

Uncivil Obedience

Lowell Darling Follows the Law

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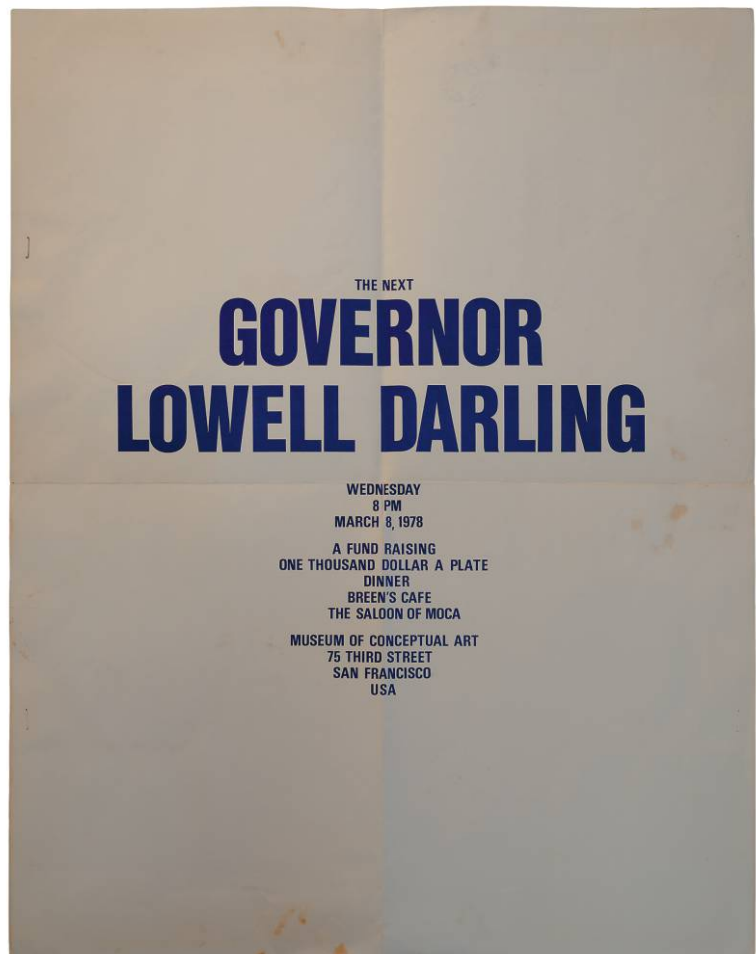
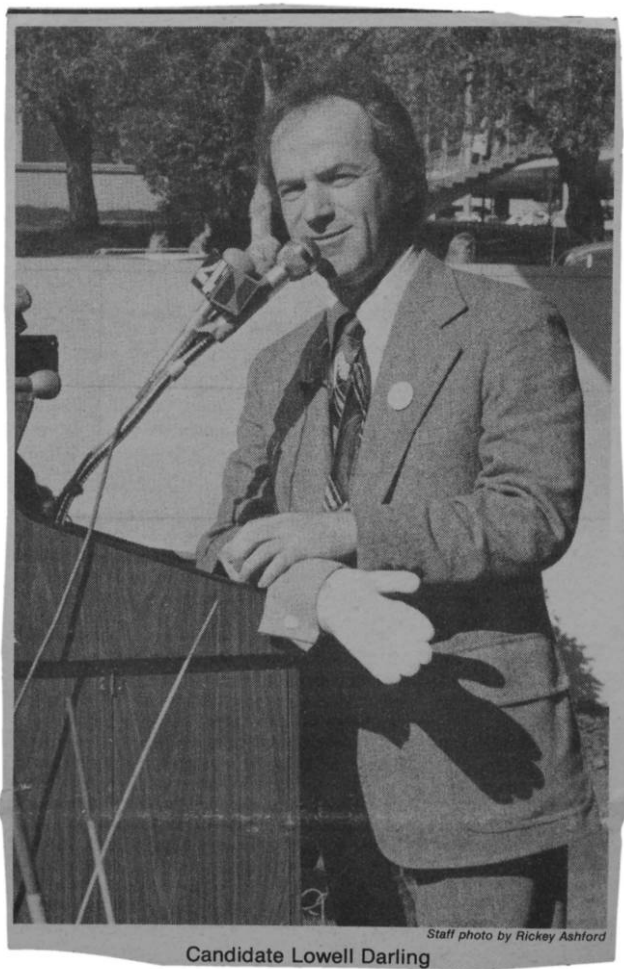
My tax problem is my work. . . . I have always considered bureaucracy one of contemporary society's highest art forms; and being an artist I naturally turned to red tape for material.¹

—Lowell Darling

The Gubernatorial Campaign

“Let me be your governor, Darling.”² On Valentine’s Day, 1978, artist Lowell Darling (b. 1942), speaking from a podium in the sculpture garden of the Berkeley Art Museum (fig. 1), announced his intent to seek the Democratic Party’s nomination for governor of California, challenging then incumbent Governor Edmund Gerald “Jerry” Brown—a Democrat who entered office in 1975. Here, Darling presented his political platform, “The Inevitable Campaign Slogans & Promises.”³ He vowed to solve unemployment by hiring state residents “to be themselves for the state of California,” such that Governor Brown would be hired to be himself and continue to perform his gubernatorial duties; and since everyone would be employed “to be themselves” (i.e., “self-employed”), all expenses would be tax deductible.⁴ Darling even pledged to abolish taxation altogether by turning the state budget over to Reverend Ike, a prominent televangelist who preached the blessings of material prosperity and was credited with performing monetary miracles (taxes would be unnecessary if one could manifest money out of thin air). Pollution would be solved by converting parking meters into slot machines (paying motorists to park their cars instead of drive them) and by replacing internal combustion engine cars with psychic-powered vehicles. To ensure political transparency and lawful practices at the highest level, Darling promised to establish a Presidential Television Network (PTN). The PTN would broadcast 24/7 from a camera surgically implanted into the forehead of the president of the United States. Thus, Americans would be able to see what the president sees, politics would be transformed into a television show, and when the president became boring, viewers could simply change the channel.⁵

The following month, Darling paid the \$982 filing fee for his nomination papers and collected the necessary “sponsor” signatures of registered voters, and on March 10

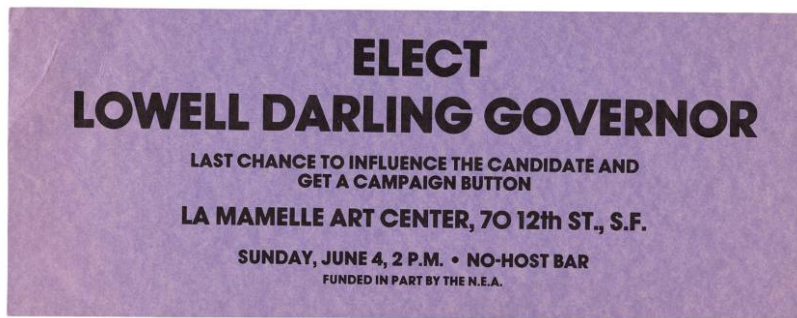


1 "Candidate Lowell Darling," reproduced in Jon Taylor, "Candidate for Gov. Can Solve Everything," February 15, 1978, 1. Lowell Darling papers, 1945–2012, box 7, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by Rickey Ashford. Photograph of news article by Sabine Pearlman © *Daily Californian*

2 Tom Marioni, *The Next Governor Lowell Darling*, 1978. Offset print, 22 × 17¼ in. Campaign propaganda mailed to Susan Subtle. Lowell Darling papers, 1945–2012, box 8, Archives of American Art, Smithsonian Institution, Washington, D.C. Photograph by Sabine Pearlman © Tom Marioni

he became one of eight men to challenge Brown for the Democratic nomination.⁶ To help Darling navigate a minefield of campaign finance regulations—for example, as a candidate, Darling could neither personally handle campaign contributions nor could he endorse donors' checks—Monroe Edwin Price, a law professor at the University of California, Los Angeles, advised Darling on legal matters (pro bono).⁷ Harvey Shotz, a Los Angeles talent agent, managed Darling's campaign. He established the "Committee to Elect Lowell Darling/Governor," hired an accounting firm to oversee campaign funds, and submitted the artist's tax returns to the California Secretary of State.⁸

Repeating the soundbite, "while I'm governor, California is going to become a State of Mind, not Money," Darling traversed the state in his campaign vehicle, a pink and black 1956 Plymouth, amassing an impressive group of financial benefactors who, wittingly or not, became players in his creative interrogation of electioneering practices and regulations.⁹ Darling pitched his political platform to representatives from corporations such as Sears, which operated large automobile centers, vis-à-vis Darling's pledge to develop psychic-powered vehicles, and the General Telephone & Electronics Corporation, which was a leader in electronic technologies, vis-à-vis Darling's promise to establish a PTN.¹⁰ The Museum of Conceptual Art, San Francisco (MoCA, 1973–84) sponsored the "One Thousand Dollar a Plate Dinner," which no one paid more than a few dollars to attend (fig. 2).¹¹ And on June 4, two days before the primary



3 “Elect Lowell Darling Governor, Last Chance to Influence the Candidate and Get a Campaign Button,” 1978. Cardstock, 4½ × 11 in. Campaign propaganda mailed to Bob Smith, director of the Los Angeles Institute of Contemporary Art. Los Angeles Institute of Contemporary Art records, 1973–1988, box 11, Archives of American Art, Smithsonian Institution, Washington, D.C. ©Lowell Darling

4 Lowell Darling, “Elect Darling Governor” Button Pin, 1978. Diameter: 1¾ in. Lowell Darling’s Personal Papers, box 2, Santa Monica Art Studios, Santa Monica, Calif. Photograph by Sabine Pearlman ©Lowell Darling

election, San Francisco’s La Mamele Art Center (1975–95) hosted an event marketed as the “last chance to influence the candidate and get a campaign button” (figs. 3, 4).¹²

Architect John C. “Sandy” Walker was Darling’s largest benefactor, hosting numerous campaign fundraisers and underwriting Darling’s gubernatorial filing fee by contributing \$1,000. Walker’s support, however, was contingent on Darling “gifting” him an artwork (two so-called urban acupuncture needles) and performing a political favor. At San Francisco’s City Hall, and in front of the city’s Board of Supervisors and the consulting Arts Commission, Darling detailed the aesthetic merits of San Francisco’s newly developed Pier 39, which Walker had designed at the behest of developer Warren Simmons.¹³ Here, with sincere insincerity—that is, disingenuousness—Darling performed the role of a politician beholden to his donors by supporting a project he personally detested. The artist’s ersatz championing of the pier was directly linked to the upcoming vote. On the ballot, in addition to the gubernatorial candidates, was a proposal for Proposition 13, which was part of the era’s “tax revolt”. Officially named the People’s Initiative to Limit Property Taxation, but better known as the Jarvis-Gann initiative, this ultimately successful proposition overwhelmingly benefited large property owners and especially corporate landlords such as Simmons. The deep tax cuts reduced property-tax revenue in fiscal year 1978–79 by approximately fifty-seven percent (about \$6 billion). Furthermore, the Jarvis-Gann initiative mandated that new state and/or local taxes would require a two-thirds majority (instead of a simple majority) to pass—thus wresting authority away from local governments and, on a larger scale, allowing one-third of California to control the budget and revenue of the entire state.¹⁴ Darling’s faux support for Pier 39 ironically tied his gubernatorial campaign to the power exercised by special interests, in general, and to those with a stake in Proposition 13, more specifically. Darling’s testimony electrified the boundaries of financial regulations that prohibit direct bribery but allow for campaign contributions. This dramatic surrender to special interests was, for the artist, “a big part of playing the politician.”¹⁵

Darling’s campaign for the state’s top seat was a five-month performance-based artwork. It was also a law-abiding and legitimate gubernatorial campaign that deconstructed the election process. Throughout the campaign season, Darling scrupulously followed the rules on the books while simultaneously defying the social norms and conventions underscoring such regulations. Indeed, Darling’s run to occupy the governorship was the culmination of a decade of work grounded in rigorously and hyperbolically following tax laws while undermining the norms on which such regulations are based.

Uncivil Obedience

Scholars, artists, and activists (no one being entirely distinct from the other) have long been interested in socially engaged creative practice and civil disobedience—a conscientious and communicative breach of law.¹⁶ Yet, what of the opposite approach? What about radical adherence as a form of protest? As Darling’s work underscores, one may indeed disrupt through exaggerated compliance rather than defiance—registering dissent by following, in an unexpected and hyperbolic manner, the very rule(s) being protested.

