in some cases might serve to frustrate artists' intentions for permanent disposition of their copyrights other than to family heirs, for example to a foundation. Tritt notes considerations in estate planning with respect to artists' intellectual property and discusses potential steps to avoid such problems.



## 9.8.2 Authors' Affiliations

JAMES J. FISHMAN, Professor of Law, Pace University School of Law, and Coauthor, *New York Nonprofit Law and Practice: With Tax Analysis*, 2nd ed. Newark, NJ: LexisNexis Mathew Bender, 2007.

JILL S. MANNY, Adjunct Professor, New York University School of Law, and Executive Director, National Center on Philanthropy and the Law

LEE-FORD TRITT, Professor of Law, University of Florida College of Law, and Director, The Center for Estate Planning



## 9.8.3 Incorporating in New York State: Forming Charitable Organizations with Cultural and Philanthropic Purposes

JAMES J. FISHMAN

Because New York State is such an important center for the arts, many charitable organizations with cultural and philanthropic purposes are formed or seek to do business there. In most states, incorporation of charitable organizations is virtually automatic upon compliance with certain formalities. In contrast, New York has a unique and cumbersome incorporation process involving approvals and consents from various state agencies, all of this choreographed in a time-consuming process notable for fussy rules and arbitrary administrative decision-making. Aside from the time incorporation takes and the frustration generated, New York is among the most restrictive of states in reviewing incorporation papers. To top it off, the process is comprehensive—it bears on charitable organizations incorporating within the state as well as those formed in other states that seek approval to conduct business in New York.

This paper, prepared for the Aspen Institute’s National Study of Artist-Endowed Foundations, describes the state’s incorporation process for charities (not-for-profit entities generally). In particular, it considers the possible ramifications of this process for artist-endowed foundations, a type of charitable entity the Study’s findings tell us is highly likely to be created or operate in New York State and that in many cases is endowed with art assets that are deployed in study centers and exhibition programs in addition to being offered for sale periodically in order to support operations and endow philanthropic programs.

### **The Incorporation Process**

Before they can apply to the Internal Revenue Service for recognition of exemption from federal income tax, charitable entities, such as an artist-endowed foundation, first must be formally organized under the law of a particular state. In addition to selecting a jurisdiction, they will choose a legal form. This might be to organize as a not-for-profit corporation, which is the most common form, or a charitable trust. The reasons to select between these two forms are nuanced and beyond the scope of this paper.<sup>1</sup> Our discussion will focus on the predominant form—the not-for-profit corporation.

Two aspects of New York State law bear on the process of incorporating charitable organizations with cultural and philanthropic purposes, including those that own art assets. The first is the New York Not-for-Profit Corporation Law (N-PCL),<sup>2</sup> which applies to not-for-profit entities generally. The second is the New York State Education Law, which pertains to not-for-profit entities that have educational purposes, centrally or tangentially, and/or hold educational collections.<sup>3</sup>

In most jurisdictions incorporation is a one-stop, one-day or two-day procedure. In New York it can take two months or more. Here are the steps.

### **1. Reservation of the Corporate Name**

Usually, the first step in the incorporation process will be the reservation of the organization's name. Though this is not mandatory, it protects the organization from name peddlers. There are also statutory requirements that stipulate an entity's corporate form be evident in its name (use of "Inc.") and prohibit the use of certain names. For example, you could not use a name that might confuse the public with another organization or individual. Thus, the Jasper Jonzz Art Foundation would not pass the grade (I hope).

### **2. Consent of the Commissioner of Education**

In forming a not-for-profit corporation that has educational purposes, as do many artist-endowed foundations to some degree, pursuant to the New York State Education Law you must obtain the consent of the New York State Department of Education, a part of the Regents of the State of New York. Founded in 1784, the Board of Regents regulates all degree-granting educational institutions as well as all museums, historical societies, libraries, and similar collection-owning organizations, which together are deemed to be a dimension of a virtual, uber-entity—the "University of the State of New York"—comprising all public and private entities delivering educational services to the state's citizens. This is a unique construct found in no other state. The Department of Education also oversees and sets standards for 49 different professions ranging from medicine to shorthand reporting to massage therapy to interior design. Given its wide-ranging responsibilities, it should not be a surprise that the Board of Regents gives new meaning to the word "bureaucracy."

If the organization being incorporated merely has "educational purposes" in the broadest sense, then the New York Not-for-Profit Corporation Law (N-PCL) will apply. An organization devoted to promoting the visual arts is educational in broad terms, but not a degree granting institution and presumably would not come under the aegis of the Board of Regents. But that doesn't let it off the hook—it must first request the consent of the Commissioner of Education. And in requesting this consent to incorporate, specific language must be included in the entity's organizing documents, to wit: *Nothing herein shall authorize the corporation to operate or maintain a library, museum, archive or historical society or to own or hold collections.*<sup>4</sup>

If the Commissioner of Education agrees that educational purposes are tangential, he or she will grant a "consent," which is a waiver allowing the organization to incorporate under a statute other than the New York State Education Law, in this example the N-PCL. The organization may have to wait four to six weeks for this waiver document to arrive. The Department of Education is cash-strapped and burdened with antediluvian IT capacity.

It is not inconceivable that the Department of Education concludes that an artist-endowed foundation seeking incorporation does come under the supervision of the Board of Regents. In that scenario the rules and requirements of the Regents will govern because the foundation's educational purposes are

deemed central to its activities, not tangential. For example, the Department may conclude that the organization intends to operate a museum, a library, or an archive, or that it will own a collection—generally defined as a group of original tangible objects that have intrinsic artistic or cultural value and are accessioned.<sup>5</sup> Or the organization may have used in its proposed name a word whose use by law must be authorized by the Regents, such as *museum*.<sup>6</sup> This will mean that the foundation will have to incorporate under the Regents’ rules—an entirely separate process from doing so under the N-PCL.

There is an important distinction between the New York State/N-PCL and Internal Revenue Service approval processes for not-for-profit, tax-exempt institutions, on the one hand, and the scrutiny of the Department of Education/Regents when considering approval of “educational” corporations under its rules, on the other. The state and federal requirements focus on such matters as the drafting of documents, articulation of the charitable purposes, specification for the distribution of remaining assets to charitable entities upon dissolution, and declaration that the organization is exclusively charitable in its purposes and no part of its earnings shall inure to the benefit of its insiders. These are important factors, but extremely easy with which to comply. Failure to obtain incorporation under the N-PCL despite the delay of the process is probably the result of legal incompetence.

In contrast, scrutiny by the Department of Education/Regents is much more demanding. If it is determined that the proposed entity is a museum, library, archive, collection-owning entity, etc., it will be under the direct supervision of the Board of Regents and as such, subject to much stricter regulatory requirements than if it were a mere charity seeking to organize under the N-PCL. The Department of Education will evaluate the quality of the organization that seeks to be incorporated and the standards for this review come under the New York Education Law rather than N-PCL. The Department of Education/Regents approval process embodies what might be described as a “capacity and competency” perspective, requiring that a proposed entity demonstrate it has sufficient capacity and competency to fulfill the charitable purposes and deliver the educational services intended for the citizens of New York State.

Incorporation under the rules of the Board of Regents is a two-step process: obtaining a provisional and then an absolute charter. The Department may grant the organization a provisional charter for a probationary period of three to five years to see if it has adopted the Regents’ guidelines and standards. To obtain an absolute charter, the organization must meet standards that include, among others, financial stability, programmatic accomplishments, and reputation for excellence. There are also requirements for physical plant, financial resources, public access, and rules for governance.

The regulation of collection-owning charitable organizations incorporated under the rules of the Board of Regents reflects a museum-centric view of the world. Potential problems for artist-endowed foundations are the strict rules for deaccessioning and the prohibition on use of proceeds from sales of objects from a collection for anything other than the acquisition of new pieces for the collection or care of the collection. As detailed in the Study’s findings, artist-donors generally intend their art in part to be sold by their foundations in order to fund operations and endow philanthropic programs and therefore



generally don't intend their foundations' art assets to be accessioned. Such donor intentions are likely to be at odds with the system administered by the Department of Education/Regents.

For a small, fledgling artist-endowed foundation with greater hopes than evident resources and experience, these could be insurmountable hurdles to overcome. It appears that in some cases such organizations have chosen to form as charitable trusts, a type of entity whose formation process potentially falls outside this procedural regime.

### **3. Consent of the Attorney General Under Certain Circumstances**

For those entities that do not come under the Regents' supervision, and therefore receive the Commissioner of Education's consent, the next step to incorporate under the N-PCL is to file the certificate of incorporation with the Department of State. A few exceptions exist, including organizations with purposes that resemble a trade or business association, and these require the consent of the Charities Bureau of the New York State Attorney General. This usually is not a problem, but several weeks may pass before such approval will be received by the organization.

### **4. Filing the Certificate of Incorporation with the Department of State**

Filing the certificate of incorporation with the necessary approvals with the Department of State so that corporate existence commences would seem to be the easiest and most pro forma part of the procedure. Not so. It is the most frustrating part of incorporating. The Department of State is the modern equivalent of Dickens' Circumlocution Office, and has been described as the last refuge of 18th century English pleading and procedure. The certificate of incorporation will be bounced back for the most minor of discrepancies: filing a stray comma in the name. The Department of State has been known to reject a certificate for including language that the attorney general's office had required, but the State Department examiner disliked.

Beyond this, multiple examiners within the Department can disagree, so that refile to correct a discrepancy can result in rejection of a prior correction. And decisions can be whimsical. In one case, an attorney filed a certificate for a dance company named *Drastic Action*. The Department rejected the certificate and asked what "drastic action" was the organization going to engage in? It is hard to predict or sidestep such difficulties because the Department of State does not give advisory opinions. You have to file and be rejected.

