

The Audit of Venus



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The Audit of Venus  
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The first time I spoke with Venus DeMars, an artist and musician from Minnesota, she called me after midnight from her sister's backyard up on the north shore. I wanted to talk to her about an audit she was going through; I had heard it was something more than a simple mismatch between receipts. She called me late, after playing a concert, and told me her story - out of breath, pacing in the dark. At the end of our conversation I asked a silly question, though I already knew the answer: isn't the worst case scenario here just a change in tax status, maybe a little bit of money to pay back? What does it matter? Her voice caught. "It feels like it's discrediting me as a person," she said, "and just throwing my twenty year career out the window. Saying, you were just playing the whole time. You put your heart and soul out on the line because that's what touches people. And then they tell you that everything you're doing is just pretend. It can crush you."

Venus is being audited by the Minnesota Department of Revenue, who has issued a final determination regarding her status as an artist. For more than a decade she has worked with an accountant and filed a Schedule C each year with her tax return as a self-employed artist, which allows her to write off business losses. Without this status, many of the investments in her practice that she has been able to make would no longer make financial sense. For many artists, the ability to claim self-employment and avoid double taxation is central to managing sales, grants, and freelance income without finishing the year in the red. The simple version of this story is one about Venus's ability to write off the expenses and investments that enable her to draw a taxable income from her artistic practice. But this story, and the audit, is about more than that. It's about the

complexities of occupational commitments to the arts, and about the particularities of careers in the culture industries. It's about independent music, about the line between installation art and construction work, and about a less-than-traditional marriage between high school sweethearts. It's about a place with a diverse and complex cultural life thanks in part to our collective disinterest in policing whether or not anyone is a "real" artist. And it's both about and not about Venus, unclassifiable but not ambivalent, who continues to think the best of everyone.

When I went to visit her, Venus invited me to the home in south Minneapolis that she bought in 1986 together with her wife, Lynette Reini-Grandell, a poet and college professor. Inside a bright porch opens to a richly colored home. Out back, the carriage house shelters enormous paintings in progress and a tour van. In Venus, I found a soft-spoken woman screened by lush greenery on her front porch amid a pile of receipts, creating a detailed spreadsheet like nothing I've ever seen. Another day I said goodnight to a slim 53-year old recovering from the heart surgery he underwent two weeks earlier, wearily heading down to the basement to knock out a half hour's rehab on the treadmill accompanied by his loving wife of more than thirty years on the exercise bike. One night, Venus stood alone with a guitar and tight black jeans at the front of a low-ceilinged room, filled the space with her voice, and brought her audience to tears. Venus DeMars came out as trans twenty years ago, and has lived between genders since. That's not relevant to this story, except when it is. Venus wears heavy eyeliner and her hair is dyed in a two-tone homage to Cruella de Vil, but these are the only direct nods to her outsize stage persona. We sat on her front porch that first day and

snacked on nuts while we talked.

Venus, like most artists, has had a range of jobs over the years – design work at a t-shirt business, some landscaping – but hasn't held a traditional day job since 1996. She's best known for her music and leads a band called All the Pretty Horses, but is also a respected filmmaker and performance artist and shows and sells paintings and drawings. She has been awarded the big grants that local artists aim for, and while I'm in town I ask around – everyone in the arts community knows who she is, and knows about the audit, and has a strongly held opinion. Many of them are terrified on their own behalf. If this can happen to Venus, what about me?

Venus and her wife both file Schedule Cs: Venus as an artist, Lynette as a poet. They keep their receipts, and they follow the law. As well as they can. When Venus and Lynette found out they were being audited by the State of Minnesota for the tax years 2009-2011, they thought they might have inadvertently missed a small payment or expense. Getting audited is a pain, but it's part of doing business; Venus initially compared it to being called in for jury duty. Lynette told me, "We thought it was just, assemble your receipts, and make sure the math works..." She breaks off, laughing. She takes a breath, and tells me that they found some receipts they'd missed when they did their taxes, and thought they might actually come out ahead and get a little refund. She laughs again, more bitterly this time, and shakes her head. "That was incredibly naïve." She and Venus spent a few months gathering receipts and other paperwork in their free time, signed over their power of attorney to their accountant, and sent him to a meeting with the auditor with a sense of relief.