By adhering to the letter of the law but operating outside of common practice, Darling antagonized and interrogated the electoral system. Here, the legal theory of *uncivil obedience* offers a means of thinking through how forms of conspicuous compliance might operate as an instrument of dissent. Uncivil obedience is a mirror image of the more frequently discussed civil disobedience; it inverts the terms and the strategies. Uncivil obedience has been theorized in separate but interrelated ways. On the one hand, Canadian activist-lawyer A. Alan Borovoy presented the first sustained discussion of uncivil obedience in his memoir of 1991, framing it as a lawful application of pressure through existing channels (publicity, lawsuits, community organizing); thus, for Borovoy, uncivil obedience is a means of legally exerting influence on governing groups.¹⁷ On the other hand, in a *Columbia Law Review* article of 2015, legal scholars Jessica Bulman-Pozen and David Pozen theorize uncivil obedience as a work-to-rule form of dissent. They argue that uncivil obedience is oriented less toward breaking a law than it is toward undermining a regulation’s efficacy (and efficiency) through hyperbolic adherence.¹⁸ Both definitions position uncivil obedience as a lawful act. Borovoy approaches the idea more generally while Bulman-Pozen and Pozen approach uncivil obedience as a form of exaggerated compliance with the very thing—be it a law, regulation, unwritten norm, or custom—being protested. Indeed, the latter note that it is possible to extend the concept of uncivil obedience “to wholly nonlegal, unwritten norms, as in exaggerated compliance with a rule of etiquette”—a concept that conveniently intersects with Darling’s work.¹⁹

Thus, uncivil obedience paradoxically challenges authority by operating in defiance of normative fidelity, but not in excess of the law (broadly conceived). This strategy highlights the norms on which rules are based and thus obsequiously antagonizes those rules. A brief selection of examples compiled by Bulman-Pozen and Pozen includes a range of people and situations: California motorists challenging a 55-mile-per-hour speed limit by staying within that limit, consequently disrupting traffic; undocumented workers following the laws that bar them from employment, thus forcing meat-processing plants, vineyards, and farms to close for an entire day; Stephen Colbert mocking Federal Election Commission (FEC) rules barring Political Action Committees (PACs) from coordinating with candidates by establishing a Super PAC, handing it over to Jon Stewart, and “not coordinating” with Stewart on his television show; and senators relying on procedural privileges to undermine measures in the process of becoming law by demanding that an entire text be read aloud and using filibusters in a routine manner, all the while emphasizing the formal legality of such obstructionism.²⁰ Uncivil obedience is a tool of the powerless and the powerful alike; just as the increase of rights language in statutes, rules, and legislation has expanded basic liberties, so, too, has it expanded opportunities to exploit denser and more detailed regulations in technically valid yet disruptive ways.²¹

Uncivil obedience involves disruption, simultaneously taking recourse within the minutiae of rules and regulations, and through this, frustrating the very rules that protect the uncivil obedient. This strategy of protest pairs a dissenting message with lawful conduct; content is disconnected from form. In contrast, civil disobedience combines expressions of opposition with an open violation of rules; content and form alike challenge



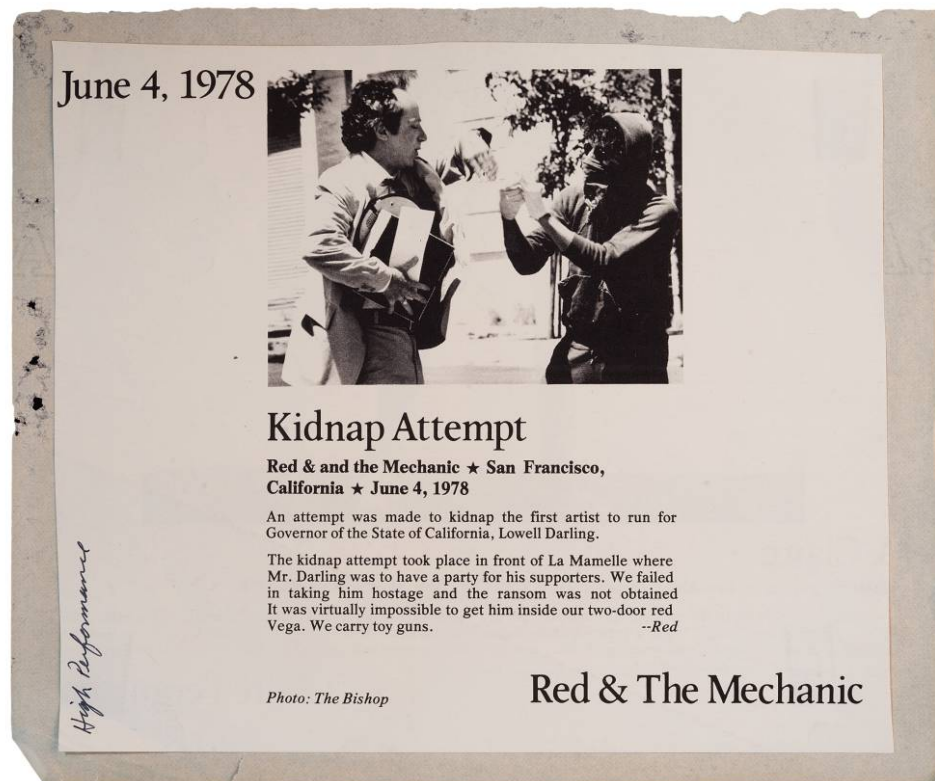
the legal order. Both strategies of protest are generally nonviolent; while the nonviolence attending civil disobedience tempers associated transgressions of law, the nonviolence of uncivil obedience is incidental to the fact that no law has been broken.²²

Of course, my application of uncivil obedience to an art context builds on a vast scholarly field considering socially engaged and dialogical practices, power relations and privilege, and relational aesthetics.²³ Furthermore, the art historian Joan Kee has explored how junctures of art and law, often seen as oppositional, also operate in a symbiotic manner, visualizing and questioning regulations and the evidence on which such laws are built.²⁴ Indeed, Darling is not alone in his use of a legal medium, activating the rule of law as a principal, functional, and interrogated component of the work; neither is he alone in galvanizing the subversive potential of the letter of the law.²⁵ The appropriation tactics of Darling's contemporaries such as Sherrie Levine, Barbara Kruger, Richard Prince, and Jeff Koons might also be understood as calculated gestures mining the limits of intellectual property protections and the operative role of publicity, money, and the politics of gender and race in validating a work as "art" and thus granting it a certain status.²⁶

There is also much that might be said about the expanding group of artists and scholars working and writing in the space where art and social practice meet. And given that the political is indelibly connected to conflict, disagreement, and a lack of consensus within a democratic and heterogeneous society, there are lingering questions regarding whether and how laws and regulations might operate as the material substance of art practice, fostering a kind of legal medium for creative expression. What I am interested in is a niche within the vast fields of art and law, one that concerns how creative projects complicate the limits of what might be realized in accordance with the law, but outside of established modes of compliance. That is, uncivil obedient masters the rules on the books and work from the inside, cloaking their protest in ostensible modes of rule-following.²⁷

As Darling's 1970s campaign underscores, one may disrupt a system from the inside through radical compliance. Throughout the campaign, Darling publicized his rigorous adherence to the law while simultaneously performing—in an exaggerated, unanticipated, self-conscious, and critical

- 5 Lowell Darling “glad-handing” a constituent in front of his campaign vehicle, a pink and black 1956 Plymouth, ca. November 1977. Color slide. Lowell Darling papers, 1945–2012, box 4, slide box 2, Archives of American Art, Smithsonian Institution, Washington, D.C. ©Lowell Darling
- 6 Lowell Darling “kissing babies” with red cloth lips, ca. 1978. Color slide. Lowell Darling papers, 1945–2012, box 3, folder 27, Archives of American Art, Smithsonian Institution, Washington, D.C. ©Lowell Darling
- 7 Red & The Mechanic (Tony Labat and Mike Osterhout), “Kidnap Attempt,” *High Performance* 1, no. 3 (September 1978): 34. Lowell Darling (left), Tony Labat (right). Lowell Darling papers, 1945–2012, box 7, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by “The Bishop” (Mike Osterhout). Photograph of clipping by Sabine Pearlman © *High Performance* © Tony Labat © Lowell Darling



manner—those actions generally associated with electioneering. Darling’s choreographed campaign and gubernatorial persona—a mix of wholesome Midwesterner, slick politician, Hollywood headliner, and political pundit—was very much of its moment. The project was realized a decade after Richard Nixon’s media-savvy ascendancy to the presidency, and four years after his heavily reported resignation in the wake of the Watergate scandal of 1974.²⁸ When in public, Darling sported a suit, tie, and a pin reading “Artist’s Proof”; he shook hands using his “glad-hand,” a cartoonish glove affixed to a wooden dowel; and he kissed babies with a pair of red cloth lips affixed to his left hand by a two-fingered band (figs. 5, 6).

This performance played out on the stage of the gubernatorial primaries and galvanized the attention of both celebrities and news outlets.²⁹ Darling’s candidacy was abetted by public endorsements from famous actors such as Kirk Alyn, best known for playing Superman in *Superman* of 1948 and *Atom Man vs. Superman* of 1950, and artists such as John Baldessari and Chris Burden, who offered to transform Darling into a legitimate candidate by orchestrating an assassination attempt.³⁰ He was also the target of a botched kidnapping (and possible ransom) attempt/performance artwork realized by artists Tony Labat and Mike Osterhout (a.k.a. Red & The Mechanic; fig. 7).³¹ On March 1, coinciding with the annual Governor’s Conference in Washington, D.C., the *Washington Post* printed a three-page spread, “The Governors,” that validated Lowell Darling’s candidacy by discussing him in equal measure alongside contemporaneous politicians, including former Georgia governor and 39th president of the United States Jimmy Carter, Illinois governor James Thompson, and Alaska governor Jay Hammond.³² And by May, Darling’s campaign had accrued such media attention that reporter Stephen Geer profiled the artist in a nearly four-minute segment on the national television broadcast of ABC Evening News.³³ Even Governor Brown, when questioned by reporters about Darling’s antics, spoke about the campaign with



quiet amusement: “Lowell understands that campaigning is an art.”³⁴

In retrospect, Darling describes how he manipulated news outlets into covering and thus validating his campaign: “You feed them lines you know they will dig, and words that make them look smart and funny when they write about you.”³⁵ The artist couched discussions about taxes, unemployment, and political transparency within a spectacle, conspicuously manipulating the operations of “earned media”—free publicity accrued by way of press coverage. Publicity bestows authority onto its subject(s), and Darling’s critique of this system is articulated in statements issued to and quoted in the very news outlets covering Darling’s campaign, such as, “I want to be the complete media politician, talk to nobody but reporters and television cameras.”³⁶

Predictably, this strategy invited subtle criticism from both journalists and constituents. News articles included snippets suggesting that Darling was stealing attention from real concerns and legitimate candidates, replacing issue-oriented discussions with gags and jokes, and disrespecting the electoral apparatus by not seriously participating in it.³⁷ Indeed, Darling affirmed such accusations, repeatedly describing himself as a “jerk” throughout the campaign.³⁸

On election day, Darling earned 60,857 votes (approximately 2 percent of the total), a substantial number but hardly enough to compete with Brown’s

8 Lisa Crossett, *Lowell Darling Campaign Portrait*, 1980. Oil on linen, 30 × 24 in. Collection of Lowell Darling ©Lisa Crossett

2,522,764-vote (78 percent) victory.³⁹ Two years after the campaign, Darling commissioned his official campaign portrait (fig. 8) and published his memoir, *One Hand Shaking: A California Campaign Diary*.⁴⁰ Adding nuance to his postcandidacy activities, Darling explained that he had entered politics to have “an excuse to write a book about politics.” He sought to follow in the footsteps of politicians-turned-authors profiting from their involvement in the Watergate scandal that led to the resignation of U.S. President Nixon: “Haldeman, Nixon, Ehrlichman—they’ve all been very inspirational to me.”⁴¹

General viewers of Darling’s gubernatorial project—constituents, politicians, journalists, corporate executives—were largely neither makers nor connoisseurs of the arts, and many were likely unaware that they were a cog within a larger artwork. Meanwhile, for a large contingent of the California art scene, Darling’s candidacy occupied the much-sought-after status of aesthetics operating in the field of the real (that is, beyond the gallery space). This mass media-manipulating performance was part of a wellspring of institutionally critical art practices occurring in the 1970s and initiated by, for example, the Merry Pranksters, Leslie Labowitz, Bonnie Sherk, Newton and Helen Harrison, Jo Hanson, and Suzanne Lacy—their projects taking place outside of art institutions; denying art as capital; and using media, bureaucracy, and community organizing as basic art gestures. More specifically, Darling’s work—which also includes a large body of mail art and various film projects—is generally positioned as an activist-tinged, culture-jamming gesture, one that subverts advertising through guerilla tactics and that approximates the activities of West Coast-based groups such as Ant Farm and Negativland, and individual practitioners such as Labat, Ulysses Jenkins, and Ilene Segalove.⁴²

Yet while Darling's work might formally parallel such tactics, his conspicuous rule-following complicates attempts to discuss such endeavors comfortably alongside other culture-jamming practices. Darling's work is, perhaps, more akin to the antagonistic, law-abiding tactics of the Black Panther Party—which, in May 1967, notoriously made an armed (and legal) visit to the California State Capital building in Sacramento—than it is to the conscientious, ludic, and law-breaking (civilly disobedient) protests staged by Abbie Hoffman throughout the 1960s and 1970s, for example.⁴³