### **5. Organizing as a Foreign Corporation**

To minimize the burden of this cumbersome process, some organizations choose to incorporate in another state that has simpler procedures, such as Delaware, and then conduct business in New York as a "foreign corporation"—an entity organized under the laws of a state other than New York but with permission to do business in New York. An organization doesn't have to register as a foreign corporation in New York if it merely holds board meetings, conducts grantmaking activities, or takes incidental programmatic actions, such as lends an artwork for exhibition. However, at the point that the organization crosses a certain threshold where it is conducting ongoing business or other activity in the state—owning or leasing property, employing people, generating sales, holding programs regularly—it

must file for approval in New York to do business as a foreign corporation, and the process of securing the necessary approvals is the exact same process detailed above involving the consent of the Commissioner of Education. (It should be noted that the requirement to secure approval as a foreign corporation is separate from and in addition to the requirement to register with and report to the New York State Attorney General's Charities Bureau in order to maintain assets in New York.)

Upon reflection, it is possible that a charitable organization incorporated in Delaware and seeking recognition as a foreign corporation so as to be able to operate in New York might discover that it must re-incorporate domestically under the Regents' rules, or forgo conducting business in the state.

## Conclusion

Changes to this scenario are on the way. After several years of discussion, amendment of parts of the N-PCL was passed by the New York State legislature in June 2013. Whether the governor will sign this legislation into law is uncertain as of this writing. Even if signed, it will not become effective until July 1, 2014. The most significant change for purposes of this discussion is that the Department of Education will not review proposed not-for-profits prior to incorporation, but may do so in certain circumstances after the organization receives its certificate of incorporation. If this change is enacted, it will speed up the incorporation process, but may merely delay the scrutiny.<sup>7</sup> Legal change is easier than bureaucratic reform, so the essence of this complex process will remain.

The situation depicted here does not mean that artist endowed foundations cannot incorporate in New York or become foreign corporations in the state. To be sure, some government officials will be helpful. It does mean that you should expect a delayed and frustrating experience and one that is not designed for organizations with characteristics common to artist-endowed foundations. No one likes to pay attorneys' fees, but should you decide to incorporate your foundation in New York, or want to have the foundation do business in the state as a foreign corporation, it is advisable to use experienced nonprofit counsel and to get that advice as early in the process as possible.

---

<sup>1</sup> For a discussion of pros and cons of the two forms, see Stephen K. Urice, "Creativity and Generosity: Considerations in Establishing Artist-Endowed Foundations," in *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations* (Washington DC: Aspen Institute, 2010).

<sup>2</sup> For a detailed discussion of this law, the reader may wish to consult *New York Nonprofit Law and Practice: With Tax Analysis*, by Victoria B. Bjorklund, James J. Fishman, and Daniel L. Kurtz (LexisNexis Mathew Bender, 2nd ed.)

<sup>3</sup> See New York State Education Department, Office of Counsel, Commissioner's Consents, Chapter 316 of the Laws of 2005, Text of Law at <http://www.counsel.nysed.gov/pamphlet9/chap316text.htm>.

<sup>4</sup> See New York State Education Department, Office of Counsel, Commissioner's Consents, Frequently Asked Questions at <http://www.counsel.nysed.gov/forms/ques.html>.

<sup>5</sup> See New York State Education Department, Office of Counsel, Education Corporations, Education Law and Rules, Selected Sections of the Rules of the Board of Regents (8 NYCRR) at <http://www.counsel.nysed.gov/pamphlet9/appendb.htm>.

---

<sup>6</sup> See New York State Education Department, Office of Counsel, Commissioner's Consents, Chapter 316 of the Laws of 2005, Summary at <http://www.counsel.nysed.gov/pamphlet9/chap316explan.htm>.

<sup>7</sup> If the organization has used language in its certificate that states the corporation is not authorized to operate anything chartered by the Board of Regents, including any specified list of institutions and activities as discussed above, it might escape post-incorporation scrutiny by the Department of Education. However, if the Department thinks the organization does come under the Regents' chartering authority, the legislation suggests it will have the power to investigate in the same way as before. Stay tuned.

## 9.8.4 Artist-Endowed Foundations Holding Stock in Artists' Corporations: A Costly Arrangement

JILL S. MANNY

### Introduction

Various visual artists have incorporated their studio practices—artistic works, related intellectual property, and facilities—and bequeathed the stock in the corporations to their private foundations. The bequests, structured over the past four decades, are now reaching artist-endowed foundations in increasing numbers. This structure, which leaves private foundations holding corporate stock, has certain negative tax consequences for the foundations that make it more complicated for the foundations to further their charitable missions. It is generally not an efficient structure from many perspectives. This paper, prepared for the Aspen Institute's National Study of Artist-Endowed Foundations,<sup>1</sup> examines the consequences of this arrangement and discusses possible strategies to limit its negative impact. This paper is not intended as legal advice, but as a general discussion of the issues that might face artists and their foundations. It is important that artists seek expert legal advice to direct the structure of their art holdings.

The primary difficulty for artist-endowed foundations holding stock in artists' corporations is that the art gets trapped inside of the corporation, and it is complicated and generally expensive to extricate the art without incurring a prodigious tax bill. In order to avoid situations that tie up valuable assets, it is important for artists to get expert advice on tax planning from lawyers well versed in tax law, private foundation law, and estate planning. Expert legal advice can preserve the charitable options of artists and those that oversee their foundations.

### Problems

Most of the potential problems being faced by artist-endowed foundations trapped in this structure result from federal income tax legislation enacted in 1969.<sup>2</sup> In that year, Congress enacted legislation to more stringently police private foundations as opposed to public charities under the theory that public charities are publicly accountable because they are dependent on the government and the public for funding, and therefore less likely to be used for the private purposes of their managers.<sup>3</sup> Some of the abuses that Congress sought to curb involved private foundations holding onto assets rather than distributing them for charitable purposes. Several of the restrictions enacted by Congress in 1969 are relevant to artists and their foundations.

First, the 1969 legislation, in part, limits the extent to which a business may be controlled by a private foundation and its major donors by limiting the amount of stock a private foundation, together with its major donors, can hold in a corporation. This provision requires foundations to divest

themselves of interests in businesses above a prescribed limit, and imposes penalty excise taxes on excess business holdings beyond this limit.<sup>4</sup> Congress clearly did not want private foundations to own corporations. The concern was that foundation managers, often wearing shareholder and officer hats in the corporation as well, might place the interests of the business ahead of the charitable responsibilities of the foundation.

The restriction on excess business holdings can create a problem for artist-endowed foundations that own a controlling interest in the entity holding the art. Liquidation of the corporation in order to eliminate excess business holdings generally will result in a substantial tax obligation that can consume financial assets or, where there is little cash, can necessitate large-scale, forced sale of the art. Although some artist-endowed foundations have chosen to sell art and in order to pay tax, many others will prefer an alternative approach.

Excluded from the definition of “business enterprise” and therefore not subject to the excess business holdings rules, however, are “functionally related businesses”—businesses that are related to the foundation’s exempt purposes.<sup>5</sup> Accordingly, one solution to the excess business holdings problem is to determine that a corporation is a functionally related business. There is some law that suggests that the Internal Revenue Service (“IRS”) may be willing to issue a positive ruling on that issue under certain circumstances—a ruling on a private foundation whose mission was to advance American music that received by bequest a controlling interest in a corporation holding a composer’s music concluded that the corporation was a functionally related business.<sup>6</sup> In addition, the IRS has recently issued a helpful ruling to an artist-endowed foundation facing an excess business holdings problem.<sup>7</sup>

A second relevant requirement of the 1969 legislation is a minimum distribution or “payout” requirement imposed on private foundations.<sup>8</sup> In order to encourage more generosity by foundations, Congress enacted a minimum payout requirement, which requires private foundations to distribute a certain amount each year for charitable purposes. The minimum distributable amount is five percent of the value of the foundation’s investment assets, including corporate stock.<sup>9</sup>

Again, functionally related assets—assets that are used directly to carry out a foundation’s exempt purposes—can be helpful here, as their value is excluded in determining the base on which the amount that must be distributed is calculated on the theory that these assets do not produce any income that is available for distribution.<sup>10</sup> For these purposes, artworks used by an artist-endowed foundation to further its exempt purposes<sup>11</sup> likely would be functionally related because they are used in the foundation’s exempt activities, unless, perhaps, the artworks are consigned to a gallery for sale, at which point the paintings become investment assets whose value is subject to minimum payout.<sup>12</sup> If the corporation holding the artwork is a functionally related business, the value of its stock is not taken into account for purposes of minimum payout rules.<sup>13</sup> It is therefore important for the corporation holding the art to be operated as a functionally related business—furthering the charitable and educational purposes of the foundation.

These rules and others enacted in 1969 that may require sales of corporate stock held by an artist-endowed foundation and mandatory distributions calculated on the value of corporate stock present particular problems for foundations that are asset rich and cash poor, such as artist-endowed foundations that hold stock in an entity that owns valuable art that it does not want to sell. In order to make requisite distributions, the foundation might be forced to sell art held by the corporation and to pay tax on the sale,<sup>14</sup> leaving the foundation with less art and less funds to carry out its charitable and educational activities. In addition to negative tax consequences, a large-scale, forced sale of art has the potential to depress the value of the remaining art and can run counter to a foundation's efforts to preserve and steward the artist's collected works.

Aside from these special private foundation rules, artist-endowed foundations in this situation can face potential unrelated business taxable income issues.<sup>15</sup> In other words, income that the private foundation receives from the artist's corporation might be subject to tax, even though the foundation is otherwise tax-exempt. There are two types of corporations—C corporations and S corporations<sup>16</sup>—and they present different problems with respect to unrelated business income tax.

