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A Realm Without Angels: MENC's Partnerships with Disney and Other Major Corporations

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My interest in partnerships between the MENC: The National Association for Music Educators and major corporations such as Disney dates back to 1996 when I was invited to attend a free premiere screening of the movie *Mr. Holland's Opus*.¹ Never one to turn down anything free, in January of that year I joined more than twenty-five thousand music educators, administrators, and friends of the arts, who gathered at fifty-one locations across the nation to watch the movie. Sponsored and promoted by the National Coalition for Music Education, of which MENC is a member, in cooperation with the National Academy of Recording Arts and Sciences Foundation, the American Music Conference, and Hollywood Pictures (a Disney subsidiary), the promotional screening was the result of an education/business partnership. I did not like the film much even though I agreed with its message that public schools and public school music should be adequately funded, and I was sorry that MENC had entered into a partnership to promote it. Part of the problem may have been timing. I had recently returned from a parental leave during which I had suffered serious postpartum complications and had struggled for nearly a year with poor health. January 1996 found me trying to figure out how I would manage a full-blown academic career, my still fragile health, and a lively child. I bristled at the visions of professionalism fostered by *Mr. Holland's Opus*, recognizing that I would never again have the luxury he did of indulging myself uninterrupted in my career; I knew that I might never again be seen as a "real professional" even though I was more exhausted and working harder than I ever had. From my per-

spective the film's images of teachers, teaching, and professionalism were profoundly masculinist; I also knew that a popular film can play a powerful role in shaping public imaginaries. Who tends to benefit from the perpetuation of these images of teachers, teaching, and professionalism, I wondered? Who tends to be harmed? So my first step on this journey was to write a critique of *Mr. Holland's Opus*.

I soon discovered that the film itself was but one small part of a much larger story about MENC's deepening involvement in education/business partnerships. One of the main themes of *Mr. Holland's Opus* is that budget cuts can have devastating effects on music programs. The education/business partnership forged to promote *Opus* and the manner in which the film was promoted suggested that the corporate world is socially responsible and genuinely concerned both about the quality of American education and the demise of music education. In no way did they intimate that corporate practices may be at least partially responsible for any declines in the quality of public schooling.

I was also aware, however, of a corpus of scholarship suggesting that recent trends toward corporate partnerships and philanthropy are window-dressing at a time when corporations are sneaking out the back door carrying everything else in the store. Critics contend that on the one hand, corporations engage in much publicized acts of gift-giving or school partnership, which cost the corporations relatively little (or in the case of *Opus*, result in considerable financial profit for the corporation), while on the other hand, they chisel away at the financial infrastructure of

schools with unrelenting demands for special corporate tax cuts, breaks, and incentives. This practice is especially detrimental to the arts because, relegated to the feminized status of “frill,” they may be among the first subjects to suffer. Tax breaks are but one example of what critics term “corporate welfare.” John Hood, in *Policy Review*, provides a list of incentives states use to attract and keep corporations. In addition to tax abatements and tax credits, Hood mentions land giveaways, releases from infrastructure costs, the issuance of tax-exempt development bonds, offers to promote products, and job training packages. These deals are unfair to existing businesses, Hood argues, especially small ones that can never hope to receive such treatment, and he concludes that there is no clear-cut evidence these forms of corporate welfare benefit state economies.² According to Jay Taylor, school-business partnerships have become increasingly popular; they quadrupled between 1982 and 1992 as financially strapped districts found themselves “dredging for dollars.”³ Taylor explains that “school officials find themselves scouring barren cupboards for sustenance, and some are turning to alternative sources of revenue when they don’t have the stomach, the legal standing, or the headroom to raise property taxes.”⁴

Keeping voices that are critical of education/business partnerships in mind, I set out to learn whether Disney puts its money where its mouth is—in other words, to ascertain whether its corporate citizenship record suggests that it provides that tax support necessary to sustain high-quality schools and school music programs. Trying to ascertain whether Disney, overall, is a good tax citizen proved to be a frustrating exercise. Disney’s sheer size was the first obstacle, one that watchdog groups may increasingly face as the number of multinational conglomerates increases and corporate power is consolidated into fewer hands. Operating in many arenas, in locations around the globe, and selling diverse products meant that Disney paid a variety of taxes. This fact, combined with state variations in how public schools are funded, further complicated my attempts to get an answer to my broad question.