Of course, in the larger field of art and politics, Darling is one of many to have used the electoral platform to vocalize dissent. There are faux candidates who do not run, such as actor-comedians Will Rogers, Eddie Cantor, Pat Paulsen, and Stephen Colbert—individuals who present fictional campaigns that double as pointed, running jokes.⁴⁴ History is also full of protest candidates who do run, such as Joan Jett Blakk, the drag persona of Terence Smith; musician Jello Biafra; and artists Bruce Conner, Susanna Bixby Dakin, and Vermin Supreme—individuals who use the campaign platform to articulate pointed political positions ranging from ironic to sincere to anarchic.⁴⁵ Indeed, Suzanne Lacy argues that Darling's gubernatorial candidacy was a critique of public-image creation, but that it was not otherwise activist.⁴⁶

However, Darling's candidacy was neither an aspect of fame-mongering nor a signifier of political ambition, issue-driven activism, or superficial public-image critique. Rather, his performance was a highly deconstructive act of hyperbolic rule-following that the artist refers to as “political anthropology.”⁴⁷ The project mobilized a strategy of uncivil obedience, protesting the system by mastering and adhering to the rules and standards in an unanticipated, dramatic, and even humorous manner, or, as he phrases it, “carrying these ideas to (logical) extremes.”⁴⁸ Artistic projects operating within (while frustrating) regulatory systems via exaggerated rule-following remain a neglected category of consideration—a perplexing oversight when one considers, at least in the case of Darling, the level of attention the artist received within the wider culture. Here, I am not interested in the impossible task of charting the history of art and uncivil obedience; and I do not seek to valorize or reaffirm the connections between socially engaged art, antagonism, and intervention. Rather, I consider how selected works from Darling's oeuvre incorporate law and the norms undergirding its application and enforcement, and I seek to demonstrate and theorize how uncivil obedience might also function as a lens for considering a larger field of artworks engaging with the legal medium—conscientiously activating and targeting rules in a self-reflexive, lawful, and exaggerated way.

On Profit Intent

The story of Darling's gubernatorial candidacy actually begins a decade earlier with his federal income tax return for 1969. There, Darling claimed business-related deductions for expenses associated with the making and displaying of his art. While a student in the Master of Fine Arts program at Southern Illinois University, Carbondale (SIU), Darling had exhibited his early ceramic sculptures in a solo show, *Eccentric Abstraction*, at Pollock Gallery in Toronto, Ontario (February 17–March 8, 1969).⁴⁹ The exhibition established Darling's status as professional artist, but it was also a financial loss since none of the work sold. Upon filing his taxes for that year, Darling proposed a deduction of \$869 for art and exhibition-related expenses, which the Internal Revenue Service (IRS) disallowed, explaining: “It does not appear that you are in the trade or business of sculpting, as you have never received any income in this pursuit.”⁵⁰

Officially, Darling's tax return was subject to the “hobby loss” provision of the Internal Revenue Code (IRC). The hobby loss rule is intended to curtail taxpayers from

claiming hobby-like activities as business expenses, thus reducing their tax liability. To substantiate deductions, taxpayers must demonstrate their activities are directed toward making a profit, even if no profit is earned. In 1972, the IRS summarized the tax code and existing case law into nine broad, nonexclusive factors that might be used to determine if a taxpayer demonstrates a profit intent and is thus permitted to claim a deduction. This streamlined, nine-factor summary is a more accessible version of the lengthy IRC, to which Darling was subjected, and it will be referenced throughout this text. While a taxpayer may satisfy fewer than half of the suggested factors and still be judged to demonstrate a profit motive, ultimately, documented profit is weighed more heavily than intent.⁵¹ Here, tax law wields a tremendous level of authority, determining and validating whether or not creative endeavors are disallowed as a hobby undertaken by an amateur or federally sanctioned as a business carried out by an artist—and thus attended with economic (as well as ideological) value. These categories operate outside of, but also in relation to, the validating system of the art market. An individual's tax classification is judged not by the value of what is created but by whether a product is exchanged for remuneration.⁵² Unfortunately for Darling, a legal precedent for artists (albeit those working in more traditional media, such as painting) relying on income *not* from the sale of their work would not be established until 1977.⁵³ Consequently, Darling was classified as a *hobbyist*. His response: "What is or isn't an artist shouldn't be dependent on the sale of things."⁵⁴

Notes from Fat City: Artist's Proof (circa 1970–71) is a limited-edition, thirty-nine-page, loose-leaf folio that Darling produced after the IRS disallowed his proposed tax deduction.⁵⁵ "Fat City" is Darling's epithet for an educational institution that accepts money in exchange for a degree while also paying students to perform certain tasks. The folio's title page assigns copyright to Darling's invented umbrella institution, Fat City Art Works—a phrase suggesting that art is a form of work (or labor) and siting the folio as an artwork made (via work) under the faux university banner (fig. 9). The folio includes notes for conceptual projects as well as reproductions of letters between Darling and various politicians and government institutions.

The letters are part of a large letter-writing campaign Darling initiated in May 1969 and expanded into a full-time endeavor in the spring of 1970 (after graduating from SIU and becoming a self-employed artist whose income was ancillary to his practice).⁵⁶ Darling's letter-writing is the product of his observation that, "anytime you write someone, they'll write you back, politicians more than anyone."⁵⁷ The correspondence within the folio touches on timely concerns: national security, the Cold War, nuclear holocaust, class divide, and species extinction. Simultaneously, the letters from elected representatives and federally recognized institutions unwittingly acknowledge, simply by way of their response, Darling's projects as art, and by extension, his status as an artist.

The first page of the folio reproduces a letter to David H. Keene, the mayor of Carbondale, Illinois. There, Darling notifies the mayor that he has secured the city by inserting two nails at each of the four corners of Carbondale, effectively preventing it from being flung into space (a risk triggered by the centrifugal force of the planet's rotation combined with the excess weight of overpopulation). In the same letter, Darling offers to sell the work to the city for the cost of materials: \$1. The second page of the folio reproduces Keene's response, a selection of which reads: "I must act immediately to insure the welfare of the City. Therefore, I am enclosing a U.S. Postal Money Order for One Dollar."⁵⁸ Darling's civic-minded "nailing," regardless of whether it was actually executed, received significant press attention. The *Chicago Daily News* published a caricature of the artist as a planet-sized man nailing continents to the earth (fig. 10); a humorous description of the project was broadcast over the United Press International newswire; a large

- 9 Lowell Darling, *Notes from Fat City: Artist's Proof*, 1970. Edition 78 of 100, title page of 39-page loose-leaf folio, 11 3/8 x 8 1/4 in. Lowell Darling papers, 1945–2012, box 3, folder 20, Archives of American Art, Smithsonian Institution, Washington, D.C. Photograph by Sabine Pearlman ©Lowell Darling



photograph of Darling kneeling beneath the Carbondale city sign, hammer in hand, was printed on the front page of the *Daily Egyptian* (fig. 11); and the *Southern Illinois University News Services* ran a feature article on the project.⁵⁹

Working exclusively “pro bono” (earning no income from the sale of his work, aside from occasional honoraria) and making “public art” (which he defines as art for the public good), Darling wrote to art museums, elected representatives, and federal agencies—all at little to no material cost (that is, operating under a cost-effective art-making business model).⁶⁰ Some of the letters reproduced in the folio did not elicit a response, such as his 1969 letter to California Governor Ronald Reagan, in which he offers to remedy the “shakey [*sic*] state” by nailing it to bordering regions; in a follow-up



letter of 1971, which was reproduced in *Rolling Stone*, Darling decries the governor's silence, informing him that, out of a sense of urgency, he will be lacing up the San Andreas Fault (for free) to save the state from earthquakes. Another unanswered letter in the folio was to President Richard Nixon with the subject line, "stability of our land"; here Darling offers to secure the country by placing ten nails along the U.S.-Canada border.⁶¹ The folio also includes an exchange wherein Darling suggests that the U.S. Atomic Energy Commission (AEC) recalibrate nuclear bombs to preserve significant artifacts of soon-to-be-obliterated cultures; the AEC responded by directing Darling to resources on nuclear weapons published by the Department of Defense.⁶² Reproduced within Darling's memoir, *One Hand Shaking*, is correspondence with members of the U.S. Senate and the Department of the Interior's Fish and Wildlife Service concerning Darling's proposed "Hippo Riding Club" (a playful iteration of a moneyed equestrian club). Here Darling sardonically suggests that the addition of the hippo to the endangered species list might make the animal a sound financial investment. Also in the memoir is Darling's colloquy with the American Battle Monuments Commission, wherein he requests feedback on his proposed monument to the "unborn soldier" that would allow men and women to appreciate such honors during their lifetime; the Commission's response is that perhaps the memorial should instead be to veterans of the future.⁶³

Many of the letters are rubber-stamped "ARTIST'S PROOF," a term that conventionally refers to either a trial print or a subset (usually the first prints) of a limited edition that the artist keeps. However, here, the tag subtitles the folio, it is stamped onto letters Darling both sent and received, and it is even printed onto a button Darling wore throughout his gubernatorial campaign. The Artist's Proof stamp appears on duplicates of letters that the artist posted to various addressees, as well as on many of the letters he received in response to his inquiries. On one level, the stamp distinguishes between differing levels of reproduction, establishing one version of the letters as the originating document. On another level, the phrase is directed at establishing proof that Darling *is* a practicing artist. The stamping transforms the IRS's stamp of denial into an artist's stamp of affirmation. The stamp literalizes the papers as documents of proof and simultaneously defines those documents as artworks that are authenticated by the artist. *Notes from Fat City*, then, is a compilation of documentation that might be submitted to the IRS. Pivoting between stamps of proof (an artist's authentication of an original) and claims of proof (an artist's authentication of himself as an artist), the folio becomes an ironic appeal for its own merits—an artwork comprising documents (of art *work*) substantiating Darling as an artist.

When Darling's deductions of 1969 were denied under the hobby loss rule, he was a professionally exhibiting artist, but he was also attending classes leading to a degree, earning a small income through student employment, and producing costly and unprofitable ceramic



- 10 Anonymous, caricature of Lowell Darling nailing down the world, reproduced in Robert J. Herguth, "Nailing It Down, The World Hinges on Art, Says Artist," *Chicago Daily News*, June 23, 1969, 4. Lowell Darling papers, 1945–2012, Archives of American Art, Smithsonian Institution, Washington, D.C. Photograph of clipping by Sabine Pearlman © *Chicago Daily News* © Sun-Times Media
- 11 "Nailed Down," reproduced in Wayne Markham, "Student 'Nails' Carbondale," *Daily Egyptian: Southern Illinois University*, May 14, 1969, 1. Lowell Darling papers, 1945–2012, box 7, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by Nathan Jones. Photograph of clipping by Sabine Pearlman © *Daily Egyptian*

sculptures in Illinois. By 1971, Darling had adjusted his practice so that it ostensibly demonstrated a profit intent; he was a *full-time* pro bono artist and his (lack of) income was entirely from his trade. Additionally, he had relocated to the larger art market of California (albeit a market then-defined as "not New York"), revised his working method from ceramic to less costly conceptual and correspondence practices, and he was working in a manner that required minimal overhead and received free advertising (which itself was part of his artistic practice). Furthermore, when correspondence and conceptual art proved unprofitable, Darling produced *Notes from Fat City*, the record of his art work (business activities); fastidious documentation of his recognition as an artist; and a multiple, marketable product that he nonetheless freely distributed—since, early in an artist's career, donating work is a means of establishing institutional validity.⁶⁴ Finally, Darling's active seeking of tax reclassification and remediation demonstrates, in a circuitous manner, a profit objective.

In 1971, Darling met with a tax auditor in the Sacramento federal building to review his case.⁶⁵ This is a moment in which Darling's mode of conspicuous compliance comes sharply into focus. By categorizing himself as a full-time, pro bono artist assuming little to no material cost in the creation of his work, Darling positioned himself (his signature or brand), his labor, and his artwork as a highly cost-effective business model—one displaying value but eschewing a direct monetary exchange. This model satisfied the IRS's consideration of a taxpayer's professional business activities, which are summarized as follows: "The time and effort expended by the taxpayer in carrying on the activity"; "The financial status of the taxpayer"—the source of a taxpayer's income; and the "Manner in which the taxpayer carries on the activity"—the revisions a taxpayer made if methods proved unprofitable, such as relocating, or changing production and advertising strategies.⁶⁶

Radical adherence is the crux of uncivil obedience. The assumption that one would prioritize profit is breached, but the directive that one must actively seek profit by way of professional business activities is not. Darling's work is colored by unusual deference to a business-centric model, but it is also marked by self-denial; one assumes that an artist would not intentionally work to *not* have an income. Darling's uncivil obedience is thus all the more legible in its departure not just from social norms but also from immediate, personal interests; thus, it becomes even more apparent that the artist's rule-following has a critical cast.⁶⁷ The efficacy of this strategy hinges on the standards that define a federally recognized artistic practice as "for profit," shifting the definition to one with value but for which no profit is incurred.