If the entity holding the paintings is a regular C corporation, income from sales would be taxed to the corporation and passed through as dividends to the foundation.<sup>17</sup> The foundation would not be taxed on that income but it would get only after-tax dollars, so a significant portion of the proceeds from sales of the art would go to the government in the form of tax payments from the corporation. Furthermore, if the activity carried on by the artist's corporation is deemed to be a regularly carried on unrelated trade or business for the foundation, then the foundation itself will pay unrelated business income tax on the dollars it receives from the corporation at the highest corporate tax rates.<sup>18</sup> This unrelated business income tax issue can be avoided by ensuring that the corporation is a functionally related business for the foundation—that it furthers the exempt purposes of the artist-endowed foundation and is not a regularly carried on unrelated trade or business.<sup>19</sup>

If the entity holding the paintings is an S corporation, the S corporation will not pay tax on the proceeds from the sale of art, and all of the money will pass through to the private foundation.<sup>20</sup> That good news is offset by some bad news—all of the income that the foundation receives from the S corporation automatically will be subject to the unrelated business income tax,<sup>21</sup> further depleting funds available to the foundation for use in pursuing its charitable mission. Although ensuring that the S corporation is a functionally related business for the artist-endowed foundation remains significant on the issues of excess business holdings and minimum payout, functionally related business status will not eliminate the unrelated business income tax on income that flows from the S corporation to the foundation.

### **Potential Solutions<sup>22</sup>**

There are two possible sets of solutions here—one to ensure that the corporation furthers the purposes of the artist-endowed foundation and one to move the artwork out of the corporation with

as little tax incurred as is possible. An additional twist that must be considered in connection with any proposed solution is that often the artist-endowed foundation needs some cash both for administrative purposes and for grantmaking purposes, and holds lots of stock in the artist's corporation but very little cash.

The first set of possible solutions involves selling the art and avoiding treatment of the sales as a regularly carried on unrelated trade or business. This requires the foundation to put strictures on the sales process in order to manage the corporation like a related business. In order to accomplish this solution, the foundation would, first, limit the number of sales so that selling is not regularly carried on and not a significant business activity. Second, the foundation would cause its wholly owned corporate entity to use the art for educational purposes by, for example, conducting an active lending program and engaging in other educational activities with the art. As will be discussed more fully below, this may convince the IRS that the corporation's activity furthers the exempt purposes of the artist-endowed foundation.

The second set of possible solutions to the problematic structure of an artist-endowed foundation owning stock in the corporation that holds the artist's work involves contributing the art to a public charity. If it is consistent with the foundation's charitable purposes, the corporation could donate art to a public charity that it does not control, such as a museum. This solution works from many perspectives to get the artworks into the public realm without tax, but the artist's foundation may lose control over the artist's works and the gift does not generate funds to support the foundation's charitable activities. Alternatively, the artist-endowed foundation might establish a donor advised fund at a community foundation which would receive the corporation's contribution of art and then use the art sale proceeds to make grants consistent with the artist-endowed foundation's charitable purposes.<sup>23</sup> In many cases the community foundation may have expertise in those charitable purposes that the artist-endowed foundation would then not need to develop.

As another possible solution along these lines, the artist-endowed foundation might arrange for the formation of a supporting organization<sup>24</sup> to benefit a group of museums or other educational organizations, to which the corporation would contribute art for use in charitable activities and ultimately for sale with proceeds to benefit the supported organizations. Although the artist-endowed foundation might be concerned as to how the art would be used in this structure, it should be possible for the foundation to secure sufficient input to ease its concerns. For example, the supporting organization could support five museums and the supporting organization's board could consist of one trustee from each of the museums plus three trustees from the foundation. Although the private foundation technically would not control the board so the structure would not violate the rules for supporting organizations, it might be relatively simple for the foundation's representatives to forge alliances with a few of the museum trustees in order to enable the foundation's representatives to provide appropriate advisory guidance to the activities of the supporting organization and to inform its use of the art.

A final possible method for moving untaxed cash into the artist-endowed foundation from the corporation that owns the art would be for the foundation to enter into a service agreement with the corporation for an appropriate fee—the foundation would manage the art collection in a responsible manner and the corporation would pay for that management service. The management fee would be a reasonable and necessary expense for the corporation which might not have the level of expertise of the foundation in lending and managing art for charitable purposes. This structure might avoid unrelated business income tax on the foundation’s management fee because the service is offered only to one client—the foundation’s wholly captive entity—and because the management of the artist’s artworks and copyrights held by the corporation would be substantially related to the foundation’s exempt purposes, assuming that those purposes are properly expressed in the foundation’s organizing documents.<sup>25</sup>

### **Recent Guidance from the IRS**

In March 2013, the IRS tossed a lifeline to the artist-endowed foundation community through issuance of a Private Letter Ruling (PLR).<sup>26</sup> Private Letter Ruling 201323029 (the PLR) was requested by an artist-endowed foundation—a nonprofit private operating foundation (the Artist’s Foundation)<sup>27</sup> formed to further the “philanthropic and educational initiatives” of the artist and “to preserve and advance the global understanding of the legacy of his life and work.”<sup>28</sup> As outlined in the PLR, a corporation (the Artist’s Corporation) was formed by the artist (the Artist) during the Artist’s lifetime to house the Artist’s artistic enterprise (including both artworks and copyrights). The Artist was the sole shareholder in the Artist’s Corporation. In a common pattern, the Artist’s Corporation hired the Artist and his staff as employees, acquired and stored the materials used by the Artist, handled all aspects of the creation, shipment, storage, and insurance of the Artist’s work, and managed the sale, reproduction, and licensing of the work. Upon the death of the Artist, the stock in the Artist’s Corporation is to be transferred to the Artist’s Foundation, and the focus of the Artist’s Corporation’s activities will shift from art production to the management of the Artist’s collection and intellectual property.<sup>29</sup> The Artist’s Foundation, upon receipt of the stock in the Artist’s Corporation, intends to use the Artist’s collection and copyrights to “increase public exposure and understanding of the broad scope of [the Artist’s] work, advance [the Artist’s] scholarship, and encourage artists’ involvement in civic issues by showing that art can change the world.”<sup>30</sup>

The Artist’s Foundation applied to the IRS for a PLR to resolve several of the legal issues discussed under “Problems” above. First, the Artist’s Foundation requested a ruling that Artist’s Corporation will be a functionally related business<sup>31</sup> for the Artist’s Foundation holding the stock. An affirmative ruling on this point would mean both that the stock would not constitute excess business holdings<sup>32</sup> and that the stock’s value would not be taken into account in calculating the Artist’s Foundation’s minimum payout requirement.<sup>33</sup> Second, the Artist’s Foundation requested a ruling that management fees it received from the Artist’s Corporation would not be unrelated business taxable income because the activities it carries out for the Artist’s Corporation are substantially related to the Artist’s Foundation’s exempt purposes.<sup>34</sup> The Artist’s Foundation received favorable rulings on both issues. In other words, the IRS concluded that the Artist’s Corporation will be a functionally related business for



the Artist's Foundation and the compensation received by the Artist's Foundation for managing the artworks and the related copyrights will not constitute an unrelated trade or business, thus resolving the excess business holdings issue, the minimum payout issue, and the unrelated business income tax issues discussed above.<sup>35</sup>

Although this ruling is directed at and may be relied on only by the unnamed organization that applied for and obtained the ruling,<sup>36</sup> it may provide a workable model for other artist-endowed foundations confronting similar issues under the same or very similar structures and may provide guidance for artists and their advisors creating structures today and in the future. It is important to note, however, that the conclusions put forth by the IRS in the PLR will not provide comfort to all artist-endowed foundations holding stock in artists' corporations under all circumstances.<sup>37</sup> While the PLR represents an important step in untangling the chaos created by some of the existing structures, careful further steps and rigorous planning for future structures will be necessary to ensure the realization of artists' charitable intentions for their foundations, including preservation and stewardship of their works and legacies without impediments from the Internal Revenue Code.

## Lessons

Artists create and often maintain significant cultural assets that are important to society in general and also may provide a source of funding for the charitable goals of the artists. Decisions regarding structures for maintenance of these assets should be made with full knowledge and understanding of the legal implications of those structures. In light of this discussion, it is safe to conclude that depositing an artist's art into a corporation and bequeathing the corporate shares to a foundation can be messy and expensive. The art may become wedged in the corporation and potentially cause all sorts of problems for the artist-endowed foundation that owns the stock. So the first lesson is to be very cautious about using this structure. Today artists are more likely to use LLC's for these purposes rather than corporations, but some of the same problems may arise if the entity generates unrelated business income. The PLR may provide a workable model for some structures, but is aimed at only one taxpayer and, in any event, will not solve all problems in all circumstances. The second and most important lesson is that artists need expert counsel well versed in tax law, private foundation law, and succession planning. This may require an artist to retain a new set of lawyers just to deal with these unique and complex issues and to do so before irrevocable decisions are made.

---

<sup>1</sup> The author wishes to thank John Sare of Patterson Belknap Webb & Tyler LLP for his helpful insights, and David Holmberg and Margaret Cremin for their invaluable research assistance.

<sup>2</sup> Tax Reform Act of 1969, Pub. L. No. 91-172, 83 Stat. 487.

<sup>3</sup> See STAFF OF JOINT COMM. ON TAXATION, 91ST CONG., GENERAL EXPLANATION OF THE TAX REFORM ACT OF 1969 57-60 (Comm. Print 1970); WALDEMAR A. NIELSON, THE BIG FOUNDATIONS (1972).

<sup>4</sup> I.R.C. § 4943 (2006).