John Marg-Patton is Venus and Lynette's accountant. He said that, after some explanation, the auditor seemed to understand how both Venus and Lynette's businesses worked, and he expected to get a call within a few weeks, maybe to quibble over a \$200 receipt here and there. Maybe there was a credit card receipt for gas but you couldn't read the name of the town. Nothing out of the ordinary.

The auditor called John and asked for another meeting. He wanted some clarification on each of the businesses. John asked Venus and Lynette to come in and explain what they do, and the four of them met. Venus was ready: "I can certainly explain to them how it's a business. I've been doing it long enough, I can explain how it works, and what you do, and why you do it. I felt like there wouldn't be an issue." They were uneasy about one of the forms they had to fill out before the meeting - a ten-page questionnaire. Lynette told me, "It had really odd questions. Like basically, do you enjoy what you do? It was slimier than that. Something like, do you get any pleasure from what you do." She met with John to check in about their answers; the form seemed so strange, and they wanted to be sure they had done everything right. Later, I read through Venus's questionnaire: after asking whether she has any hobbies it returns to her work as an artist: "Describe any elements of personal pleasure or recreation you receive by conducting this activity." Venus answered, simply, "No." She and Lynette packed up boxes with evidence of their long careers, stuffed with magazine articles, reviews, publications, posters, and records.

The auditor didn't want to see any of it. The meeting

didn't go as smoothly as they'd hoped. Even John told me he was surprised that the auditor had, as he put it, "done quite a bit of lookup on the computer... no auditor that I know of ever talks about doing research on people they're auditing." Venus tried to show the auditor articles about her, even some international coverage, but he wasn't interested. "I started showing him all of the magazines, and he looks and goes, I don't need that. I know, I know, big transgender rock star. I'm a suburban white guy, I'm over it. I'm a numbers guy, let's talk numbers." He told Lynette that he'd looked her up on [Ratemyprofessors.com](http://Ratemyprofessors.com). The site encourages students to rate professors on their looks as well as their teaching - "Is your professor hot? Hot professors get a red chili pepper" - and the tone of the ratings are fairly juvenile and can skew towards the disgruntled. She was horrified, and the audit was difficult for both of them. But they came out of it satisfied that at least the auditor now understood how their businesses worked, and they were confident that the numbers would shake out.

The auditor called and asked for another meeting; he said a couple of things still weren't clear, and he needed to understand the businesses better. Venus and Lynette came in for a second meeting. Lynette went through her records to find copies of all of her rejection letters from literary journals. She had to show that she was trying - and that she was failing. Businesses don't always succeed right away; the point, it seems, is to try. To have a "profit motive," in the words of the Department of Revenue. So when you go into your meeting with your auditor, you might have to explain how many more times you've tried and failed, all the records you couldn't find and the rejections that never made it to paper. "To demonstrate that I had been trying, and getting rejected, for a long

period of time," as Lynette put it. I don't stifle a shocked bark of a laugh, and she laughs too: "I know. We can laugh now, we can laugh now. Yeah. When you're in the middle of it, it just... well." They both felt sorry for the auditor; they thought he was being pressured by his supervisor to find money, to make a determination in the Department's favor.