Unsurprisingly, the tax auditor's review of Darling's case did not result in a reclassification. Thus Darling began stamping "ARTIST'S PROOF" onto the paperwork within arm's reach—both the auditor's notes and his own documentation. This performance of an authorizing action reconfigured the power of a simple gesture. Darling wrested "rubber-stamping" away from bureaucratic standards; he transformed the IRS's denial into an artist's affirmation; and he subsumed the paperwork of the audit, and the audit itself, into the entirety of the project. The action spotlighted tax regulations legislating who may or may not list "artist" as their profession, as opposed to art world practices applying the term in a more socially conventional manner. Darling's work is exceedingly deferential to the law as written and it inheres in the gap between the law as behaved, applied, or enforced and the law as it is on the books. Thus, Darling's art practice and artistic identity is carved out of these incongruous authorizing systems. And it is his creative operations within this space between norms and rules that, ultimately, confused the tax auditor who, as Darling tells it, had him escorted out of the office and told never to return.⁶⁸

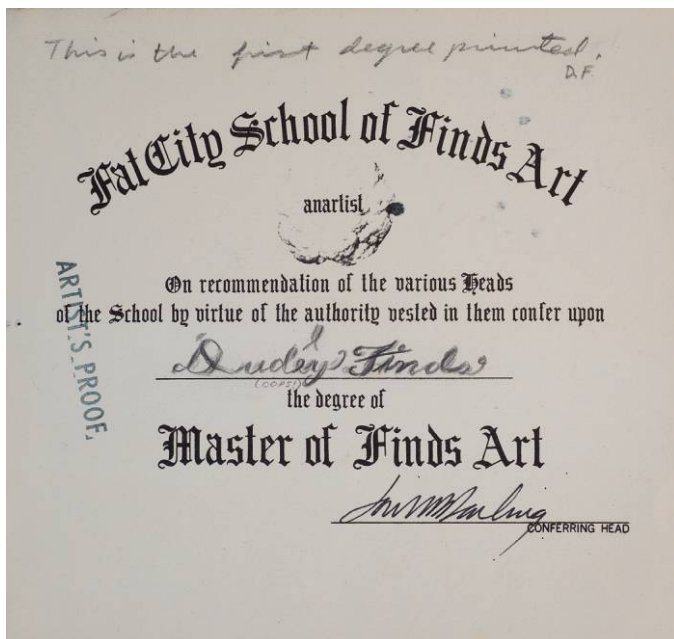
Fat City School of Finds Art

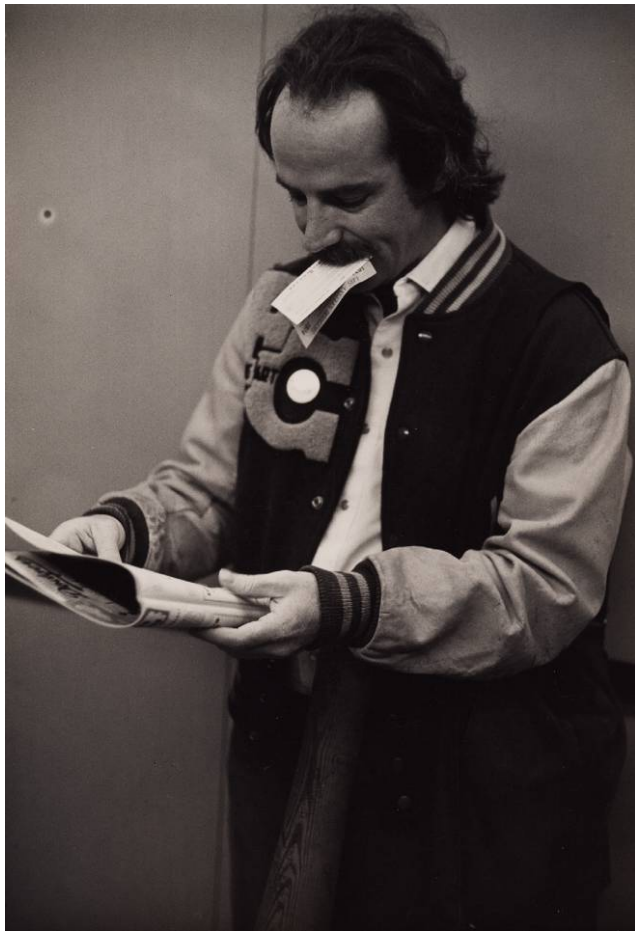
The Fat City School of Finds Art (FCSOFA), established circa 1969, is Darling's second-most famous intervention after the gubernatorial candidacy. By 1975, the fictional FCSOFA had issued, according to Darling, more than 50,000 free M.F.A. and Ph.D. diplomas. The school had no classes, no grades, and no graduation requirements. Nonetheless, it had its own letterhead, postal address (Darling's home), and "employees". Every new graduate was immediately inducted into the faculty ranks, with tenure, and placed on permanent sabbatical—making the institution the largest employer of artists and academics—and when Darling participated in the panel "Games Artists Play" at the College Art Association's annual meeting in 1972, FCSOFA was listed as his institutional affiliation.⁶⁹

Dudley Finds, Darling's vaudevillian alter ego, was nominally the founder, dean, and administrator of the fictitious school, while Darling remained the "conferring head," signing FCSOFA diplomas with his name and issuing a diploma to Finds and one to himself (figs. 12, 13).⁷⁰ The name Dudley Finds combines the artist's middle name with a surname identifying the character's method of making: *finding* people or objects and transforming them into degree-toting artists/academics or artworks. While many of the school's certificates were dispersed through the mail, the FCSOFA became known for its *Congraduation* events.⁷¹ Dressed in a varsity letter jacket emblazoned with an authenticating logo, "FC Finds Art," Darling, in the guise of Dudley Finds (fig. 14), would freely grant degrees to cab drivers, airline passengers and attendants, police officers, and fellow artists—and he personally conferred degrees on Baldessari and Ilene Segalove.⁷² More formal ceremonies, organized at the invitation of universities, city governments, and art institutions, were presided over by a better-dressed iteration of Dudley Finds (fig. 15). Wearing a bowler hat, a tailcoat lined with polka dots (with Fat City School of Finds Art embroidered on the back), black slacks, two-toned French Shiner shoes, and carrying a "Fat Bat" (an oversized baseball bat), the character would hand diplomas to knowing participants lined up to graduate and, in the same moment, find (ungainful) employment within the school.⁷³

12 Lowell Darling, Dudley Finds's Fat City School of Finds Art diploma, ca. 1970–71. Paper, 8½ × 9 in. Lowell Darling papers, 1945–2012, box 2, folder 15, Archives of American Art, Smithsonian Institution, Washington, D.C. Photograph by Sabine Pearlman © Lowell Darling

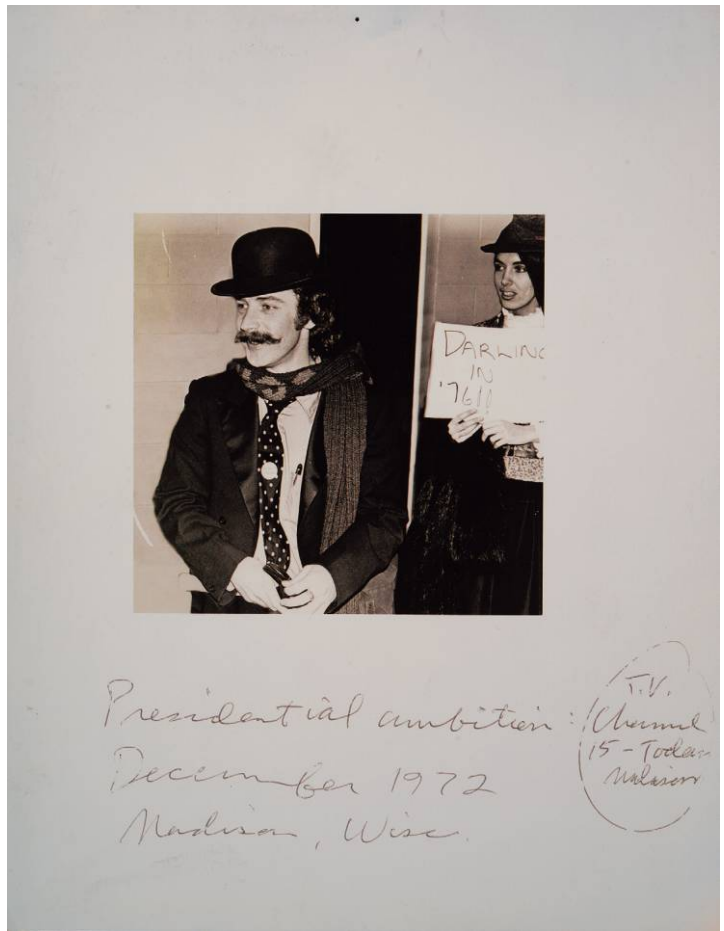
13 Lowell Darling, Lowell Darling's Fat City School of Finds Art diploma, ca. 1970–71. Paper, 8½ × 9 in. Lowell Darling papers, 1945–2012, box 2, folder 15, Archives of American Art, Smithsonian Institution, Washington, D.C. Photograph by Sabine Pearlman © Lowell Darling





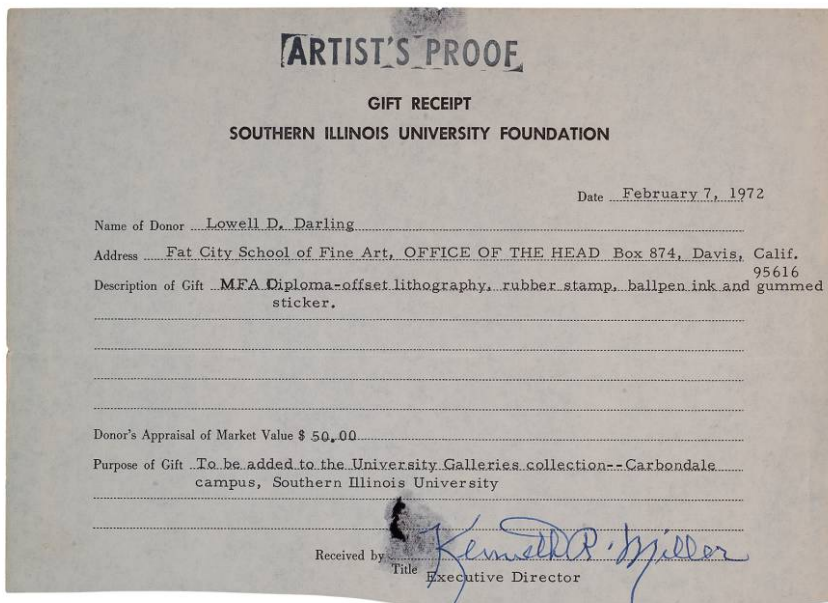
14 Lowell Darling as Dudley Finds in a letter jacket, n.d. Black and white photograph, 6 $\frac{7}{8}$ × 4 $\frac{3}{4}$ in. Lowell Darling papers, 1945–2012, box 5, folder 4, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by Ron Batzdorff. Photograph of photograph by Sabine Pearlman © Ron Batzdorff

15 “Presidential Ambition,” Lowell Darling as Dudley Finds in a tuxedo jacket, Madison, Wisc., December 1972. Black and white photograph, 11 × 8 $\frac{1}{2}$ in. Lowell Darling papers, 1945–2012, box 5, folder 4, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by James Korger. Photograph of photograph by Sabine Pearlman © James Korger © Lowell Darling



The *Congraduation* events were announced and reported on in local and national newspapers. These media outlets frequently listed the postal address of the FCSOFA, thereby providing Darling with advertising, which is one of the many elements considered by a tax auditor when determining profit intent. At Darling’s request, the diploma would be printed in newspapers so that anyone could fill in their name, a gesture that denied the diploma’s status as a unique object and thus denied it as a form of capital.⁷⁴ While inviting institutions would cover Darling’s travel expenses and provide a small honorarium, the path to degree for FCSOFA graduates did not involve a monetary exchange. Thus, the project defied the degree-for-payment certifying model of most postsecondary educational institutions in the United States.