- 
- <sup>5</sup> Code Section 4942(j)(4) defines a functionally related business as (A) a trade or business which is not an unrelated trade or business (as defined in section 513), or (B) an activity which is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which is related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization. I.R.C. § 4942(j)(4)(A), (B) (2006).
- <sup>6</sup> Private Letter Ruling 8930047 (May 2, 1989).
- <sup>7</sup> See “Recent Guidance from the IRS,” *infra*. See also, Private Letter Ruling 201323029, 2013 PLR LEXIS 235 (March 12, 2013). (Private Letter Ruling 201323029).
- <sup>8</sup> I.R.C. § 4942 (2006).
- <sup>9</sup> *Id.*
- <sup>10</sup> I.R.C. § 4942(e).
- <sup>11</sup> For example, artworks used by the foundation for exhibitions, study collections, and other educational programs.
- <sup>12</sup> In other words, the value of the consigned artworks would be included in calculation of the minimum payout for the foundation. I.R.C. 4942 (2006).
- <sup>13</sup> *Id.*
- <sup>14</sup> The paintings might be inventory if the sale is not handled properly, and the basis is close to zero so sales proceeds might all be gain taxable at ordinary income rates. I.R.C. § 1221(a) (2006).
- <sup>15</sup> The Internal Revenue Code imposes a tax at corporate rates (trust rates in the case of trusts) on the unrelated business income of virtually all tax-exempt organizations, including private foundations. I.R.C. §§ 511-13; Treas. Regs. §§ 1.511-13. Generally, an income-producing activity will give rise to the tax if it is (1) a “trade or business,” (2) “regularly carried on,” and (3) not substantially related to the organization’s exempt purpose (aside from the organization’s use of the income to finance its exempt purpose(s)). I.R.C. § 513(a); Treas. Reg. § 1.513-1(a) (1967).
- <sup>16</sup> C corporations, taxed under Subchapter C of the Internal Revenue Code, are separate taxable entities, apart from their shareholders. STEPHEN SCHWARZ & DANIEL J. LATHORPE, *FUNDAMENTALS OF CORPORATE TAXATION: CASES AND MATERIALS* 14 (8th ed. 2012). Thus, C corporation income is taxed twice, at the shareholder and corporate levels. *Id.* at 5. S corporations are taxed under Subchapter S of the Internal Revenue Code and are in most cases subject to taxation at the shareholder level only. *Id.* at 23. However, S corporation eligibility is restricted, in general, to corporations that have no more than 100 shareholders, have no nonresident alien shareholders, have no non-individual shareholders (estates, certain trusts, and certain tax-exempt organizations are permitted), and have no more than one class of stock. I.R.C. § 1361(b).
- <sup>17</sup> I.R.C. §§ 11(a), (b), 301, 316.
- <sup>18</sup> I.R.C. § 511(a).
- <sup>19</sup> I.R.C. § 513(a); Treas. Reg. § 1.513-1(a).
- <sup>20</sup> I.R.C. § 1366(a), (b).
- <sup>21</sup> I.R.C. § 512(e) (2006).
- <sup>22</sup> Note that the IRS has recently issued a Private Letter Ruling which provides some clarification and may create a workable model to resolve some of the issues that arise in this context. See “Recent Guidance from the IRS,” *infra*.
- <sup>23</sup> Such as education, environmental preservation, or AIDS research, for example.
- <sup>24</sup> A supporting organization is a public charity structure that might be helpful in this situation. Setting up and maintaining a supporting organization would require expert legal advice and input. See I.R.C. § 509(a)(3).
- <sup>25</sup> Treas. Reg. § 1.513-1(d).
- <sup>26</sup> Private Letter Ruling 201323029. Private Letter Rulings are directed only to the organization requesting the ruling and the Internal Revenue Code provides that Private Letter Rulings may not be used or cited by others as precedent. I.R.C. § 6110(k)(3).
- <sup>27</sup> See I.R.C. §§ 509(a), 4942(j)(3).
- <sup>28</sup> Private Letter Ruling 201323029.

---

<sup>29</sup> Private Letter Ruling 201323029.

<sup>30</sup> *Id.* In order to accomplish these goals, the Artist’s Foundation planned to engage in the following activities: “1) respond to requests from museums, scholars, publishers, and others seeking knowledge and understanding of [Artist’s] life and artistic legacy; 2) develop a comprehensive scholarly resource—a *catalogue raisonné*—that documents all work produced by [Artist] and illustrates the evolution of his work over his lifetime; 3) create a robust digital repository of images of [Artist’s] work so as to support scholarship on a global basis; and 4) prepare, record, edit, and archive a series of interviews with artists and scholars that will constitute an oral history of [Artist’s] life and artistic legacy.” *Id.*

<sup>31</sup> I.R.C. § 4942(j)(4).

<sup>32</sup> I.R.C. § 4943.

<sup>33</sup> I.R.C. § 4942(e).

<sup>34</sup> I.R.C. §§ 512, 513(a). Treas. Reg. § 1.513-1(d).

<sup>35</sup> Private Letter Ruling 201323029.

<sup>36</sup> See Footnote 26, *supra*.

<sup>37</sup> For example, an artist-endowed foundation wishing to sell all of the artworks held in a controlled artist’s corporation may require additional guidance and comfort from the IRS. Similarly, arrangements distinct from that presented in the Private Letter Ruling 201323029 (artists’ entities with different relationships, structures, and goals) may not find comfort in the IRS conclusions presented in the PLR.

## 9.8.5 Statutory Copyright Termination and Artist-Endowed Foundations

LEE-FORD TRITT

### I. Introduction

An artist faces many unique challenges in the estate planning context, with difficulties becoming further compounded if the artist wishes to transfer his or her copyright interests to a charitable foundation. Unlike other types of property an individual might own at death, copyrights may produce unforeseen consequences and very odd results for an artist's estate. In large part, these complexities are due to the termination of transfer rights ("termination rights") found under the Copyright Act of 1976 (the "1976 Act").<sup>1</sup> In fact, termination rights create problematic implications not only for estate planning techniques, but also for tax law and not-for-profit scenarios, including those centered on artist-endowed foundations.

Works of art often comprise the most financially valuable assets bequeathed to an artist-endowed foundation, but copyrights are important as well. Setting aside the question of monetary value, ownership of the artist's copyrights is essential if an artist-endowed foundation's charitable purpose is to be realized by programs intended to increase public access to and knowledge about the artist's art. This typically involves activities that require use and stewardship of copyrights—such as publications, exhibitions, licensing of images and text, etc. In light of the important charitable role played by copyrights, this paper, prepared for the Aspen Institute's National Study of Artist-Endowed Foundations, examines the question of termination rights as they might impact artists' plans to bequeath their copyrights permanently to a foundation. As a point of reference, copyright law refers to all copyright creators as "authors," whether the copyrightable work is a novel or a painting;<sup>2</sup> for the purposes of this discussion, we'll follow that lead.

For authors, and others with a stake in their copyright interests, termination rights are a topic of increasing importance. Generally, the 1976 Act provides an author (or, upon the author's death, the author's statutorily-defined class of heirs—spouse, children, and grandchildren) the right to reclaim a previously assigned copyright during a five-year window of opportunity that opens at a date after the original transfer. In theory, termination rights provide authors a "second bite at the apple" by enabling authors to take back previously assigned copyright interests in order to reassign them for a second chance to profit.

The possibility of termination applies to all types of transfers (whether donative or not), except those transfers made by the author's last Will and Testament. For example, a properly executed contract that purports to transfer "all right, title, and interest" in a copyright nonetheless may be terminated. Even if

the contract states that the copyright assigned is “in perpetuity” or “for the duration of the copyright term,” the copyright remains subject to termination rights. Unless the copyright is transferred by the author’s Will, termination rights may apply.

One often overlooked concern created by termination rights is a concept referred to as “estate bumping.”<sup>3</sup> After an author’s death, the author’s statutorily-defined class of heirs may be entitled to termination rights and thereby potentially control the disposition of the author’s copyright interests.<sup>4</sup> This enables unintended beneficiaries—including those that have been expressly disinherited—the ability to rewrite, or “bump,” an author’s estate plan. Moreover, an author cannot effectively divest these heirs of termination rights or alter their power of termination. In this manner, the 1976 Act ensures that copyright law, rather than an author’s exercise of testamentary intent, ultimately determines who controls the author’s copyrights after death.

Termination rights have the potential to create serious pitfalls for unwary estate planners and charitable organizations. The consequences of termination rights can be severe, including estate bumping and adverse income, gift tax, and estate tax implications. Beyond this, termination rights may also trigger difficulties in light of laws prohibiting transactions between private foundations and their insiders. Some of these problems arise due to the disparate nature of the pertinent legal disciplines—many estate planners simply are not yet aware of termination rights and their implications and many copyright experts may be unacquainted with modern estate planning techniques. Therefore, it is essential for an author to discuss with counsel the potential of estate bumping—don’t assume counsel understands the nuances of termination rights.

In addition, estate planning problems associated with termination rights are intensified because the statutory provisions are complicated, the regulations offer little insight, and the legislative history is sparse. As a chief example, uncertainty remains as to whether the statutory interpretation of the “by Will” exception could be interpreted broadly enough to include Will-substitutes, such as revocable (or, “living”) trusts, which are an increasingly popular testamentary instrument. If this interpretation is not possible, which is a distinct possibility, then the transfer of copyrights by Will-substitutes leaves in place the right of authors’ statutory heirs to take ownership of the copyright interests, potentially presenting a challenge for those authors who intend to bequeath their copyrights permanently to a foundation.

Until the uncertainty is resolved as to whether the statutory interpretation of the “by Will” exception could be interpreted broadly enough to include Will-substitutes, prudence should lead an author and his or her counsel to deal with copyrights outside of the trust context. Moreover, an author should be cautious concerning any lifetime transfer of a copyright to other testamentary-like instruments, including revocable trusts or charitable trusts, or any other entities, until the permutations of the 1976 Act are better understood. As we shall see below, once the copyrights are transferred during the lifetime of the author, a specific bequest under the author’s Will may not be enough to insulate the copyrights from the frustrating effects of estate bumping. Therefore, an understanding of both the technical details and

the policy underlying the creation of termination rights is essential for estate planners and organizations that wish to recognize—and mitigate—the potential adverse consequences of estate bumping.

## **II. Copyright Law**

Fully comprehending the conflict between effective estate planning and copyright law requires a rudimentary understanding of copyright property characteristics and the law that governs copyright.

In general, copyright law in the United States is constitutionally based and is governed entirely by federal law.<sup>5</sup> Article I, Section 8, Clause 8 (the “Copyright Clause”), provides that Congress has the power to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”<sup>6</sup> The concept underlying the creation and protection of copyrights is that granting authors the exclusive right to exploit their works for a period of time will spur intellectual innovation and growth in general.<sup>7</sup> In essence, by essentially granting authors a durational monopoly on the exploitation of their works, the Framers provided an incentive for authors to develop arts, which benefit and enrich society at large. Therefore, Congress’s task in defining the scope of copyright interests is to balance the interests of authors against the stated public purpose of the Copyright Clause.