Venus and Lynette both received preliminary determinations from the state, reclassifying them as hobbyists rather than self-employed artists. In nine points, the state outlined its argument against each of them. Lynette had just won a large grant - a realistic source of income in Minnesota, with its highly developed nonprofit arts landscape - and the auditor states that her grant was "not the result of commercial activity" and that she had not shown that "relying on grant income is a viable business strategy." It took issue with travel she undertook for readings and conferences: "the taxpayer has friends and/or relatives in each city visited [and] to deny any personal purpose for the travel is not realistic." While she had kept her receipts separate, Venus had used the same credit card for personal and business expenses, and the auditor was not pleased that she didn't have a written business plan, insisting that "there was no documentation provided that indicated any formal business analysis was conducted." But many of the arguments against her didn't make much sense. Venus tours regularly alone and with a full band, and had brought promotional materials to show the auditor, but he wouldn't look at them; the determination says that the taxpayer provided no documentation that the quote-unquote "tours" were well-promoted. At another point, the auditor argues that Venus should have been "renting performance space and selling tickets for the



performance”, rather than performing in established clubs, and that there was no reason for multiple tours to cities like Chicago and New York over the years. Despite the newspaper and magazine reviews she had logged to the meetings with the auditor, he wrote that “There was no oral or written testimony provided to indicate the taxpayer had his music, or art, evaluated by talent professionals.” Venus’s commissioned mural and mosaic work is referred to not as a part of her artistic practice but as “freelance construction activity.” And as with Lynette, penny-pinching couch-surfing while on tour is cited as evidence of vacation travel. Finally, the auditor called into question a centuries-old Western understanding of art as an expression of the artist’s soul, arguing that both Venus and Lynette put too much of themselves into their creations to be classified as artists. He recast what might be understood as an aesthetic choice – even a savvy brand-building strategy – as evidence of recreational commitment at best, as a black mark against each of them: “The music and art are self-created by the taxpayer and based on his life experience and perspective, and are intensely personal.” “The poetry created by the taxpayer is based on her life experience and perspective, and is intensely personal.”

John received the determinations first, and read them over the telephone to Venus. She paced back and forth as she fumed. “I was pissed off,” she told me, “but more than that, I was stunned. They didn’t want to understand how the business worked. They weren’t really interested in what I had to say at all. They’re not listening. They don’t care what I say. I’ve never experienced this. I’ve always expected, if you explain it, they listen to it, and they understand it, and that’s that.” Venus asked John if they should get a lawyer. He paused, said he

thought they probably should. "When he said yes, then I just felt, oh my god, this is crazy. I always trusted the government. I always trusted the machine to do what it should." When Venus met with the auditor, she trusted that he just didn't understand her business, and that she could explain it. She tried to help him understand - the vagaries of the recording industry, the cost of paint, how to report payments in tips. Each time the meeting ended she shook his hand convinced that he finally understood how trying to make a living in the arts works. Venus told me about when she was a boy in Duluth with a mohawk. She ran down the street because she was late, and was stopped by a police officer. He couldn't believe she wasn't up to no good, but she told him the truth - why she was running and where she was going - and he understood, and he let her go. She's had a lifetime of run-ins with power, and in all of them other people's individual discretion was at work. And she told the truth, and everything always worked out. This time, she's involved in a conflict that shouldn't be about her personal qualities, but about marks on paper, about the numbers. And she doesn't know how to think about the fact that the machine seems to be failing her.

Venus and Lynette began to raise money - they set up an escrow account and asked for donations from the local arts community via paypal - and they found a lawyer. They had another meeting, this time in the lawyer's office. The auditor wouldn't shake their hands. Lynette told me he suddenly had a nervous tic in his jaw; Venus said he was furious, shaking, yelling, and she was scared. "To see his reaction at the last meeting... you don't want to feel that way with your government. Your government is supposed to be there, supposed to have your back, you know?" Venus and Lynette were offered the chance to

settle with the department for pennies on the dollar, but they declined, as they both would have lost the ability to file as self-employed. Venus told me they had discussed the possibility beforehand, and had agreed not to settle; they saw the money they had already raised as a clear message from the arts community. “We’re fighting a fight that’s beyond us. We’re not stopping. I don’t want the arts community in Minnesota, or anywhere, to be so afraid to call themselves what they are.”