When determining profit intent, an auditor considers if a taxpayer demonstrates a reasonable expectation that their product will appreciate in value and turn a profit. The nine-factor summary considers: “Expectation that assets used in activity may appreciate in value”; and “The amount of occasional profits, if any, which are earned”—the potential for profit in relation to loss, investment, and the value of assets.⁷⁵ Darling’s tactics emphasized the strong correlation between artistic celebrity and the market value of artwork. Thus, pro bono public art, within Darling’s practice of subversive rule-following, was not only about intentionally circumventing profit or siting such projects in a public forum. Rather, Darling’s practice involved initiating an event that would unfold across publicly consumed media, consequently



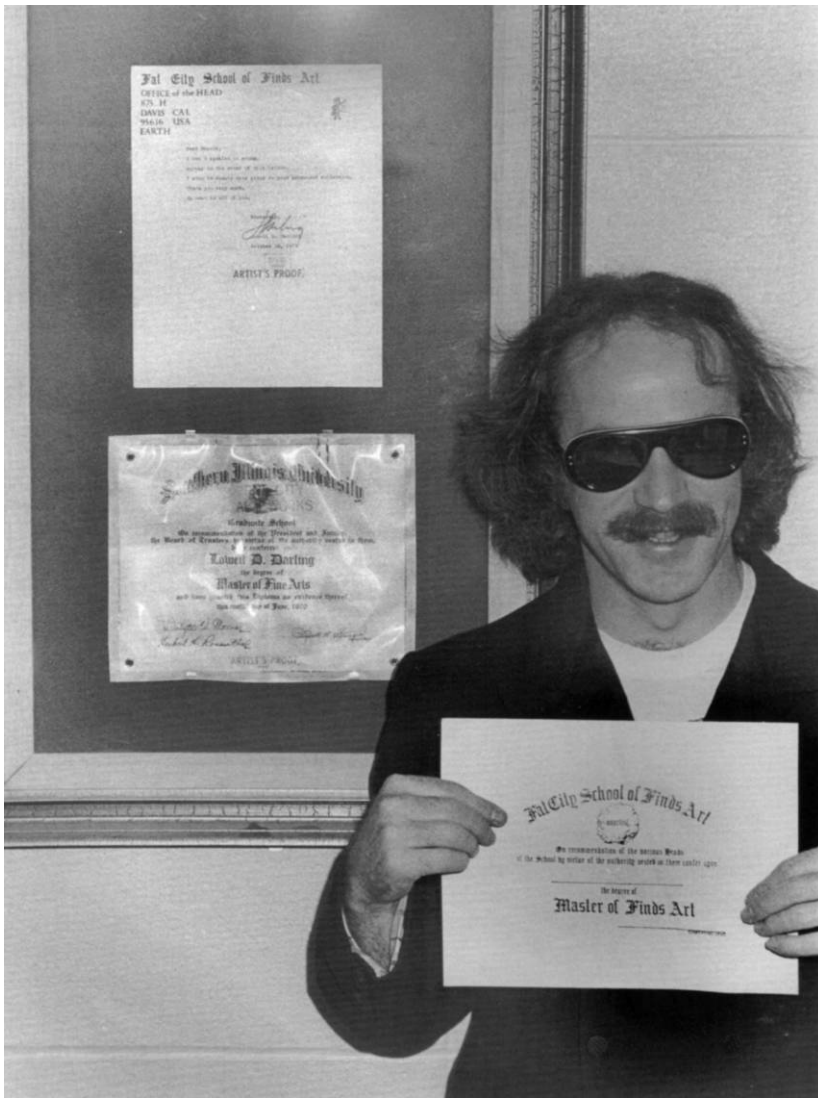
increasing his name (brand) recognition and potential art market value. Yet Darling disrupted the fiduciary relationship between value and finance. As a pro bono artist, he separated appreciation in *value* from appreciation in *profit*; as his career advanced and his name recognition increased, his profits remained uncharacteristically steady—characteristically zero.⁷⁶

In October 1971, Darling stamped his M.F.A. diploma from SIU with “FAT CITY ART WORKS” and returned it to that university.⁷⁷ SIU then accessioned the modified certificate into its art collection under the title *MFA Diploma* (fig. 16) and affixed it with a fair-market valuation of \$50. Darling was, in turn, issued a receipt for his donation of an artwork (fig. 17). The receipt is addressed to “Fat City School of Fine [sic] Art, OFFICE OF THE HEAD,” and signed by SIU executive director Kenneth R. Miller, thus transforming the degree into an in-kind, tax-deductible, charitable donation. Darling, upon receiving the receipt, promptly reified the document, stamping it with a new label, “ARTIST’S PROOF.”⁷⁸

MFA Diploma operates within an echo chamber of authorizing forces (fig. 18). Under the *apparent* authority associated with the fictional FCSOFA, Darling transformed a paper certificate into a donated artwork. The institutional accession of the diploma and the donation receipt recognize, as *actual*, the apparent authority of the FCSOFA; the “ARTIST’S PROOF” stamp reconfirms this authority and

- 16 Lowell Darling, *MFA Diploma*, 1971. Paper, 8 ½ x 10 ½ in. Housed in diploma sheath. Collection of University Museum, Southern Illinois University, Carbondale, Ill. ©Lowell Darling
- 17 Gift receipt, Southern Illinois University Foundation, 1972. Paper, 6 ¼ x 8 ½ in. Lowell Darling papers, 1945–2012, box 3, folder 10, Archives of American Art, Smithsonian Institution, Washington, D.C. Photograph by Sabine Pearlman ©Lowell Darling

Darling’s artist status. Conversely, authorized by way of his degree from the accredited SIU, Darling created a fictional school that was, itself, vested with the authority to assign graduates the status of degreed artist, and to assign objects the status of authenticated art. The validating qualities often associated with a paper certificate are here shown to be neither authoritative nor actual, but rather apparent and artificial. The monetary value of *MFA Diploma* marks the discrepancy between diploma and artwork. The time and money required to earn a degree from the accredited SIU was greater than the monetary value of the diploma itself; by contrast, the expense of earning a diploma from the fictional FCSOFA was less (free) than the monetary value of the artwork (and art work) that might be realized under the name of that institution. The cost/value differential between a diploma from SIU and one from



18 Lowell Darling at Southern Illinois University posing in front of *MFA Diploma* with an FCSOFA diploma, reproduced in “Art Is What Artists Do,” *Daily Egyptian: Southern Illinois University*, October 25, 1974, 10. Photograph by Steve Sumner © *Daily Egyptian*. Reproduced from Constance M. Lewallen, Karen Moss, Julia Bryan-Wilson, and Anne Rorimer, *State of Mind: New California Art circa 1970* (University of California Press, 2011), 108

When determining a taxpayer’s status, the IRS takes into account whether or not a taxpayer has the proper degree and training to derive a profit from an activity; this is summarized as “the expertise of the taxpayer or his [or her] advisors.”⁸¹ While such considerations may be easier to apply to lawyers or physicians, one does not require a validating diploma to be an artist. Nonetheless, it is difficult to imagine that a taxpayer running an institution and able to propose a tax deduction for the material cost of his *donated* artwork is not an artist in the eyes of the law. But, of course, this is precisely the case. Given the apparent authority of an FCSOFA diploma, a stamp, and a change of clothes, Darling imagined an institution into reality. The FCSOFA is defined as fictional (illegitimate) by the artist, but it is seemingly legitimized by a federally accredited public university (SIU); Darling, in turn, is acknowledged as an artist by the university, and allowed a tax deduction for the cost of realizing a gift of artwork to that institution. Darling demonstrates adequate expertise in his field and exhibits this through an uncommon interpretation of the rule while operating outside of the norms informing that rule—thereby spotlighting the irreconcilable structure of the rule of profit with (his) artistic practice.

the FCSOFA thus demonstrates the profit potential of the FCSOFA, and one can surmise, a profit intent.

Since Darling was classified as a hobbyist by the IRS, he could not take a deduction for financial costs associated with studio rental, utilities, travel, postage, depreciating capitalized costs of materials, and other expenses. However, when SIU accepted *MFA Diploma* as an in-kind, tax-deductible, charitable gift, it permitted Darling to deduct the material cost of realizing that donation (which just happened to be an artwork). Thus, there is an argument to be made that this material cost includes, in addition to a customized stamp and an ink pad, the expense of earning a Master of Fine Arts degree from SIU. The certifying diploma and subsequent gift receipt operate as the tangible documentation of the cost and as the material residue of Darling’s creative interrogation of authorizing systems and tax law. When SIU accepted and accessioned *MFA Diploma*, they enabled Darling to consider the nature and the scope of the cost of materials expended during the making of that self-created asset/donation, regardless of the profit intent of its creator.⁷⁹ Indeed, in a letter discussing the possible assigned value of the donation, Darling writes that it should be “computed on the amount of money I put into the S.I.U. till. Traffic fines, library fines, late registration fees, lab fees.”⁸⁰

An Artist for Profit

In an elegant example of the contradictory nature of an aesthetic practice grounded in uncivil obedience, in 1973, the NEA awarded Darling a \$3,000 grant. Although considered a *hobbyist* in the eyes of the law, the federally funded NEA recognized him as an *artist*. Or, as Darling summarizes: “One branch of the government was giving me money because I was an artist, another taking it from me because I wasn’t.”⁸² In 1974, the IRS revised Darling’s tax classification from a hobbyist to an artist displaying a profit intent, and reimbursed his initial claim (plus interest); this legal and bureaucratic victory prompted subsequent news articles to impishly recount the artist’s triumph over the IRS, such as an article from 1977 reporting on Darling’s ten-day residency in Portland, Oregon: “Lowell Darling is an artist, he’s won a tax fight to prove it.”⁸³

It is impossible to know the precise reasons underlying the tax reclassification. However, according to Darling and his lawyer, Monroe Price, the adjustment is notable for what it is not, and also for what it is. Darling was *not* reclassified as an artist because of his recognition by the NEA, his full-time work as a pro bono artist, his lack of income from sources outside of his practice, his intense advertising strategies, his M.F.A. degree(s), the potential for his work to appreciate in value, or his cost-effective business model. The reclassification was likely the result of three factors (the third being the most important). First, in 1973 Darling’s work was reproduced on the cover of (and inside) *Art in America*.⁸⁴ Despite discussions of his work in avant-garde art journals and newspapers, it was coverage in an academic publication that the IRS deemed credible (a status which forces one to consider the operative role of articles published in journals such as *American Art*). Second, the paperwork for Darling’s case was submitted by Price, a law professor at UCLA who was then in the process of establishing the pro bono legal service Advocates for the Arts with advice from his wife, the art historian Aimée Price. Speaking about art of the late-twentieth and early-twenty-first centuries, Aimée Price recently commented: “Artists don’t need models anymore, what they need are lawyers.”⁸⁵ Third, the financial (rather than the prestige) value of the NEA grant operatively presented the IRS with the most important point of consideration: measurable monetary income.⁸⁶

Monroe Price cites the tax auditors’ scant knowledge of contemporary art as the catalyst for Darling’s multiyear project: “‘Why doesn’t he have a paintbrush?!’ The IRS didn’t believe he was an artist because the auditors didn’t know what conceptual art was.”⁸⁷ Darling, however, was more interested in deconstructing systems that endow authority than he was in educating auditors about contemporary art—ear-marking, in subsequent writings, Price’s significant role as a suit-wearing lawyer and the powerful bearing of bureaucracy within society.⁸⁸ Darling’s protest occurs in the space between the official rules and the unofficial customs that shape expectations about how directives are followed and applied.⁸⁹ Following his tax reclassification, Darling went on to lecture on the topic of art and tax law; and he was appointed UCLA law school’s first “artist in residence” by the Student Bar Association.⁹⁰ In 1975, Darling and Monroe Price organized “The Artists & Lawyers Ball” (fig. 19), an event benefiting Advocates for the Arts. The event’s playbill features Darling and Price contemplating, from an artist’s and a lawyer’s perspective, an empty easel propped between them.⁹¹ Inhering in the gap between these two figures is the very definition of “artist” according to and recognized by the law, one that is sculpted out of a legal medium and exists in the space between art-world conventions and tax law.



19 "The Artists & Lawyers Ball for Advocates for the Arts," 1975. Cover of playbill, 9 × 6 in. Lowell Darling (left) and Monroe E. Price (right). Lowell Darling papers, 1945–2012, box 3, folder 23, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by Dorothy Tanous. Photograph of playbill by Sabine Pearlman © Dorothy Tanous

the gap between special interests (i.e., Proposition 13) and the interests of constituents was engineered to achieve maximum exposure; and the artist received a considerable amount of primary election news coverage in officially challenging Brown on the Democratic ticket.⁹³

A Maximalist Application of Rights

Handwritten on the top of Darling's gubernatorial nomination papers of 1978 is a radical proposal: "If registered voters in California each put away \$25 a month they could all be on the ballot every four years."⁹⁴ Eschewing fraudulent filing or trickery, here Darling suggests that one might exploit the vast discrepancy between the rights to which people are entitled under the law and the realities of how those laws manifest in practice: What would happen if everybody exercised their right to run for political office?

Darling's projects vary widely, extending from conceptual and performance art to folios and correspondence art. The connecting thread within the artist's decade of pro bono work is not visual consistency; rather, it is strategic consistency. Much of his early 1970s work responded to federal tax regulations dictating whether or not one is an "artist" or a "hobbyist" in the eyes of the law. These rules determine the tax status of art-makers throughout the country and are rooted in a model prioritizing profit rather than also accounting for cultural value, the art world's social conventions, and the currency of prestige. Sometimes Darling directly parodied regulations, as in seeking a tax classification of "for profit" while simultaneously operating on a pro bono basis. This is when Darling's work most closely resembles that of satire (and direct activism). Other times the specific target was more obscure, as with the fictional FCSOFA that occupied a gray area between actual and apparent authority. This is when his work comes closest to more conventional notions of conceptual art.