Accordingly, Congress protects authors’ interests by granting copyright protection to original works of art that are “fixed in any tangible medium of expression.”<sup>8</sup> Copyrightable works include: (i) literary works; (ii) musical works, including any accompanying words; (iii) dramatic works, including any accompanying music; (iv) pantomimes and choreographic works; (v) pictorial, graphic, and sculptural works; (vi) motion pictures and audiovisual works; (vii) sound recordings; and (viii) architectural works.<sup>9</sup>

Copyright law grants authors four distinct rights in original works for a finite period of time: (i) the right to reproduce the copyrighted work; (ii) the right to prepare derivative works; (iii) the right to distribute copies to the public; and (iv) the right to perform the works or display the works in public.<sup>10</sup> This period of exclusive exploitation, however, is limited in duration. The 1976 Act (as modified in 1998 by the Sonny Bono Copyright Extension Act) provides that the copyright term of a work created after January 1, 1978 will last for the author’s life plus seventy years.<sup>11</sup> When the term of the copyright expires, the work enters the public domain and can be used by anyone.<sup>12</sup>

### ***Ownership of the Tangible Work versus the Copyright Therein***

One copyright concept that can be particularly difficult to grasp concerns the difference between the ownership of a copyright interest and the ownership of the material object in which the work is fixed (i.e., the physical copyrightable work). The ownership of the copyright is a separate and distinct property right from the ownership of a physical embodiment of the underlying work.<sup>13</sup> Accordingly, a copyright is not conveyed by transferring a material copy of the underlying work, nor is the material object conveyed by transferring the copyright interest. For example, an artist may sell an original painting but still retain ownership of the copyright in the painting, preventing the owner of the physical

painting from making reproductions of the painting without the authorization of the copyright owner, and retaining such reproduction rights for herself.

It follows that for estate law purposes, a copyright will not pass according to a testator's Will under a specific bequest of the underlying work itself, unless specifically stated, because a copyright is a separate and distinct property interest from the physical embodiment of the work. If the copyright is not otherwise specifically bequeathed, the copyright will pass with the testator's residuary clause,<sup>14</sup> if any, or under the intestacy laws of the testator's domicile at death. Estate planners must take care in drafting a bequest to be sure that both the tangible work and the intellectual property rights are conveyed to the intended beneficiary, if so desired.

Generally, and similar to other property right owners, an author can exercise or assign any or all of her rights, or transfer ownership of the copyright altogether, during her lifetime or at death. Congress, however, enacted a unique property right afforded only to copyright authors—a non-assignable right to recapture previously assigned copyright interests. These recapture rights were first implemented through the “renewal system” promulgated in earlier copyright acts, but are now realized through termination rights under the 1976 Act.

### **III. Copyright Recapture**

The principle that authors should have the right to recapture previously assigned copyrights has a long history in American copyright law.<sup>15</sup> Congress wanted to grant authors a second opportunity to benefit from their works after an original assignment. The policy underlying the copyright recapture system was formulated as a protection for authors against the superior bargaining positions of entrepreneurs and art patrons interested in acquiring copyrights.<sup>16</sup> With no way to know the degree of acceptance their works would achieve, authors often licensed their copyrights for minimal compensation. As a result, entrepreneurs often realized substantial profits relative to their outlay. A recapture system was conceptualized to “permit authors, originally in a poor bargaining position, to renegotiate the term of the grant once the value of the work has been tested.”<sup>17</sup> Accordingly, Congress wanted to grant authors a unique second chance to profit from their work by creating a right to recapture any previously assigned copyright interests.

#### **A. Renewal Rights**

Prior to the 1976 Act, this recapture system was accomplished through the creation of a two-term “renewal system”.<sup>18</sup> Congress divided the duration of copyright protection into two distinct temporal terms. Under the Copyright Act of 1909, authors held exclusive rights in a copyright work for an initial term of 28 years and held the right to renew the copyright for an additional 28 years.<sup>19</sup> If authors assigned their rights in the copyrightable work during this initial term, the authors could later recapture these assigned rights by securing a second term of years. In other words, all previously assigned, sold or gifted copyright interests reverted back to the author in the second term. In theory, the right of renewal gave an author a second chance to profit from the copyright by canceling any transfer made during the initial term and returning the copyright to the author for a second term.

The renewal right vested in the author only if the author was alive at the end of the initial term. If the author died during the initial term, the work did not automatically fall into public domain. Instead, the renewal term rights (and any profits derived from the future exploitation of the copyright) passed to a statutorily-defined class of heirs (the author's spouse, children, and grandchildren). Practically speaking, this meant that the author could not assign or transfer a renewal interest unless he or she survived the expiration of the first term. Any assignment before the renewal interest vested was voidable at the surviving family members' option. For example, if an author assigned or bequeathed the renewal interest (during his lifetime or at death) to a third party outside the statutorily-defined class of heirs, including a revocable trust, a private foundation, a partnership or a corporation, and died before the renewal term vested, the author's spouse and children could "bump" the assignment and reclaim the copyright—effectively disregarding the author's intent.

Congress intended this right to be unassignable and exclusive to authors and their families so that they "could not be deprived of this right."<sup>20</sup> Nevertheless, the Supreme Court held in 1943 that an assignment of the renewal right was a valid exercise,<sup>21</sup> thereby thwarting Congress' intention.<sup>22</sup> This decision, in effect, allowed publishers to use their initial bargaining power to require authors to sign away the renewal right at the outset of the contractual relationship, thereby defeating the purpose of the recapture system and the renewal term.

## **B. Termination Rights**

The 1976 Act abandoned the two-term renewal system for works created on or after January 1, 1978 and replaced it with termination rights.<sup>23</sup> Now, an author (or the author's statutorily-defined heirs-- spouse, children, and grandchildren) may terminate (or "bump") any lifetime assignment or license of a copyright with respect to any work created on or after January 1, 1978, so long as the termination right is executed properly within designated time periods. This allows the author (or the author's statutory heirs) to recapture any remaining value in the copyright interest. In practical terms, even if the author specifically sold all of his rights and interests in a copyright, the author (or the author's statutory heirs) could still terminate the transfer and take back the copyright without having to compensate the assignee.

### ***When Transfers May be Terminated***

The termination rights provisions are found in two separate sections of the 1976 Act. Section 203 governs copyright transfers made *on or after* January 1, 1978, permitting authors (or the author's surviving spouse, children, and grandchildren) to terminate any transfer or assignment of copyright during a five-year window of opportunity that begins thirty-five years from the date of the transfer.<sup>24</sup> Section 304(c) governs transfers *before* 1978, permitting termination during a five-year window of opportunity that begins fifty-six years after the work was copyrighted. This paper will focus on Section 203 termination provisions—transfers made on or after January 1, 1978.<sup>25</sup>

Terminations are not automatically triggered, but must be affirmatively exercised by an author (or the author's statutory heirs) during the applicable time frame established.<sup>26</sup> (Remember, the provisions specifically exclude the termination of transfers made by Will and, under Section 203, only apply to transfers implemented by the author and not the author's devisees or assignees.) Complicated rules



govern when and how the termination right must be exercised. In general, termination under Section 203 “may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of the execution of the grant.”<sup>27</sup> To effectuate termination, the author (or the author’s statutory heirs) must serve the grantee with written notice that must state the effective date of termination (the effective date must fall within the prescribed five year period).<sup>28</sup> The notice must be served not less than two years or more than ten years prior to termination date.<sup>29</sup> In essence, Section 203 creates a thirteen-year window of opportunity for termination notice.

It is important to differentiate between the vesting of the right to terminate, the vesting of the potential ownership in the soon-to-be terminated copyright, and the actual ownership of the copyright after termination. The difference determines who has the right to terminate and who will receive the copyright at the applicable termination date. Remember, an author’s interest in the previously assigned copyright does not merely vest at the commencement of the termination period. An author’s interest in the right to retake the copyright vests when timely notice is served on the grantee, which can occur up to ten years before commencement of the five year termination period.<sup>30</sup> But, the actual copyright interests themselves do not revert to the author (or the author’s statutory heirs) until the applicable termination date.<sup>31</sup> This creates the potential of a time gap between the service of the notice of termination and the actual termination date when the copyright reverts back. For instance, ten years before the copyright is actually terminated, the author can duly serve notice and thereby has a vested interest in the soon-to-be terminated copyright, but the author does not own the copyright outright until the actual termination date.

This time gap can create some issues. For example, if the author dies after serving notice of termination *but before* the termination date, does the copyright pass according to the author’s wishes as part of the author’s estate or do the statutory heirs get to re-serve notice of termination and receive the property upon the termination date? A properly effectuated termination notice restores ownership of a copyright to all those who possessed termination rights as of the date that the notice was filed. Therefore, if an author serves a notice of termination, but dies prior to the date of repossession, the copyright nonetheless will pass to the author’s estate rather than to the statutory heirs.<sup>32</sup> In contrast, if the author survives to a date at which he or she could have served a termination notice, but dies without serving one (therefore, leaving the lifetime transfer in place), the statutory heirs, and not the estate, gain the right to serve such notice and take the reversion at the applicable termination date. After the actual termination date, the terminator (whoever this may be) becomes free to commercially exploit the copyright or transfer it to others.

### ***Which Transfers May be Terminated***

Any exclusive or nonexclusive transfer of copyrights, or of any right under a copyright, may be terminated provided the transfer meets all of the requirements of the termination provisions.<sup>33</sup> Unlike the previous renewal system, termination rights are very difficult to lose and cannot be contracted away, waived, or assigned. “Not even a specific, well [drafted contract] by an author to forgo the termination right is binding on [the author].”<sup>34</sup>

These termination rights apply to all transfers and assignments except for transfers effectuated by the author's Will.<sup>35</sup> In contrast to the renewal system, the only type of copyright transfer that cannot be terminated or bumped by the author's statutory heirs is one executed by the author's Will. Basically, all inter vivos (lifetime) transfers remain bumpable.