How much tax a corporation pays in any given year is a matter of public record; according to its “Consolidated Statement of Income,” Disney paid \$736.6 million in taxes in 1995.⁵ The meaning of this statistic is more elusive, however. For example, 10K statistics for one or even five years do not necessarily serve as accurate indicators, partly because corporate losses can be distributed over multiple years; during the early 1990s, Disney’s European operations (that is, Euro-Disney) incurred considerable losses. Furthermore, conventional wisdom suggests that legal tax breaks may not be factored in when assessing the citizenship record of a corporation.

Trying another approach, I set out to determine what kinds of corporate social ratings Disney was receiving from research divisions affiliated with socially responsible mutual funds. Once again, the route was not particularly productive, this time because tax citizenship was not an evaluative criterion used by these funds. However, one source affiliated with socially responsible mutual funds, speaking off the record about corporate business practices, opined that there are no angels in the corporate world, adding that individual investors are faced with the difficult task of deciding which of a multiplicity of corporate offenses are least egregious to them.

Even though I was not getting clear answers, I quickly gained the sense that most sources I consulted, including watchdog groups such as Citizens for Tax Justice, view Disney warily; as a player of “legal hardball,”⁶ Disney is perceived to be an extraordinarily aggressive driver of difficult bargains, exerting its considerable muscle to get exactly what it wants. Faced with this perception, I tried another approach. Instead of seeking a meta-analysis, I gathered information about Disney’s corporate practices in specific instances and contexts. In my forthcoming book I present twelve examples of Disney’s corporate practices, all of which involve public dollars. I examine (1) the renovation of New York City’s New Amsterdam Theatre; (2) an expansion of Disneyland; (3) the renovation of the Disney-owned Anaheim sports stadium; (4) the assessment of Disney’s land holdings in Osceola

County, Florida; (5) Disney's exemption from development impact fees in the Reedy Creek Improvement District, where its planned community "Celebration" is located; (6) its monopolization of Florida's tax-free bonds, which it used to build a sewage treatment plant; (7) its use of federal tax credits to construct housing in the Reedy Creek District; (8) tax incentives Disney was offered for the creation of the now-abandoned "America" theme park; (9) Disney's involvement in Morris Trust transactions; (10) its use of step-down preferred stocks; (11) its free use of federal research laboratories to develop detonation devices for fireworks shows; and (12) its receipt of free airspace for digital television.

Let us consider a few details of one of these cases, the renovation of New York City's New Amsterdam Theater. For generations Times Square's Forty-second Street had been a hub of theatrical activity in New York City. By the early 1980s, however, when the area was slated for urban renewal, the street's reputation had changed.⁷ The theaters had closed, the historic New Amsterdam among them, and Forty-second Street teemed with sex shops, drug dealers, prostitution, and crime.⁸ As part of an urban renewal initiative, key properties were purchased by the city and state of New York. By 1994 Disney had expressed interest in one of these properties, the New Amsterdam Theatre; a renovation agreement was reached between Disney and the Forty-second Street Development Project, the latter of which is an arm of the city and state of New York. Let us consider first the terms of the forty-nine-year lease, which could, at Disney's discretion, be extended to one hundred years. As a renter, Disney pays no property taxes;⁹ furthermore, because public property is tax exempt¹⁰ and the state owns the theater, New York receives no property tax revenues from a prime piece of Manhattan real estate. The terms of the lease are particularly favorable to Disney. For the first five years, it pays \$331,401 per annum in rent and is assured of no rent increases.¹¹ From the fifth anniversary to the fifteenth, Disney pays 103 percent per annum of the previous year's rent, a rate that increases to 104 percent in years sixteen

through forty-nine.¹² After the forty-ninth year, Disney may, at its discretion, exercise up to five automatic ten-year extensions; during this time, Disney would pay whichever is greater, 104 percent of the previous year's rent or eighty-five percent of fair market rental value.¹³ University of Wisconsin-Madison emeritus professor of law Arlen Christenson, who confirmed my interpretations of the legal documents associated with the New Amsterdam renovation, remarked that the ten-year extensions were an especially good deal for Disney and noted that the rent increases written into the lease would not keep pace with inflation. Christenson concluded that Disney was in the driver's seat for a one-hundred-year lease.