Of course, finance and fame are intimately connected; the monetary value of an artwork is often tied to—among factors including rarity and the creator's gender and ethnicity—the name value of the artist.⁹² Darling addresses this name value by situating Dudley Finds as the face of the FCSOFA, denying the appreciation in value of the name "Lowell Darling" while also demonstrating an increased level of fame for his art practice. By contrast, the gubernatorial campaign's targeting of the social norms shaping expectations of compliance and

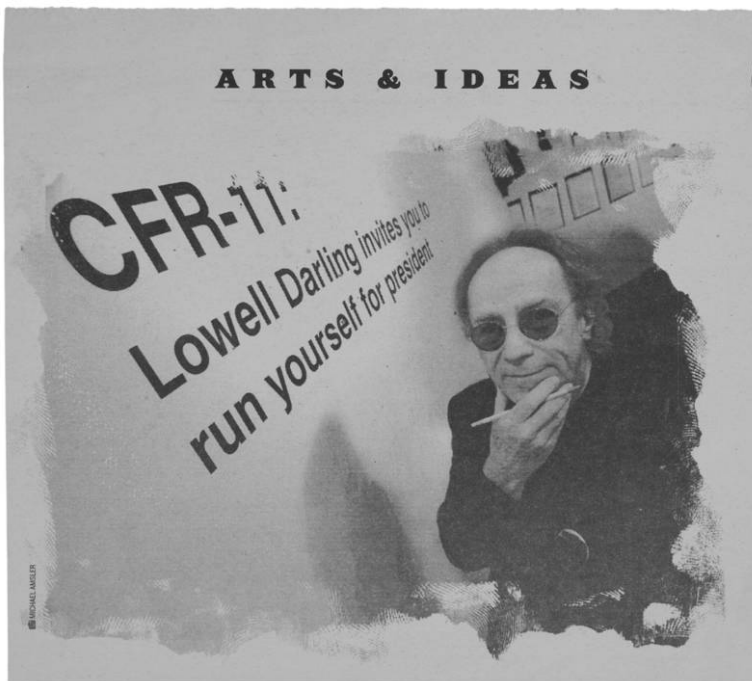
Just more than twenty years later, this idea was realized in a solo exhibition, *CFR-II: Lowell Darling Invites You to Run Yourself for President*, held at the Sonoma Museum of Visual Art from December 26, 2000 to February 18, 2001 (fig. 20).⁹⁵ The exhibition was divided into two sections. The first documented Darling's attempt to work within and to antagonize Title 11 of the Code of Federal Regulations (CFR) as it pertains to campaign finance and fundraising. Here, the artist proposed to hire donors to promote his campaign, and, using matching federal funds, pay supporters one-and-a-half times the amount of their contribution (such that a donation of \$100 would be exchanged for \$150).⁹⁶ Untenably, Darling instead declared he would run for "President of the United States in Europe."⁹⁷ The second and larger portion of the installation comprised a wall-length row of FEC "Statement of Candidacy" forms. Viewers were invited to run the forms through a nearby copy machine and submit their own statements of candidacy to the FEC. While filing is not the same as running for president, as the exhibition made clear, the FEC is obligated to consider each form equally and to list each applicant as a potential candidate.⁹⁸

20 Lowell Darling at his solo exhibition, *CFR-II: Lowell Darling invites you to run yourself for president*, Sonoma Museum for the Visual Arts, Sonoma, Calif., reproduced in Paula Harris, "Oh My Darling: Renegade artist runs conceptual campaign," *Northern California Bohemian*, January 4–10, 2001. Lowell Darling papers, 1945–2012, box 7, Archives of American Art, Smithsonian Institution, Washington, D.C. Original photograph by Michael Amsler. Photograph of clipping by Sabine Pearlman © *Northern California Bohemian*

Darling's suggestion that everyone run for political office operates within the minutiae of legal obligation rather than hyperbolic interpretation, and it turns the focus away from Darling as the principal uncivil obedient and toward the participant as a potential uncivil obedient. Darling clarifies, "[I]f everyone runs . . . every vote would count and be counted," and then elections would no longer be determined by a system favoring a few moneyed celebrity-politicians.⁹⁹ Aiming to raise the social and financial cost of maintaining the status quo, this project articulates a situation wherein the simple act of filing a form might force a revision. Here, Darling proposes an act that conspicuously complies with the very practice he is seeking to change. While some examples discussed in this article involve artful and exaggerated interpretations of existing regulations, inured within the proposal that everyone should run for political office is the suggestion of a maximalist use of rights to flood a system. Here, the artist seeks to provoke through an unorthodox exercising of

rights and privileges, aiming to revise a system by achieving full participation of eligible individuals.¹⁰⁰ The project exploits the gap between what is technically permitted and what prevailing customs or understandings allow, demonstrating both attentiveness and a strange respect for the letter of the law.

Darling's basic insight, that a system might be overwhelmed by a shift in the number of participants, has a broader application. The proposal points to a specific issue and argues for a gesture of bureaucratic antagonism that envisions art work and artwork *as* uncivil obedience. The artistic project brings politics into the gallery not by way of a symbolic gesture or an illegal act, but by way of an unorthodox use of paperwork.¹⁰¹ Darling's pitch for a maximalist activation of a right articulates a problem and offers a route for one to voice disagreement within an existing system. The project does not, however, offer a solution, and the number of people who actually filed for candidacy as a result of the work remains unknown.



Recall Darling's description of his relationship with reporting agencies while running for governor: "You feed them lines you know they will dig."¹⁰² The word "feed" evokes the power dynamics underscoring uncivil obedience, capturing an untouchable (free from recourse) quality that clings to forms of legalistic protest, and it expresses the sense of compliance that accompanies expressions of dissent realized through deference. This is what the anthropologist James Scott refers to as "critiques within the hegemony," an adopting and deflecting of the ideological terms of a dominant group through accommodation.¹⁰³ Darling's work is uncivilly obedient in its (dis)regard for and frustration of established practices performed alongside a conspicuous complicity with the rules of the process. His work does not occupy the moral high ground; rather, it involves the trivial and the bureaucratic. It involves being a jerk.

Nonetheless, Darling's meticulous conformity with one set of rules does not necessarily ensure his conformity with other relevant regulations. For example, his operating of a fictional degree-granting institution opened Darling up to accusations of covert or unfair trade practices—those torts (misdeeds) meant to confuse consumers through fraud, false advertising, and bait-and-switch tactics. Thus, while working within one set of rules, Darling may have inadvertently violated a different set. But would anyone have believed that the FCSOFA was real? Maybe, but not likely. This has to do with Darling's skill at managing information, ensuring that he was always discussed in the press as an artist realizing an artwork. It also relates to the increasing commonality of art's existence within the real in the 1970s, dislodging the distinction between art and life such that Darling could play in the realm of life, and do so in a manner which was clearly art, even according to the IRS, eventually.

An artistic license may be extended to artworks that overstep rules and regulations, allowing projects that, had they not been art, may have carried real consequences for the artists. The crux of Darling's work is that it is art *and* it is either safe from consequences (the gubernatorial candidacy) or is subject, intentionally, to those consequences he provokes (tax regulations). Such projects play a methodologically safeguarded game. They do not retreat into the realm of art to justify actions, but rather exist in the open as formally legitimate. It is for this reason that the frequent discussion of Darling's work as "not serious" is especially perplexing.¹⁰⁴ He may have been insincere, but the process of realizing an actual political campaign and deconstructing tax law is certainly no less serious than an investigative article on the inequities in legislative and regulatory systems. Darling's projects may take recourse within trivialities, but they are certainly not trivial. In his work, irony and earnestness are not diametrically opposed; one does not negate the possibility of the other existing simultaneously. The fact that Darling has not been the subject of lawsuits speaks not to the frivolous zone of art, but to the level of rigor stitched into his practice. But, perhaps, it is the status of art afforded to the projects that allows one to laugh, or at least be momentarily amused by, such antagonism. While uncivil obedience when performed by an artist may be a laughing matter, is that still the case when performed by one without an artistic license?

This style of dissent suggests a mode of art-making that is made up of the regulatory systems that exist outside of the art world, and to which artists and the art world are subject. While art and dissent have a longstanding relationship, this is something different. Here, an art practice sculpted out of a legal medium and grounded in uncivil obedience—calling attention to its own formal legality while departing from expectations about how the law will be followed or applied—extends into and disrupts normative operations. Uncivil obedience presents a mode of art-making that follows the law in order to frustrate it. Furthermore, for historians, it establishes a nuanced field for considering the ways in which individuals and groups relate to and interact with the norms and regulating systems that permeate our everyday lives.

Notes

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- 1 Lowell Darling, in conversation with Dudley Finds [pseud. of Darling], “Two Things You Can Count on—Art and Taxes,” *L.A.I.C.A. Journal* 1 (June 1974): 30.
- 2 Lowell Darling, *One Hand Shaking: A California Campaign Diary* (New York and London: Harcourt Brace Jovanovich, 1980), 98. See also Jonathan Kirsch, “The Fine Art of Politics: Only You, Lowell Darling,” *New West*, February 13, 1978, 36–38.
- 3 Lowell Darling, “The Inevitable Campaign Slogans & Promises, Lowell Darling Campaign Platform,” 3 pages, Lowell Darling Papers, 1945–2012, bulk 1969–80s, box 2, folder 31, Archives of American Art, Smithsonian Institution, Washington, D.C. (hereafter Lowell Darling Papers). See also Darling, *One Hand Shaking*, back cover; Jon Engellenner, “Painting the Gubernatorial Race with Shades of Humor,” *The Sacramento Bee*, April 12, 1978, B1; Paul Grabowicz, “What This State Needs Is A Good 5¢ Exploding Cigar,” *Berkeley Barb*, June 2–8, 1978, 7; and News Release, Univ. Art Museum Berkeley, Calif., “Press Conference: Lowell Darling Announces Candidacy for Governor,” February 1, 1978, Lowell Darling Papers, box 2, folder 31.
- 4 Darling, *One Hand Shaking*, 11; Darling, “The Inevitable Campaign Slogans & Promises.”
- 5 Darling, *One Hand Shaking*, 42–43, 143, 12; Lowell Darling, “One Thousand Dollar a Plate Dinner,” *High Performance* 1, no. 2 (June 1978): 38–39; Steve Harvey, “Candidate Wants Job, Place to Live: ‘Problem-Solver’ Out to Topple Brown,” *Los Angeles Times*, April 18, 1978, B3; and Howard Horowitz, “Darling Aims For Governor’s Mansion,” *California Aggie*, March 14, 1978, 1, 6. Darling even kept Reverend Ike’s postal address on file, Lowell Darling Papers, box 1, folder 16.
- 6 Darling filed his completed nomination papers with the California Secretary of State on March 10, 1978. They were accompanied by the required sixty-five to one hundred “sponsor” signatures of registered voters, which he collected from Yolo, Sacramento, and Alameda Counties. Nomination documents, California State Archives, California Secretary of State, Sacramento, information shared by Mike Somers, elections analyst for the State of California, e-mail to author, January 6, 2017. For profiles of the other Democratic and Republican candidates, see Steve Lawrence, “From Zany to Serious, 13 Political Unknowns Run for Governor,” *Los Angeles Times*, May 7, 1978, O8.
- 7 Monroe and Aimée Price, Skype interview by author, October 31, 2016; See also Darling, *One Hand Shaking*, 88–89.
- 8 Richard & Hedrick, a Santa Monica-based accounting firm, managed the “Committee to Elect Lowell Darling/Governor,” Lowell Darling Papers, box 2, folder 32; *One Hand Shaking*, 172.
- 9 Lowell Darling quoted in Peter Anderson, “Sacramento,” *Pacific Sun*, April 21–27, 1978, 13. See also Ann Amioka, “He Wants Mansion Not Job, Davis’ Odd Candidate,” *Daily Democrat*, March 4, 1978, 1–2.
- 10 Darling, *One Hand Shaking*, 169, 177; Don Segale, political cochair, Sears, Roebuck and Co., to Lowell Darling, April 18, 1978, Lowell Darling Papers, box 2, folder 30; Hal C. Allen, manager, governmental affairs programs, GTE, General Telephone Company of California, to Harvey Shotz, April 20, 1978, Lowell Darling Papers, box 2, folder 30.
- 11 Darling, “One Thousand Dollar a Plate Dinner”; Darling, *One Hand Shaking*, 135.
- 12 The postcard credits the federally funded National Endowment for the Arts (NEA) as a sponsor. In 1976, Darling had received a NEA Grant for \$2,000, and in 1977 and 1978, the La Mabelle Art Center was awarded \$18,500 and \$10,000, respectively. The use of NEA funds to realize an artwork that was also a political campaign was legally tenuous. National Endowment for the Arts, *1976 Annual Report* (Washington, D.C.: National Endowment for the Arts, 1976), 135; National Endowment for the Arts, *1977 Annual Report* (Washington, D.C.: National Endowment for the Arts, 1977), 126, 133; and National Endowment for the Arts, *1978 Annual Report* (Washington, D.C.: National Endowment for the Arts, 1978), 252.
- 13 Lowell Darling, e-mail to author, October 12, 2016. Two checks of \$500 each from John C. Walker to Lowell Darling, March 1, 1978, Lowell Darling Papers, box 2, folder 30. Darling, *One Hand Shaking*, 109.
- 14 Daniel A. Smith, *Tax Crusaders and the Politics of Direct Democracy* (1998; New York: Routledge, 2011), 53–54. When Darling ran for governor again in 2010, his campaign centered on the repeal of Proposition 13. Jesse McKinley, “Candidate Finds Much Changed, And Little,” *New York Times*, March 14, 2010, 16.
- 15 Darling, e-mail to author, October 12, 2016; Darling, *One Hand Shaking*, 109–10. In 1979, Warren Simmons was the first person to be successfully prosecuted under California’s 1975 Political Reform Act. He was fined \$2,000 and placed on three-year probation for making hidden campaign contributions to four individuals (not Darling). “Builder Fined in Campaign Donation Case,” *Los Angeles Times* [Orange County Edition], November 27, 1979, 10A.
- 16 Henry David Thoreau, *On the Duty of Civil Disobedience* (1848; New York: Macmillan, 1962); John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard Univ. Press, 1971); and Jürgen Habermas, “Civil Disobedience: Litmus Test for the Democratic Constitutional State,” *Berkeley Journal of Sociology* 30 (1985): 95–116.
- 17 A. Alan Borovoy, *Uncivil Obedience: The Tactics and Tales of a Democratic Agitator* (Toronto: Lester Publishing, 1991), 15, 19–20.
- 18 Jessica Bulman-Pozen and David E. Pozen, “Uncivil Obedience,” *Columbia Law Review* 115, no. 4 (May 2015): 809–72.
- 19 *Ibid.*, 825n57. See also James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale Univ. Press, 1990).
- 20 Bulman-Pozen and Pozen, “Uncivil Obedience,” 810–11, 835–37, 828–29.
- 21 *Ibid.*, 872.
- 22 *Ibid.*, 825.
- 23 Grant H. Kester, *The One and the Many: Contemporary Collaborative Art in a Global Context* (Durham: Duke Univ. Press, 2011); Nato Thompson, *Seeing Power: Art and Activism in the 21st Century* (New York: Melville House, 2015); *The Interventionists: Users’ Manual for the Creative Disruption of Everyday Life*, ed. Gregory Sholette and Thompson (Cambridge, Mass.: MIT Press, 2004); *It’s the Political Economy, Stupid: The Global Financial Crises in Art and Theory*, ed. Sholette and Oliver Ressler (London: Pluto Press, 2013); Marc James Léger, *Brave*