### **Who May Terminate Transfers**

Termination rights are exercisable only by the author so long as the author survives. If the author dies before the window of opportunity to serve the notice of termination opens (or, after the window has opened but before the author actually serves notice of termination) the right to terminate—as well as the right to any reversionary interest in the copyright—passes to the author's statutory heirs.

Termination rights pass by operation of law only to the author's surviving spouse, children, and grandchildren; the author may not give or bequeath termination rights to anyone outside the statutorily-defined class of heirs, and any gift or bequest of termination rights is subject to "bumping." This operation evidences Congress's intent to give the benefits of copyright recapture to author's statutory heirs, rather than the author's assignees or devisees.

Generally, the author's statutory heirs consist of the surviving spouse,<sup>36</sup> children, and grandchildren, if any, and the author's executors, administrators, personal representatives, and trustees, if no members of the first class are found.<sup>37</sup> If the author dies leaving only a spouse (and no children or grandchildren), the spouse takes the entire termination interest. If the author dies leaving only children or grandchildren (and no surviving spouse), the entire termination interest is divided among the children and grandchildren on a *per stirpetal* basis – an equal share for each child, with a deceased child's share divided among the deceased child's descendants.<sup>38</sup> The deceased child's interest can be executed by majority action of his or her surviving children.<sup>39</sup> If the author dies leaving both a surviving spouse and children or grandchildren, the spouse takes half of the termination interest, while the remaining half interest is divided among the author's children on a *per stirpetal* basis.

The exercise of a termination right requires agreement between statutory heirs owning more than half of the termination interest.<sup>40</sup> Consequently, if the author is survived by a spouse and children, the surviving spouse must join with at least one child in order to terminate. If the author is survived only by children, then a majority of these children must join in a termination. If there are only two statutory heirs, either can disrupt the other's plans for termination. In the event the author dies leaving no surviving spouse, children or grandchildren, the termination right vests in the author's executor, administrator, personal representative, or trustee.<sup>41</sup> Where there is more than one statutory heir, the termination right is divided and apportioned among the statutory heirs by statute.<sup>42</sup>

## **IV. Estate-Bumping**

Because of the nature of termination rights, authors are practically limited in determining to whom they can transfer their copyright interests,<sup>43</sup> are precluded from using many efficient and effective estate planning techniques, and are unable to control the timing and nature of their donative transfers. In many

circumstances, termination rights potentially undermine the intentions of those authors who are charitably inclined.

Estate bumping is a phenomenon created and promulgated under federal copyright law. As previously discussed, an author cannot strip the statutorily-defined class of heirs of termination rights or alter the size of the interest that vests in any particular heir under the current code.--the only exception to termination rights are transfers made by the author's Will. As a result, any lifetime assignment by the author (donative or otherwise) is subject to being "bumped" by the author's statutory heirs if the author does not live long enough to act on the termination rights (i.e., duly serve a notice of termination) or if the author survives the window of opportunity to serve a notice of termination but dies before doing so and the window for serving notice remains open. Though termination rights do not apply to transfers executed by Will, a conflict between copyright law and testamentary freedom exists because of the practical implications of the termination rights provisions.<sup>44</sup> This conflict is due to the failure of the copyright code to carve-out similar exceptions for other types of donative transfers which have testamentary effect, such as Will-substitutes (i.e., revocable trusts), charities, and other modern estate planning mechanisms. "Estate-bumping," therefore, is a creature of the copyright code.

Because many estate planning practitioners are not yet aware of the existence and nature of termination rights and some copyright practitioners are unacquainted with modern estate planning techniques, the potential of the copyright law "bumping" an author's carefully prepared estate plans looms large in many situations. If estate planning practitioners are unaware of, or fail to plan for, the estate-bumping effects of termination rights, they will continue to plan copyright authors' estates using common estate planning techniques, and continue to expose the disposition of those estates to vulnerability.

To illustrate this situation, a brief discussion of revocable trusts, one of the chief estate planning mechanisms (other than Wills) through which testamentary freedom flows, is useful in order to understand the adverse effects of the copyright statute in the estate planning context. Admittedly, there are numerous common estate planning techniques that can come into conflict with termination rights, but this discussion focused specifically on revocable trusts will serve to demonstrate the potential pervasiveness of estate-bumping and its effect on testamentary freedom and asset disposition.<sup>45</sup>

### **Revocable Trusts**

In many states, Wills are no longer the primary dispositive estate planning instrument. Revocable trusts (sometimes called "living trusts") are increasingly used in place of Wills for the management and distribution of an individual's assets at death. A revocable trust is a Will-substitute that disposes of an individual's assets at death.<sup>46</sup> The revocable trust is quickly becoming the testamentary instrument of choice in states with a wealth of intellectual property, such as California, Florida, and New York.

Revocable trusts are popular due to their significant advantages over Wills.<sup>47</sup> One great advantage of revocable trusts is that they are generally not subject to court-supervised probate administration. Subsequently, the process is more cost-effective and the instrument is usually not included in public court records.<sup>48</sup> In contrast, when an individual dies with only a Will, the Will is probated and an

inventory of the probate assets is generally required to be filed with the court. Both the Will and the inventory of assets are generally matters of public record. The public nature of the Will probate process has many practical disadvantages for certain individuals. For example, an individual may disinherit a child or leave assets to children in disproportionate shares. An individual may leave assets to a friend or co-worker, and the public nature of the probate process could lead to others misconstruing their intentions.<sup>49</sup> An individual may be gay and desire to avoid potential Will contests from heirs under the state's intestacy scheme by keeping the dispositions of assets private or out of a Will. Putting the dispositive provisions of an estate plan into a revocable trust has the effect of keeping the dispositions private and shielding the composition of the estate's assets from the public eye.

Revocable trusts also provide benefits in an elder law context, by providing for the potential incapacity of the grantor. If a grantor of a funded revocable trust becomes incapacitated, the trustee can manage the assets for the incapacitated individual's benefit free from the otherwise necessary appointment of a costly court-supervised guardian.<sup>50</sup>

There are other advantages to using a revocable trust as well. Immediately upon the grantor's death, a trustee moves into a position to manage securities, pay expenses, and make distributions to beneficiaries without the delay of probate. In addition, creditors are often unable to attach trust property after the grantor's death. Finally, trusts created under a revocable trust agreement are generally not subject to the court supervision that is required for many actions involving trusts under a Will. The appointment, removal, and resignation of trustees, the changing of the situs of the trust (for example, to reduce state income tax), can be accomplished more easily and economically.

As noted, termination rights attach to all assignments of copyrights except those effectuated by an author's Will. Technically, transfers to or by a revocable trust are not transfers "by Will." Therefore, all dispositions of copyrights by a funded revocable trust may be subject to the estate-bumping aspects of termination rights. It should be noted, however, that one commentator has suggested (though without citation to a source) that a court might interpret the "by Will" provision of the termination statute to include transfers by Will-substitutes, including revocable trusts.<sup>51</sup> Despite this possibility, prudence would seem to be the best course at this point. Even if the meaning of the statute's plain language was open for interpretation, until the uncertainty is clarified, estate planners are well advised not to gamble with their client's copyright interests. Funding a revocable trust with copyright interests may expose the client's estate to the harsh results of estate bumping. An example demonstrates the potential risks.

*Scenario 1:* Sue, a well-established and wealthy artist, creates a private foundation for charitable purposes, which she names the ABC Foundation. Sue is unmarried and has three children. Sue periodically makes lifetime charitable gifts of cash to the ABC Foundation for operating expenses and other charitable purposes. With a desire to provide a charitable means for the long-term stewardship of her remaining artworks and the copyrights in her life's work, Sue executes a revocable trust agreement that, upon Sue's death, transfers all of Sue's artworks and the copyrights to the ABC Foundation. Sue next executes a Will that specifically bequeaths any remaining artworks and copyrights to the ABC Foundation and the residuary of her estate (a very substantial amount) to

her children. After the execution of the documents, Sue funds the revocable trust with all of her remaining artworks and any and all copyrights (i.e., Sue transfers ownership of the art and copyrights to the revocable trust). Shortly thereafter, Sue dies. Accordingly, the Trustee of Sue's revocable trust transfers the remaining artworks and the copyrights in all of her works to the ABC Foundation. Sue's children inherit a substantial estate consisting of non-copyright assets.

Unfortunately, Sue's children may be able to bump the intended charitable gift to the ABC Foundation and take outright ownership of the copyright interests themselves. Sue's transfer of her copyright interests to the revocable trust was technically a lifetime transfer, not "by Will." If Sue dies before exercising her termination rights or before the respective windows to serve termination notices on the various copyrights close, Sue's children may duly serve termination notices and take the copyrights from the ABC Foundation.

In addition, Sue's bequest under her Will of the copyright interest is useless. At Sue's death, she does not own any copyright interests to bequeath under her Will (Sue had already transferred her copyright interests to the revocable trust). Sue's Will may only dispose of the property she actually owns at her death—which does not include the copyrights. Therefore, no copyrights will pass to the ABC Foundation under Sue's Will.

Note the difference between a funded revocable trust and an unfunded revocable trust. If Sue had not funded her revocable trust during her lifetime, but used her Will to fund the revocable trust at her death, this would have been a transfer "by Will" and her estate would be free of any unintentional estate bumping. However, Sue would not have benefitted from any of the previously discussed advantages of a funded revocable trust.

### **Other Types of Lifetime Transfers**

While Will-substitutes, such as revocable trusts, can conflict with termination rights, there also may be problems with estates planned exclusively using a Will. In particular, once copyrights are transferred during the lifetime of the author, a specific bequest under the author's Will may not be enough to insulate the copyrights from the frustrating effects of estate bumping.

*Scenario 2:* Sue permanently licenses a portion of the exclusive interests of her copyrights to a corporation for an income stream, but retains other exclusive interests of the copyrights. By Will, Sue bequeaths all of her copyright interests to the ABC Foundation and the residuary of her substantial estate to her children. (The Will is Sue's only dispositive instrument; there is no revocable trust.) After Sue's death, only Sue's retained interests will pass to the ABC Foundation and be safe from the potential of being bumped by the exercise of termination rights. The exclusive interests that were permanently licensed to the corporation remain with the corporation because Sue did not live long enough to exercise any termination rights. However, in this scenario, Sue's statutory heirs may still terminate the assignment to the corporation. When the statutory heirs duly exercise their termination rights, the interests licensed to the corporation will pass to the statutory heirs and not to the ABC Foundation as Sue intended.