In addition to rent, the state would receive a small percentage of the theater's gross revenues, two percent of revenues equal to or less than \$20 million and three percent of profits in excess of that amount.¹⁴ Furthermore, because the theater is located in a Business Improvement District (BID), Disney is responsible for BID impositions (that is, taxes or assessments), but the conditions of the lease cap those assessments at \$20,000 per annum for the first five years, no more than 103 percent of the previous year's assessment for years six through fifteen, and no more than 104 percent for subsequent years.¹⁵ Businesses located within a BID receive direct benefits from BID impositions because all revenues are funneled back into improvements for their circumscribed geographical area rather than being distributed as needed across a municipality. According to Christenson, however, this distribution arrangement has made BIDs, which have been used in other municipalities, controversial.

Government subsidies were also evident in the financing package Disney was given to facilitate the theater's renovation. According to 1995 legal documents, the corporation was to receive a \$31.4 million thirty-year loan from the city and state at an interest rate of three percent on the first \$21 million and 3.5 percent on the remainder.¹⁶ More recent sources state that the project eventually cost \$36 million, Disney receiving \$28 million in loans and paying out an additional \$8 million, the latter of which is being returned to the

corporation in the form of state historic preservation tax credits.¹⁷ According to Robin Stout, an attorney involved in renovation of Forty-second Street, Disney was the only corporation to receive such a loan.¹⁸ Other conditions of the agreement were similarly favorable to Disney. For example, the renovations were exempt from all city and state sales and use taxes;¹⁹ Disney required the city to condemn and “remove sex shops from the rest of the block at a condemnation cost of \$48 million”;²⁰ and the landlord (that is, the state) agreed to reimburse Disney for “streetscape improvements.”²¹ When early in the negotiations it appeared that Disney was not getting the favorable conditions it wanted, the corporation reportedly threatened to pull out.²² Disney opened the renovated New Amsterdam Theater, which is flanked by a mammoth new Disney megastore, in 1997.²³ According to the Minneapolis *Star Tribune*, the renovated Times Squares district is now considered “the most sought-after thirteen acres of commercial property in the world.”²⁴

Supporters of the agreement with Disney argue that the concessions were the only way to lure the corporation and to get the renovation of Times Square back on track. By using Disney as a “loss leader,”²⁵ they contend, government did not need similarly lavish packages for the corporate investors that followed Disney.²⁶ Critics counter that businesses should undertake such ventures without the benefit of corporate welfare. Others point out that the concessions made to Disney did not mark the end of using tax incentives to bring development to Times Square. The list of more recent recipients of lavish Times Square tax packages includes Reuters American Holdings; Conde Nast Publications; MTV’s parent company, Viacom; the Marriot Marquis Hotel; Bertelsmann AG; and Morgan Stanley.²⁷ One vocal critic, State Senator Franz Leichter, reportedly observed, “The next neon sign to go up should flash dollar signs with the amount of tax breaks going to corporations that fill Times Square.”²⁸

Thus, after examining this and eleven similar cases, I have concluded that Disney aggressively engages in the kinds of business prac-

tices that, according to Michael Apple, Alex Molnar, and others,²⁹ gut school coffers and precipitate declines in the quality of education programs in United States public schools. I found instances of nearly every kind of “corporate welfare” that John Hood describes in the *Policy Review* article I mentioned earlier.

Although federal tax dollars may not flow directly into school coffers, Robert S. McIntyre and T. D. Co Nguyen’s study of corporate federal income tax-paying practices, which appeared after I had completed my analysis, sheds considerable light on Disney’s tax citizenship and the citizenship of 249 other major United States corporations.³⁰ Published by the Institute on Taxation and Economic Policy, the study reports the effective corporate federal income tax rates paid by 250 major U.S. corporations for the three-year period from 1996 through 1998. McIntyre and Nguyen state that the time period studied was tremendously profitable for corporations; these gains were not reflected in federal corporate tax revenues, however:

According to the U.S. Commerce Department, pretax corporate profits rose by a total of 23.5 percent over the three years. But federal corporate income tax revenues did not come close to keeping pace with growing profits—rising by only 7.7 percent from fiscal 1996 to fiscal 1999.³¹

McIntyre and Nguyen’s findings paint a grim picture, overall, of corporate tax citizenship:

Although some of the 250 corporations in our study paid federal income taxes at or near the statutory 35 percent corporate tax rate, the vast majority paid considerably less. Effective tax rates over the 1996-98 period ranged from a low of -9.9% for Goodyear to a high of 35.7 percent for Winn-Dixie and Paccar. Overall, for the 250 companies we analyzed, federal corporate income taxes over the three years averaged only 21.7 percent of U.S. pretax profits. The average effective tax rate on the 250 compa-

nies declined over the three years, from 22.9 percent in 1996 to only 20.1 percent in 1998—far below the thirty-five percent statutory corporate tax rate.³²

The study reports that forty-one of the companies actually received refunds, in addition to having paid no taxes, for at least one year; profits for these forty-one totaled \$25.8 billion.³³ Eleven companies had a negative tax rate for the three-year period.³⁴ Only eight companies paid a rate equal to or exceeding the federal statutory rate of thirty-five percent.³⁵

Dollar-wise, almost one-half of the breaks were given to twenty-five companies, Disney among them, each of which received more than \$1 billion in tax breaks.³⁶ Disney ranked twenty-third among the top twenty-five recipients; on profits of more than \$8 billion, it received tax breaks totaling nearly \$1.2 billion and cut its taxes by forty-two percent.³⁷ Although weighing in far below the statutory rate of thirty-five percent, Disney's rate of twenty-and-one-half percent was about average among the corporations studied. It is important to keep in mind, however, that "average" in this case is poor in terms of potential impact on tax coffers. Critical of current corporate tax law, McIntyre and Nguyen conclude:

Ordinary taxpayers have a right to be suspicious and even outraged about a tax code that seems so tilted toward politically well-connected companies. In a tax system that by necessity must rely heavily on the voluntary compliance of tens of millions of honest taxpayers, maintaining public trust is essential—and is endangered by the specter of widespread corporate tax avoidance.³⁸

In 1999 while I was deeply engrossed in this study, MENC launched another promotional campaign with a Disney subsidiary, this time for the film *Music of the Heart*, starring Meryl Streep, Gloria Estefan, and Angela Bassett. In a plot reminiscent of that in *Opus*, a heroic but belea-

guered music teacher attempts to save an impoverished urban school's string program. The program is saved thanks to a fund raiser at Carnegie Hall featuring performances by such luminaries as Itzhak Perlmann and Isaac Stern. I liked the second film somewhat more than the first; nevertheless, I contend that *Music of the Heart's* portrayal of a heroic White teacher, her Black colleagues, and the minority parents of her students exemplifies what Julie Kailin calls "savage liberalism," which she defines as "a liberal denial or ignorance or ignoring of the significance of racism and its structural roots and material basis."³⁹ Specifically, the film ignores the role that racism plays in the creation and perpetuation of funding inequities; simultaneously it implies that Blacks are to blame for current problems in urban schools and that Whites are playing a salvific role.

I also disliked the movie's proposed privatized solution to public schooling's budgetary problems: save select programs by holding grand-scale bake sales. This solution exemplifies a form of selective amelioration, suggesting that only those besieged teachers, programs, and schools that have connections with the privileged elite will be saved. Furthermore, the solution is problematic because it may draw public attention away from more fundamental funding issues, from the idea that all children should have the opportunity to attend adequately funded schools, and from the premise that all entities should pay a fair share of taxes. Not only do the films I have mentioned depict the corporate world as blameless, but the partnerships accompanying them go one step further by suggesting that corporations are extending a substantial helping hand.