- New Avant Garde: Essays on Contemporary Art and Politics* (Winchester, U.K.: Zero Books, 2011); Nicolas Bourriaud, *Relational Aesthetics* (Dijon: Les Presses du Réel, 2002); Claire Bishop, "Antagonism and Relational Aesthetics," *October* 110 (Autumn 2004): 51–79; Bishop, *Artificial Hells: Participatory Art and the Politics of Spectatorship* (London: Verso, 2012); and Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics* (London: Verso, 1985).
- 24 Joan Kee, "Towards Law as an Artistic Medium: William E. Jones's Tearoom," *Law, Culture, and the Humanities* 12, no. 3 (October 2016): 693–715; Kee, "Art Chasing Law: The Case of Yoko Ono's Rape," *Law and Literature* 28, no. 2 (June 2016): 187–208; Kee, "Orders of Law in the *One Year Performances* of Tehching Hsieh," *American Art* 30, no. 1 (Spring 2016): 72–91; and Kee, *Models of Integrity: Art and Law in Post-Sixties America* (Oakland: Univ. of California Press, 2019).
- 25 A legal medium is not the making of art about the law; rather, it is the use of law as a material. Amar Bakshi, "The Legal Medium," *Yale Journal of Law and the Humanities* 27, no. 2 (October 2015): 331–34.
- 26 John Perry Barlow, "The Decline and Rise of Fair Use: The Public Campaigns," in *Reclaiming Fair Use: How to Put Balance Back in Copyright*, ed. Patricia Aufderheide and Peter Jaszi (Chicago: Univ. of Chicago Press, 2011), 60.
- 27 Bulman-Pozen and Pozen, "Uncivil Obedience," 820, 870.
- 28 David Culbert, "Television's Nixon: The Politician and His Image," in *American History, American Television: Interpreting the Video Past*, ed. John E. O'Connor (New York: Frederick Ungar Publishing, 1983), 184–207. Contemporaneous comedic critiques include, for example, Pat Paulsen's fake presidential campaign of 1968, detailed in Heather Osborne-Thompson, "Tracing the 'Fake' Candidate in American Television Comedy," in *Satire TV: Politics and Comedy in the Post-Network Era*, ed. Jonathan Gray, Jeffrey P. Jones, and Ethan Thompson (New York: NYU Press, 2009), 64–82.
- 29 A selection of California-based news articles: "Candidate Would Hire Brown to Run State," *Oakland Tribune*, February 15, 1978, 1, 12F; Jon Taylor, "Candidate for Gov. Can Solve Everything," *Daily Californian*, February 15, 1978, 1, 16; Del McColm, "Lowell Darling to battle Brown," *Davis Enterprise*, February 15, 1978, 3; and Alfred Frankenstein, "A 'Politician's' Conceptual Platform," *San Francisco Chronicle*, February 16, 1978, 55.
- 30 Lowell Darling, "With Superman," Lowell Darling Papers, box 3, folder 2; Mark Jonathan Harris, ". . . And He Who Would Be Governor," in "The Governors," *Washington Post*, March 1, 1978, B1–B3, at B2.
- 31 Tony Labat performed the kidnapping attempt while Mike Osterhout photographed it on June 4, 1978, outside San Francisco's La Mamelle Art Center, which was hosting an event for Darling. Red & The Mechanic, "Kidnap Attempt," *High Performance* 1, no. 3 (September 1978): 34; Labat, interview by Glenn Phillips, March 23, 2007, transcript at the Getty Research Institute, Los Angeles, reprinted in *California Video: Artists and Histories*, ed. Glenn Phillips (Los Angeles: Getty Research Institute, 2008), 153.
- 32 "Governors."
- 33 Stephen Geer, segment on Lowell Darling, ABC Evening News, May 24, 1978. Other broadcast reports on Darling's campaign were aired by CBS, NBC, and BBC. See also "On the Record," *Time*, May 1, 1978, 69.
- 34 Jerry Brown quoted in Roger Rapoport, "The Merry Politician," *San Francisco Chronicle*, June 3, 1978, 5. See also Darling, *One Hand Shaking*, 8, 56–57, 82–83; and Geer, segment on Darling, ABC Evening News.
- 35 Darling, e-mail to author, October 12, 2016; see also Darling, *One Hand Shaking*, 122.
- 36 Lowell Darling quoted in Early Deane, "'Darling' Candidate Is Ignored," *Colorado Springs Gazette Telegraph*, September 10, 1978, 14A.
- 37 Rapoport, "Merry Politician," 5. See also "How to get the voters to listen to you," *American School Board Journal* 165 (June 1978): 19; Ivan Sharpe, "Perfect candidate: He's unemployed," *San Francisco Examiner* [Early Edition], February 13, 1978, folder "L. Darling," *San Francisco Examiner* News Clipping Morgue, San Francisco History Center, San Francisco Public Library. Allison Engel, "Candidate needles faults in political campaigns," *San Jose Mercury News*, September 10, 1978, 3A; Horowitz, "Darling Aims For Governor's Mansion"; and "Governors."
- 38 Lowell Darling quoted in Grabowicz, "What This State Needs"; "Darlingism," *Hutchinson News*, June 17, 1978, 4.
- 39 "Statewide Results," *Los Angeles Times*, June 8, 1978, B21. The ballot placed "Lowell Darling Modern Artist" directly below "Edmund G. Brown Jr. Governor." Sacramento County Registrar of Voters, "County of Sacramento Sample Ballot and Voter Information Pamphlet, Direct Primary Election, Democratic Party, Tuesday, June 6, 1978," Lowell Darling Papers, box 2, folder 31.
- 40 Darling, *One Hand Shaking*. The memoir's title suggests a wordplay on the Zen Buddhist koan (meditative question): "What is the sound of one hand clapping?"
- 41 Lowell Darling quoted in Engel, "Candidate needles faults." See also "Candidate would hire Brown." Darling's book tour (Los Angeles, Berkeley, and Sacramento) included a press release printed on Governor Brown's letterhead with the governor's name crossed out; it announced Darling's intent to run for president in 1984 but to postpone his candidacy until 1985 (he did not run for president in either of those years). Darling, "Press Release," Lowell Darling Papers, box 3, folder 3.
- 42 Ken Babbs and Paul Perry, *On the Bus: The Complete Guide to the Legendary Trip of Ken Kesey and the Merry Pranksters and the Birth of Counterculture*, ed. Michael Schwartz and Neil Ortenberg (New York: Thunder's Mouth Press, 1990); Lisa Gabrielle Mark and Paul Schimmel, eds., *Under the Big Black Sun: California Art, 1974–1981* (Los Angeles: Museum of Contemporary Art, 2011); Constance M. Lewallen, Karen Moss, Julia Bryan-Wilson, and Anne Rorimer, *State of Mind: New California Art Circa 1970* (Berkeley, Calif.: Univ. of California Press, 2011); and Suzanne Lacy, *Leaving Art: Writings on Performance, Politics, and Publics, 1974–2007* (Durham: Duke Univ. Press, 2010).
- 43 Joshua Bloom and Waldo E. Martin Jr., *Black Against Empire: The History and Politics of the Black Panther Party* (Oakland: Univ. of California Press, 2013), 58–59; and Marty Jezer, *Abbie Hoffman: American Rebel* (New Brunswick, N.J.: Rutgers Univ. Press, 1992).
- 44 Jeff Smith, *The Presidents We Imagine: Two Centuries of White House Fictions on the Page, on the Stage, Onscreen, and Online* (Madison: Univ. of Wisconsin Press, 2009).
- 45 Joan Jett Blakk ran in the 1990s for mayor of Chicago and president of the United States, gaining visibility for LGBTQ people and issues. Jello Biafra (of the Dead Kennedys), ran for mayor of San Francisco in 1979, arguing for legal squatting in empty buildings and the election of police officers. In 1956, Bruce Conner ran a faux campaign to elect Ezra Pound for president, "EZ for PREZ," and in 1967 he ran for a seat on the San Francisco Board of Supervisors. His major policy speech was a