## V. Further Potential Complications

Although these scenarios demonstrate that the conflicts between copyright law and some types of popular estate planning techniques present sufficient difficulties unto themselves, it is possible that an additional level of complexity may result from the involvement of a private foundation or a charitable split-interest trust.

It is a hypothetical but not unreasonable question as to whether statutory heirs, in exercising termination rights of copyrights that were transferred during the author's lifetime to a revocable trust, and then distributed after the author's death to the author's foundation as intended by the author's estate plan, might engender a situation that runs afoul of the prohibition on self-dealing promulgated under Internal Revenue Code §§ 4941.<sup>52</sup> This section of the federal tax code imposes an excise tax on certain transactions (acts of self-dealing) between a private foundation (or charitable trust) and certain "disqualified persons," including substantial contributors to the foundation, managers of the foundation, and members of the families of such persons, including spouses, children, and grandchildren.<sup>53</sup> The tax is imposed on the disqualified person who engages in acts of self-dealing,<sup>54</sup> and in addition, a tax may be imposed on the foundation's managers who knowingly approve the transaction.<sup>55</sup> Additional taxes may be imposed if the self-dealing act is not corrected.

The excise tax applies to a number of types of transactions between a foundation and a disqualified person, including sales or exchanges, leases, loans, the furnishing of goods or services, payment of compensation, and the transfer of private foundation assets.<sup>56</sup> The fact that the transaction is fair and reasonable does not insulate the transaction from the prohibition on self-dealing (except in limited instances for reasonable compensation). The tax also applies to certain indirect transactions with disqualified persons.

The author's statutory heirs are disqualified persons with respect to the author's foundation. Whether or not the exercise of termination rights by the statutory heirs potentially runs afoul of the private foundation self-dealing prohibition, it is very likely that a payment by the foundation to the statutory heirs, for example to compensate them for declining to exercise the termination rights, would be prohibited. Beyond this, were the statutory heirs to be members of the foundation's governing body, which is not unusual, other questions might arise apart from the private foundation rules. For example, members of a governing body have a fiduciary duty of loyalty, regulated by state attorneys general, to act solely in the best interest of the charitable organization.<sup>57</sup> Would the act of exercising the termination rights to the detriment of the foundation's interests be a breach of this fiduciary duty?

## VI. Artists' Intentions

Artists have many reasons to establish a foundation and bequeath their copyrights to it, among other assets. As noted at the outset, ownership of the artist's copyrights is essential if the artist-endowed foundation's charitable purpose is to be realized by programs intended to increase public access to and knowledge about the artist's art. This typically involves activities that require the use and stewardship of copyrights, such as publications, exhibitions, licensing of images and text, etc.

No doubt there are many artists whose families are blessed with harmonious relations and whose statutory heirs will see it as a filial duty to honor the artist's intentions to permanently bequeath his or her copyrights to a foundation, regardless of the termination right afforded them by the copyright law. But that will not be the case for all artists. Financial gain is only one motivation in these situations and, in fact, may be nominal. The desire to control the artist's legacy through control of the artist's copyrights can also be a motivation. And motivations can change through the generations. Not surprisingly, in some instances, one role for an artist-endowed foundation is to insulate the artist's works and copyrights from the control of family members who the artist believes, for whatever reason, are not qualified to be stewards. But whatever an artist's motivation, whether charitable or protective or a combination of these, there remains the challenge of realizing the artist's testamentary intentions in light of existing copyright law.

## VII. Conclusion

In a modern estate planning context, the ability of a statutorily-defined class of heirs to estate-bump the testamentary intent of authors has broad public policy implications as well as a high potential to bear upon or even stymie useful and widely accepted estate planning techniques, including the use of revocable trusts and the making of charitable gifts. Estate planning within the framework of current copyright law is a minefield for authors and the estate planners who structure their legacies. Only with an understanding of termination rights and their potential estate-bumping effects, along with a reasoned approach to estate planning in this context, can estate planners avoid exposing authors' copyright estates—and the interests of intended recipients, including charitable entities—to the unexpected and unfavorable outcomes of estate bumping.

It bears re-stating that the termination rights exception for transfers made "by Wills" provides an author with a narrow remedy to estate bumping. Until the uncertainty is resolved as to whether the statutory interpretation of the "by Will" exception could be interpreted broadly enough to include Will-substitutes, prudence should lead an author and his or her counsel to deal with copyrights outside of the trust context. Moreover, an author should be cautious concerning any lifetime transfer of a copyright to other testamentary-like instruments, including revocable trusts or charitable trusts, or any other entities, until the permutations of the 1976 Act are better understood. Be forewarned . . . once the copyrights are transferred during the lifetime of the author, a specific bequest under the author's Will may not be enough to insulate the copyrights from the frustrating effects of estate bumping.

---

<sup>1</sup> Act of Oct. 19, 1976, Pub. L. No. 94-553, 90 Stat. 2541 (codified as amended at 17 U.S.C. §§101-810 (2006)).

<sup>2</sup> The creator of a copyrightable work is referred to as the "author" regardless of the nature of the work. See, e.g., 17 U.S.C. § 106A.

<sup>3</sup> For a detailed discussion of the estate bumping phenomenon under federal copyright law, see Lee-Ford Tritt, *Liberating Estates Law from the Constraints of Copyright*, 38 RUTGERS L.J. 109 (2006).

<sup>4</sup> 17 U.S.C. § 203.

<sup>5</sup> States may not enact copyright protections that conflict with federal law. 17 U.S.C. § 301.

- 
- <sup>6</sup> To this end, the Supreme Court has said that copyright law should be construed to benefit the public at large rather than to protect individual authors. See *United States v. Paramount Pictures, Inc.*, 334 U.S. 131, 158 (1948) (“The copyright law, like the patent statutes, makes reward to the owner a secondary consideration. . . . The sole interest of the United States and the primary object in conferring the monopoly lie in the general benefits derived by the public from the labors of authors.” (citation and internal quotation marks omitted)); see also *Twentieth Century Music Corp. v. Aiken*, 422 U.S. 151, 156 (1975); *Goldstein v. California*, 412 U.S. 546, 555 (1973); *Mazer v. Stein*, 347 U.S. 201, 219 (1954).
- <sup>7</sup> Ann Bartow, *Intellectual Property and Domestic Relations: Issues to Consider When There Is an Artist, Author, Inventor, or Celebrity in the Family*, 35 FAM. L.Q. 383, 384 (2001), at 384 (“The general theory underlying intellectual property law is that individuals will expend more time, energy, and resources in innovative, creative pursuits if the fruits of their endeavors are likely to lead to financial rewards.”).
- <sup>8</sup> 17 U.S.C. § 102(a) (“Copyright protection subsists . . . in original works of authorship fixed in any tangible medium of expression . . . from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device”).
- <sup>9</sup> 17 U.S.C. § 102(a)(1)-(8).
- <sup>10</sup> 17 U.S.C. § 106(1)-(5).
- <sup>11</sup> In the case of joint works, the copyright term is measured by the life of the last surviving joint author plus 70 years. In addition, the copyright term for a “work made for hire” (generally, works made by an employee) lasts for a term of 95 years from the date of publication of the work, or 120 years from its creation date, whichever expires first. 17 U.S.C. § 302.
- <sup>12</sup> 17 U.S.C. § 302.
- <sup>13</sup> Current copyright law, as enacted by the 1976 Act, states that “[t]ransfer of ownership of any material object . . . in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object.” 17 U.S.C. § 202.
- <sup>14</sup> A residuary clause is a provision in a Will that disposes of any remaining estate assets after satisfying the testator’s specific bequests and devises.
- <sup>15</sup> For a detailed discussion of the historical evolution of the copyright recapture schemes and mechanisms under federal copyright law, see Tritt *supra* note 4.
- <sup>16</sup> See H.R. REP. NO. 60-2222, at 14 (1909) (“It not infrequently happens that the author sells his copyright outright to a publisher for a comparatively small sum. If the work proves to be a great success and lives beyond the [initial] term, . . . your committee felt that it should be the exclusive right of the author to take the renewal term, and the law should be framed as is the existing law, so that he could not be deprived of that right.”). This paternalistic approach stemmed from the widely held view that publishers and other large corporate entrepreneurs would naturally have superior bargaining positions. In reality, “unlike real property, . . . [a copyright] is by its very nature incapable of accurate monetary evaluation prior to its exploitation.” MELVILLE B. NIMMER & DAVID NIMMER, NIMMER ON COPYRIGHT § 9.02, at 9-30 (1996).
- <sup>17</sup> H.R. Rep. No. 2222, at 14 (1909).
- <sup>18</sup> For a discussion of the renewal system and the phenomenon known as Will bumping, see Tritt, *supra* note 16; Francis M. Nevins, Jr., *The Magic Kingdom of Will-Bumping: Where Estates Law and Copyright Law Collide*, 35 J. COPYRIGHT SOC’Y 77, 114 (1988); Michael Rosenbloum, *Give Me Liberty and Give Me Death: The Conflict Between Copyright Law and Estates Law*, 4 J. INTELL. PROP. L. 163, 201-02 (1996).
- <sup>19</sup> Pub. L. No. 349, §§23-24, 35 Stat. 1075, 1080-81 (1909).
- <sup>20</sup> H.R. Rep. No. 60-2222, at 14 (1909).
- <sup>21</sup> *Fred Fisher Music Co., Inc. v. M. Witmark & Sons*, 318 U.S. 643 (1943).
- <sup>22</sup> As observed by Justice White in *Mills Music Inc. v. Snyder*, 469 U.S. 153, 185 (1985) (White, J. dissenting) (Congress’s attempt to grant authors a future copyright interest “was substantially thwarted by this Court’s decision in *Fred Fisher Music Co. v. M. Witmark & Sons*.”).