After the meeting, they received an official, final determination. The Department of Revenue decided to accept Lynette’s Schedule C as filed, reversing their preliminary determination, but they deemed Venus a hobbyist.

Things have been tough. Venus underwent heart surgery between our first phone call and our first meeting, after a blockage in an artery affectionately nicknamed “the widow maker” caused pain she could no longer ignore. She hasn’t written any new songs in over a year; she’s just trying to hold it together and follow through on the commitments she can’t break. Lynette hasn’t been able to write, hasn’t even met with her writing group. She tells me, in a low voice, “It would have been nice to not go through this.”

No one can tell if the content of Venus’s work or anything about her personally matters to the Department of Revenue. These people are Minnesotans, so there’s no hyperbole, no accusations. They say they can’t tell. But they bring it up out of nowhere, so they can probably tell. John tells me he doesn’t want to be paranoid. “I don’t want to use the word shocked, but basically I don’t understand how the conclusion that the state got

to, how they got to that. And are there other outside things going on, is somebody after him or is it, because Venus is Venus... There isn't any evidence of that. But there isn't any logical reason to me why they came to the conclusion they did. That his efforts are going to be considered a hobby." Lynette apologizes for indulging in her "little conspiracy theories" before suggesting that political actors might be attempting to delegitimize the state's significant funding for the arts, that Venus's gender presentation might make some people uncomfortable, that her own position as the family breadwinner might be hard for some to understand – and then dismisses any suggestion of ill intent: "I don't think it's even conscious on their part. I think they just find our situation so unusual, it's something they can't get their head around... For an institution that you would think is based totally on numbers, it's very emotional on their side, I think." Venus gets angry, shaking angry, so angry Lynette touches her arm and tells her to stay calm – her heart. She says it's like she lost a year of her life. She recalls the meetings: "I had to get dressed, look good and look confident, and do a three-hour marathon meeting of beratement of, what I was doing, how I was a failure, why am I even trying to pretend to be an artist, I'm obviously not successful." She says it feels like they're trying to destroy her career. But her voice shifts when she thinks about the auditor. "I feel bad for him. I wish this wasn't the situation, because I know it has been an issue for him. I'm sure it's caused problems with his work. You know, he's got a wife, he's probably got kids, he's trying to live a life normally, do the best he can. That's who we all are. Why would I think differently just because I'm having a rough time?"

Venus's CV goes back to 1984, when she released her

first album. She hasn't always made a profit, and in some years she wrote off extensive losses and got by thanks in part to her wife's income. She doesn't hold a day job, works with her art more than full-time, and made about thirty thousand dollars last year through her artwork. But according to the Department of Revenue, she is a hobbyist. She can no longer claim her art practice as a business, can't file a Schedule C as self-employed; she and Lynette owe back taxes, interest, and penalties. The IRS generally conducts its own audit when the state rules against a business owner, so Venus and Lynette expect further scrutiny, more audits. Their case is currently under administrative appeal; if their appeal is rejected, Venus and Lynette will take the case to tax court, where it would result in new precedent.

Sometimes the line between professional and amateur is a clear, bright one. But in the United States artists are, for the most part, just artists, moving in and out of day jobs and commercial work and employment and unemployment and windfall and drought. Professional artist, serious artist, working artist, real artist. Around here, these are fighting words. They mean so much in part because we don't agree - can't agree - on what they mean. In fact, we prefer not to agree, and for our uncertainties we are rewarded with a rich and vibrant cultural life. There are no clear definitions, and absent the occasional obscenity or copyright trial there are no authorities to enforce the boundaries. The State Department of Revenue and the Internal Revenue Service end up being, somehow, the only mechanisms the state has to determine an artist's status with any finality. It's the auditor who decides: you're an artist, or maybe you're not. And as Venus told me the first time we spoke, it can crush you.



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