- list of desserts. Susanna Bixby Dakin, for whom Darling worked as a political consultant, ran for president in 1984 under the banner, "An Artist for President." Vermin Supreme (sporting a rubber galosh on his head) has run for president every four years since 1984, promising every voter a pony and encouraging legislation for dental hygiene. Moe Meyer, "Introduction: Reclaiming the Discourse of Camp," in *The Politics and Poetics of Camp*, ed. Meyer (New York: Routledge, 1994), 5–6; Nicholas Rombes, *A Cultural Dictionary of Punk, 1974–1982* (New York: Continuum International Publishing, 2009), 22–23; Rachel Federman, "Bruce Conner: Fifty Years in Show Business—A Narrative Chronology," in *Bruce Conner: It's All True*, ed. Rudolf Frieling and Gary Garrels (San Francisco: San Francisco Museum of Modern Art, 2016), 20, 124–25; Susanna Bixby Dakin, *An Artist for President: The Nation is the Artwork, We are the Artists*, ed. Kate Johnson (Santa Monica: Hyphen Media, 2011); and Craig Tomashoff, *The Can't-Idates: Running for President When Nobody Knows Your Name* (New York: Bobtimystic Books, 2016), 171–93.
- 46 Lacy, *Leaving Art*, 165.
- 47 Lowell Darling quoted in Gail Stavitsky, "The Art of Campaign," *Artweek*, June 30, 1979, 4.
- 48 Specifically, Darling galvanized what is heuristically understood as the incongruity theory of humor. Lowell Darling to Evert Johnson, curator at Southern Illinois University, December 9, 1971, University Museum, Southern Illinois University, Carbondale, Ill. Simon Critchley, *On Humor* (London: Routledge, 2002), 3.
- 49 Darling, "Two Things You Can Count On," 30–31. Lowell Darling, IRS Form 886-A, Explanation of Items for year ending 1969/12, Lowell Darling Collection, Courtesy of the Ceramic Research Center at Arizona State University, Tempe. Jesse Hamlin, "Lowell Darling still loves to poke at politics, but he's a 'normal' artist now," *SF Gate*, August 28, 2004, sfgate.com/entertainment/article/Lowell-Darling-still-loves-to-poke-at-politics-2730014.php. Phase II Gallery, Eccentric Art Show, Price List, Lowell Darling, Lowell Darling Collection, Courtesy of the Ceramic Research Center at Arizona State University, Tempe; and Darling, email to author, November 3, 2016.
- 50 The auditor continues: "Expenses incurred in building up a business are capitalized and not deductible as an expense." A *capitalized cost* is a transaction of money exchanged for an asset that is retained (like clay for a ceramicist), and that asset may eventually be "expensed" through depreciation or as a deductible material expense for an artwork donated or sold (or by way of other accounting strategies). Darling, IRS Form 886-A. When discussing the incident, Darling rounds his \$869 proposed deduction claim up to \$870.
- 51 Thomas A. Condon, "Section 183: Work Horse or Hobby Loss," *Catholic University Law Review* 20, no. 4 (Summer 1971): 718. Darling's 1969 federal income tax return was subject to the Revenue Act of 1954, Title 26 U.S. Code § 270. This was repealed and replaced with the Tax Reform Act of 1969, Title 26 U.S. Code § 183, applying to income derived beginning January 1, 1970. The revisions in the law did not affect Darling's tax status. Title 26 CFR § 1.183-2(b), "Relevant factors" (Treasury Department 7198, 37 FR 13683, July 13, 1972).
- 52 When considering the profit intent of an artist, an auditor will likely consider marketing activities, juried exhibitions, gallery representation, the history of sales, articles in the public and art press, inventory, the amount of time dedicated to art activities (making, selling, teaching, gallery administration), and those changes an individual makes when works do not sell. Herbert Lazerow, *Mastering Art Law* (Durham: Carolina Academic Press, 2015), 175–76, 179.
- 53 C. West and Gloria Churchman v. Commissioner of Internal Revenue, 68 T.C. Memo 696 (U.S. Tax Court 1977); and Susan Crile v. Commissioner of Internal Revenue, T.C. Memo 2014-202 (U.S. Tax Court 2014).
- 54 Lowell Darling quoted in Harris, ". . . And He Who Would Be Governor."
- 55 Lowell Darling, *Notes from Fat City: Artist's Proof*, 1970–71, Lowell Darling Papers, box 3, folder 20; Darling printed two indistinguishable editions of the folio, one in late 1970 and the other in 1971. Darling, e-mail to author, March 8, 2017. The copy of *Notes from Fat City* within Darling's collected papers at Archives of American Art—#78 of 100—includes a duplicate page, thus bringing its total page count to forty.
- 56 Darling, e-mail to author, November 3, 2016.
- 57 Darling quoted in Hamlin, "Lowell Darling still loves to poke at politics."
- 58 Lowell Darling to Mayor Keene, May 7, 1969, and Darling to David H. Keene to Lowell Darling, May 12, 1969, *Notes from Fat City: Artist's Proof*; Darling, *One Hand Shaking*, 62–63.
- 59 Robert J. Herguth, "Nailing it Down: The World Hinges on Art, Says Artist," *Chicago Daily News*, June 23, 1969, 4; United Press International teletype, May 14, 1969, Lowell Darling Papers, box 7; Wayne Markham, "Student 'nails' Carbondale," *Daily Egyptian: Southern Illinois University*, May 14, 1969, 1, 8; and Pete Brown, "It's Happening in Southern Illinois," *Southern Illinois University News Services*, June 3, 1969.
- 60 Darling, e-mail to author, November 3, 2016.
- 61 Lowell D. Darling (The Illinois Nail Man) to Ronald Reagan, May 7, 1969, *Notes from Fat City: Artist's Proof*; Lowell Darling, c/o The Art Center of the World to Governor Reagan, March 27, 1971, reproduced in Thomas Albright, "Correspondence Art [Part 2]," *Rolling Stone* 107, April 27, 1972, 28; and Lowell D. Darling to President of the United States of America, May 7, 1969, *Notes from Fat City: Artist's Proof*.
- 62 Lowell Darling to director, Atomic Energy Commission, April 21, 1970, and Darling to L. J. Deal, Chief, Civil Effects Branch Division of Biology and Medicine, U.S. Atomic Energy Commission, to Lowell Darling, May 5, 1970, *Notes from Fat City: Artist's Proof*.
- 63 Frederick C. Badger, colonel, CE, director of Engineering and Maintenance, The American Battle Monuments Commission, to Lowell Darling, August 19, 1976; and Darling, *One Hand Shaking*, 20–25, 80; original letter, Lowell Darling Papers, box 1, folder 28.
- 64 Darling, e-mail to author, March 8, 2017. An artist who produces and distributes a multiple, marketable item tends toward demonstrating a profit-seeking motive through increasing inventory and circulation. Treas. Regs. § 1.183-2; Lazerow, *Mastering Art Law*, 173–92.
- 65 Darling, "Two Things You Can Count On," 30–31; and Darling, e-mail to author, November 3, 2016.
- 66 Factors 3, 8, and 1, Appendix A—Treas. Regs. § 1.183-2(b), Internal Revenue Code §183: Activities Not Engaged in For Profit.
- 67 Bulman-Pozen and Pozen, "Uncivil Obedience," 827.
- 68 Herb Michelson, "Unpredictable Darling," *The Sacramento Bee*, March 22, 1980, B6; and Darling, "Two Things You Can Count on," 30; and Darling, e-mail to author, November 3, 2016.
- 69 Thomas Cassidy (Musicmaster), "Basement Dweller (Lowell Darling)," in *Correspondence Art: Sourcebook for the Network of International Postal Art Activity*, ed. Michael Crane and Mary Stofflet (San Francisco, Calif.: Contemporary Arts Press, La Mamelle, Inc., 1984), 202; Kirsch, "Fine Art of Politics," 38; and Cassidy (Musicmaster), "Basement Dweller," *Portland Scribe*, March 24–31,

- 1977, 14. The program for the 1972 conference mistakenly replaced “Finds” with “Fine” when crediting the FCSOFA: “Games Artists Play,” in *60th Annual Meeting, College Art Association of America; 25th Annual Meeting, Society of Architectural Historians*, San Francisco Hilton Hotel, January 26–30, 1972, 14; and CAA name tag, Lowell Darling Papers, box 2, folder 15.
- 70 Both diplomas, Lowell Darling Papers, box 2, folder 15.
- 71 Darling mailed a diploma to Ray Johnson. Darling, e-mail to author, March 8, 2017; and Congraduation Envelope, Lowell Darling Papers, box 2, folder 13.
- 72 Lowell Darling, “Shuck and Jive: An Interview with Lowell Darling,” interview by Willoughby Sharp, *Avalanche 7* (Winter–Spring 1973): 28; Darling, e-mail to author, March 8, 2017.
- 73 Darling, e-mail to author, November 6, 2016; and Darling, interview, “Shuck and Jive,” 27; see remnants of the Dudley Finds costumes (letter jacket and tux), Lowell Darling Papers, box 2, folder 16.
- 74 For example, Robert LaBrasca, “1984 Is Here—Anartist Darling,” *Madison Capital Times*, December 8, 1972, 41.
- 75 Factors 4 and 7, § 1.183-2(b).
- 76 Lowell Darling, “Money/Fame: Lowell Darling,” interview by Linda M. Montano, *Performance Artists Talking in the Eighties*, comp. Montano (Berkeley: Univ. of California Press, 2000), 261–64.
- 77 Lowell Darling to Evertt [*sic*, Johnson], curator at Southern Illinois University, October 29, 1971, University Museum, Southern Illinois University, Carbondale, Ill.
- 78 Darling placed the gift receipt into the diploma cover that once held his M.F.A. certificate. Receipt and diploma cover, Lowell Darling Papers, box 3, folder 10. The interior of the diploma cover mistakenly indicates that the diploma was returned to SIU in September 1970.
- 79 Presently, it is unknown whether or not Darling exercised his right to take a deduction on his 1972 tax return. Nonetheless, whether or not he put this into practice is less important than his highlighting of the maneuver as an option.
- 80 Darling to Johnson, December 9, 1971.
- 81 Factor 2, § 1.183-2(b).
- 82 National Endowment for the Arts, National Council on the Arts, *Annual Report Fiscal Year 1973* (Washington, D.C.: National Endowment for the Arts, 1973), 103. Darling, *One Hand Shaking*, 82–83. Darling’s summary of the situation is slightly skewed. The IRS wasn’t exactly “taking” money from him; rather, Darling was seeking to “not pay” a portion of his taxes by arguing for a tax deduction that the government presumed he should pay.
- 83 Paul Sutinen, “‘Artist’ is a flexible label,” *Willamette Week*, April 18, 1977, 13.
- 84 David Zack, “An Authentik and Historikal Discourse on the Phenomenon of Mail Art,” *Art in America* 61, no. 1 (January–February 1973): 46–53.
- 85 Aimée Price, in Monroe and Aimée Price, Skype interview by author, October 31, 2016. Aimée Price (Ph.D. Yale, art history), was an instructor at Otis Art Institute and introduced Darling to her husband, Monroe Edwin Price, ca. 1971.
- 86 The three remaining IRS factors consider profit: “The success of the taxpayer in carrying on other similar or dissimilar activities,” (uccess being monetary profit (Factor 5); “The taxpayer’s history of income or loss with respect to the activity” (Factor 6); and “Elements of personal pleasure or recreation”—that is, personal pleasure derived from the activity is an indicator but not a confirmation that the activity is not for profit, but this must be considered alongside the other eight factors (Factor 9). § 1.183-2(b).
- 87 Monroe Price, in Monroe and Aimée Price, Skype interview.
- 88 Lowell Darling, “This is Your Life,” *Lowell Darling’s Hollywood Archaeology*, created and designed by Darling and Jim Newman (Artists’ WWW Project, Whitney Museum of American Art, 1995), echonyc.com/~hwdarch/ThisIs15.html.
- 89 Bulman-Pozen and Pozen, “Uncivil Obedience,” 826–27.
- 90 Russ Wolpert, “Artist tries to nail down cities,” *UCLA Daily Bruin*, May 17, 1976, 8; and Jack Eyerly, “Lowell Darling is Proving Humor in Art isn’t Dead,” *Northwest Magazine*, March 27, 1977, 16–17.
- 91 Lowell Darling Papers, box 3, folder 23, and box 2, folder 20.
- 92 Lazerow, *Mastering Art Law*, 134.
- 93 Stavitsky, “The Art of Campaign,” 4.
- 94 Gubernatorial Nomination Papers, 1978, Lowell Darling Papers, box 2, folder 31.
- 95 Miriam Silver, “Artist Pokes Fun at Politics,” *Press Democrat*, January 7, 2001, B3; and Sonoma Museum of Visual Art Exhibition Files, Collection of the Museums of Sonoma County.
- 96 Lowell Darling, “Wellstone Out, Darling In,” *Prairie Progressive* (February 1999): 3. Presidential primary candidates can receive matching public campaign funds (from voluntary donations made on federal income tax returns) from the government after the candidate raises \$5,000 in private contributions of \$250 or less in twenty states (meaning one must raise at least \$100,000 in private donations). If an individual contribution exceeds \$250, only the first \$250 is counted toward this total; this has been the standard since 1974. If a candidate opts out of receiving matching public funds, they are no longer beholden to campaign spending limits; thus, many candidates raise money entirely through private contributions. Anthony J. Corrado et al., *Reform in an Age of Networked Campaigns: How to Foster Citizen Participation through Small Donors and Volunteers* (Washington, D.C.: Campaign Finance Institute, 2010), 45.
- 97 Lowell Darling, “The Perfect Speech,” *Prairie Progressive* (Spring 2006): 3.
- 98 Paula Harris, “Lowell Darling,” *Northern California Bohemian*, January 4–10, 2001, bohemian.com/northbay/lowell-darling/Content?oid=2130074; and Lowell Darling, “What if They Held an Election and Everybody Ran?,” *San Francisco Sunday Examiner and Chronicle*, June 6, 1982, 24. Darling’s film, *Run Yourself for President* (2004), interweaves John F. Kennedy’s “I am a Berliner” speech (and its implications of universal citizenry) with footage of Darling’s 2003 declaration (in Berlin) that since the United States affects global events, all citizens of the world should be allowed to vote for and run for president.
- 99 Darling quoted in Harris, “Lowell Darling.”
- 100 Bulman-Pozen and Pozen, “Uncivil Obedience,” 819, 830.
- 101 It is an example of what the art historian Julia Bryan-Wilson refers to as the daunting proliferation of paperwork. Bryan-Wilson, *Art Workers: Radical Practice in the Vietnam War Era* (Berkeley: Univ. of California Press, 2009), 176. Benjamin H. D. Buchloh’s “aesthetics of administration” is here transported wholly into the political arena. Buchloh, “Conceptual Art 1962–1969: From the Aesthetic of Administration to the Critique of Institutions,” *October* 55 (Winter 1990): 105–43.
- 102 Darling, e-mail to author, October 12, 2016.
- 103 Scott, *Domination and the Arts of Resistance*, 106.
- 104 Harris, “. . . And He Who Would Be Governor.”

Correction: After the print edition was finalized, 1974 was changed to 1975 in the second sentence of this article.