- 
- <sup>23</sup> For thorough explorations of the evolution, mechanism, applications and limitations of termination rights, see generally Tritt *supra* note 4; and Sean Stolper, *Termination Rights: An In-Depth Look at Looming Issues Under the Copyright Act of 1976*, 13 TEX. REV. ENT. & SPORTS L. 33 (2011).
- <sup>24</sup> Copyright transfers executed on or after January 1, 1978 began to vest in 2003 (for grants made in 1978) and the first wave of actual terminations under this statutory provision will in 2013 (1978 + 35 years).
- <sup>25</sup> Sections 203 and 304(c) share significant commonality concerning termination rights, particularly excluding termination of grants made by a Will. One of the main differences, however, is that Section 304(c) applies to grants made by the author and any statutorily-defined heirs while Section 203(2) applies exclusively to grants executed by the author. The difference in the statutory requirements for termination between transfers made before 1978 and transfers made in or after 1978 is the basis for the issues central to several high profile termination cases, including some of A.A. Milne copyrights in Winnie the Pooh, some of John Steinbeck's copyrights in later works, and Eric Knight's copyrights in *Lassie*. See respectively, *Milne es rel. Coyne v. Stephen Slesinger, Inc.*, 430 F.3d 1036 (9<sup>th</sup> Cir. 2005), *Penguin Group (USA) v. Steinbeck*, 537 F.3d. 193 (2<sup>nd</sup> Cir. 2008), and *Classic Media, Inc. v. Mewborn*, 532 F.3d 978 (9<sup>th</sup> Cir. 2008). For pertinent discussions concerning how the courts are interpreting the differences, see Joshua Beldner, *Charlie Daniels and "The Devil" in the Details: What the Copyright Office's Response to the Termination Gap Foreshadows About the Upcoming Statutory Termination Period*, 18 B.U. J. SCI. & TECH. L. 199 (2012); and Michael J. Bales, *The Grapes of Wrathful Heirs: Termination of Transfers of Copyright and "Agreements to the Contrary,"* 27 *Cardozo Arts & Ent. L.J.* 663 (2010).
- <sup>26</sup> To effectuate a termination of previously transferred copyrights, proper notification is required as dictated by both the copyright statute and the Register of Copyrights. 17 U.S.C. §§ 203(a)(4)(B), 304(c)-(d); 37 C.F.R. § 201.10. If the proper notification is not made during the mandated term, the author will lose the ability to recapture the copyright that had been granted. 17 U.S.C. § 203(b)(6).
- <sup>27</sup> 17 U.S.C. § 203(a)(3). If the grant covers the right to publication, however, the five year period begins on the earlier of thirty-five years from the date of publication or forty years from the date of execution. *Id.*
- <sup>28</sup> 17 U.S.C. § 203(a)(4)(A). Section 203(a)(4) requires compliance with other formal requirements of notice as well.
- <sup>29</sup> *Id.* A copy of the notice also must be recorded in the Copyright Office before the effective date of termination. *Id.*
- <sup>30</sup> 17 U.S.C. § 203(a)(4)(A).
- <sup>31</sup> *Id.* §§ 203(b)(2), 304(c)(6)(B).
- <sup>32</sup> *Bourne Co. v. MPL Commc'ns, Inc.*, 675 F. Supp. 859, 862 (S.D.N.Y. 1987) (stating that vested rights under a terminated grant passed to the author's estate when the author died after notice of termination had been served but before rights under the terminated grant reverted), *modified and amended by* 678 F. Supp. 70 (S.D.N.Y. 1988).
- <sup>33</sup> Under Section 203(a), termination rights apply exclusively to grants executed by the author, not grants made by the author's devisees or assignees (this is in contrast to Section 304(c) terminations).
- <sup>34</sup> Bartow, *supra* note 7, at 402.
- <sup>35</sup> See 17 U.S.C. §§ 203(a), 304(c) and 304(d). In addition, termination rights do not apply to works made for hire. *Id.*
- <sup>36</sup> The United States Supreme Court, in *United States v. Windsor*, 570 U.S. \_\_\_ (2013) held section 3 of the Defense of Marriage Act ("DOMA") to be unconstitutional. Section 3 of DOMA had barred same-sex married couples from being recognized as "spouses" for purposes of federal laws. For federal copyright purposes, the "author's 'widow' or 'widower' is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried." *Id.* § 101 (2000) (emphasis added).
- <sup>37</sup> 17 U.S.C. § 203(a)(2).
- <sup>38</sup> The statute defines "grandchildren" as the "surviving children of any dead child of the author." *Id.* § 203(a)(2)(B).

- 
- <sup>39</sup> *Id.* § 203(a)(2)(C); see also H.R. REP. NO. 94-1476, at 125 (1976), reprinted in 1976 U.S.C.C.A.N. 5659, 5741.
- <sup>40</sup> *Id.* § 203(a)(1).
- <sup>41</sup> 17 U.S.C. § 203(a)(2)(D).
- <sup>42</sup> *Id.* § 203(a)(2).
- <sup>43</sup> In addition, termination rights call into question the very nature of any donative transfer of copyrights—whether the transfer is an irrevocable transfer, a revocable transfer, or a split interest. Generally, an analysis of gifts, sales, and other transfers for gift and estate tax purposes is partially based upon the irrevocable nature of such transfer. The right to terminate a grant therefore raises multiple issues, which include the valuation of the right to terminate, the inclusion of assets in the estate of a decedent possessing the right to terminate, and the effect, if any, on certain intended irrevocable transfers, such as charitable and marital deductions.
- <sup>44</sup> For an opposing view of termination rights vis-a-vis testamentary freedom, see Lydia Pallas Loren, *Renegotiating the Copyright Deal in the Shadow of the “Inalienable” Right to Terminate*, 62 FL. L. REV. 1329 (2010). (“Some have criticized the termination provisions as interfering with an author’s freedom to dispose of her estate. However, . . . the termination right is more properly characterized as a new estate . . . As a new estate, a termination right does not interfere with any ownership rights of the author.”) *Id.*, at 1347-1348.
- <sup>45</sup> For a full treatment of the various ways in which termination rights can bump an authors’ estate plans (including gift and estate tax planning and the use of family holding companies), see Tritt *supra* note 4.
- <sup>46</sup> The creator of the revocable trust, sometimes referred to as a “grantor” or a “settler,” transfers title of certain assets to the revocable trust. During the grantor’s lifetime, the trust can be revoked or amended by the grantor at any time. At the grantor’s death, the assets held by the trust pass according to the trust instrument and thus avoid the probate process. The revocable trust agreement works in conjunction with a “pour-over” will, a will that merely directs that any assets still in the grantor’s name should pour-over and be disposed of in accordance with the terms of the revocable trust agreement. Accordingly, the revocable trust agreement contains most of the substantive and dispositive provisions that are normally found in a will.
- <sup>47</sup> For a general discussion concerning the advantages of revocable trusts, see JOEL C. DOBRIS ET AL., *ESTATES AND TRUSTS: CASES AND MATERIALS* 511-12 (2d ed. 2003).
- <sup>48</sup> See *id.*
- <sup>49</sup> See KATHERYN G. HENKEL, *ESTATE PLANNING AND WEALTH PRESERVATION: STRATEGIES AND SOLUTIONS* ¶ 7.02, at 7-3 (abr. Ed. 1998). See generally *id.* ¶ 7.03 (discussing revocable trusts).
- <sup>50</sup> See JESSE DUKEMINIER ET AL., *WILLS, TRUSTS AND ESTATES* at 317 (7th ed. 2005) (“Many persons are reluctant to have a spouse or parent formally adjudicated an incompetent.”); see also HENKEL, *supra* note 43, ¶ 7.03, at 7-7.
- <sup>51</sup> RALPH E. LERNER & JUDITH BRESLER, *ART LAW: THE GUIDE FOR COLLECTORS, INVESTORS, DEALERS, & ARTISTS* at 1440 (4th ed, 2012) (“The question remains whether a will substitute . . . escapes any claim of termination after the artist’s death. . . It appears from the legislative history that Congress was attempting to eliminate the concept of will-bumping and that a court could interpret the term “the will” to include a revocable trust.”). *Id.*, at 1440. Following this logic, though, all donative lifetime transfers arguably could fit within the “by Will” exception to the termination rules—which would be a wonderful result and eliminate the concept of estate bumping altogether. A revocable trust is testamentary in nature in that it disposes of an individual’s assets at death. And, a revocable trust basically is the alter ego of the grantor—during the grantor’s lifetime, the trust can be revoked or amended by the grantor at any time. For these reasons, and more, revocable trusts are analogous to a testamentary transfer at death by Will. But, transfers to a revocable trust are actual lifetime transfers (not death time) and, in many ways, are seemingly no different than donative transfers to an irrevocable trust or private foundation or an established charitable organization. Under these estate planning techniques, though, the property owner generally could not rescind the donative transfer (similar, in ways, to non-donative assignments). In the end, there are many aspects of revocable trusts

---

that make them distinct from Wills. And, the plain language of the statute states by “Wills.” Although interpretation of the statute to include all donative transfers would be welcomed by many, it is clear that at this point significant questions remain about the likelihood of that outcome.

<sup>52</sup> For an overview of the private foundation prohibition on self-dealing as it applies to artist-endowed foundations and their distinctive characteristics and activities, see Marion R. Fremont-Smith, “Federal and State Laws Regulating Conflict of Interest and Their Application to Artist-Endowed Foundations,” in *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations*, ASPEN INSTITUTE (2010).

<sup>53</sup> See I.R.C. § 4946(a) for the definition of disqualified persons for the purposes of § 4941.

<sup>54</sup> See I.R.C. § 4941(a)(1).

<sup>55</sup> See I.R.C. § 4941(a)(2).

<sup>56</sup> See I.R.C. § 4941(d).

<sup>57</sup> For an overview of the duties of fiduciaries with respect to charitable organizations, see Marion R. Fremont-Smith, *Governing Nonprofit Organizations: Federal and State Law and Regulation*, BELKNAP PRESS OF HARVARD UNIVERSITY 187 (2004).