Based on evidence I gathered for the larger study from which this article is derived, I have concluded that MENC clearly has entered into a new era of business involvement; when the partnerships forged during the 1995-2000 era are examined, the same corporations, names, and players repeatedly appear. Who, in addition to Disney, are among the familiar and key players? The Yamaha Corporation, the National Association of Recording Arts and Sciences (NARAS), and the National Association of Music

Merchants/International Music Products Association (NAMM), to name a few. Most of these were players in the *Opus* and *Music of the Heart* partnerships. NARAS and NAMM have been participants in the National Standards for Arts Education Movement;⁴⁰ and they funded Frances Rauscher's recently disputed brain research (that is, the effects of keyboard training), which was also underwritten by the Yamaha Corporation, a manufacturer of keyboards.⁴¹

Texaco, Inc. is another company that ranks high on MENC's list of favorite corporate partners. According to a recent Texaco press release, MENC bestowed the 2001 "Partnership of Professionals" award on the Texaco Foundation, in addition to giving similar honors to Walt Disney Entertainment and PepsiCo.⁴² McIntyre and Nguyen report that Texaco's federal tax rate, -8.8 percent for the three-year period from 1996-98, was the second lowest of the 250 corporations studied.⁴³ Texaco received \$1.5 billion in federal tax breaks and ranked thirteenth among the twenty-five corporations given the largest breaks.⁴⁴ These breaks cut the corporation's taxes on its \$3.4 billion profits by 125 percent.⁴⁵ PepsiCo, another recipient of MENC's "Partnership of Professionals" award, paid a rate of 4.8 percent for the same three-year period, far below the federal corporate statutory tax rate of thirty-five percent.⁴⁶ It ranked fifteenth among the top twenty-five corporations receiving breaks and through breaks was able to cut taxes on its \$4.8 billion profits by eighty-six percent.⁴⁷

PepsiCo received MENC's accolades in recognition of the "Share the Joy with Music" program, an education/business partnership promoted at the MENC website. In the "Share the Joy" program, school children and their families collect "Pepsi Notes" by purchasing Pepsi and Frito-Lay products that feature an eighth-note symbol on the package.⁴⁸ Schools that enroll in the program can redeem the notes for "free" musical instruments and supplies. The key, of course, is that children and their families must buy Pepsi products in order to collect the notes.

Let us consider what this offer costs students and parents, keeping in mind that PepsiCo

may benefit both financially and in terms of its corporate image. Assume for a moment (and this is a big assumption in all such coupon redemption plans) that every symbol for every product purchased is turned in to the participating school. According to the PepsiCo website, a school would need to collect five thousand Pepsi Notes to receive a "free" clarinet.⁴⁹ A four-ounce bag of Frito's corn chips sells in a local store for ninety-nine cents and features one note. In order for the school to receive the clarinet, students and their families would need to purchase five thousand bags of Fritos at a cost of \$4,950 (plus, in Wisconsin, \$272.53 sales tax). Clearly, through this partnership, PepsiCo sells quite a bit of junk food at considerable cost to students and their families.⁵⁰

To get a sense of how the recent turn toward partnerships and an educational agenda strongly supported by the corporate world may be shaping MENC's perceptions of itself, its history, and its goals, one need look only as far as the MENC website. The site includes general information about the ninety-four-year-old organization, including "Highlights of MENC's History."⁵¹ The site list seven events as being historically significant, only one of which, MENC's founding in 1907, occurred prior to 1990. Of the six remaining "highlights," three refer to the formation of education/business partnerships or to the national standards initiatives. This particular version of MENC's history, in addition to erasing all accomplishments of the organization's first eighty-three years, suggests that the only really significant things MENC has done, perhaps not coincidentally, pertain to an educational agenda in which the corporate world has invested heavily.

If schools are experiencing fiscal difficulties that result in the cutting of arts programs, then many questions beg answers: Who is responsible for these difficulties? What can be done to help? Should fingers be pointed at MENC for arguably ineffectual acts, diverting precious time and resources to the promotion of problematic movies that may have done little to change the fiscal woes faced by school districts? Should they be directed at Disney and other corporate players for engaging

in business practices, legal or shady, that shift the tax burden onto private citizens and gut school coffers? At legislators for cutting deals with large corporations and being swayed by deep-pocketed lobbyists? At individuals for buying products or investing in mutual funds without knowing the corporate practices behind the product or fund? The picture is complex, as are possible solutions. There are individual and collective political actions that may be effective, however; MENC and its members might consider the following:

- Exerting pressure on legislatures to end the practice of making tax-coffer-depleting deals with big businesses.
- Working to reduce or eliminate the influence of lobbyists. Using legality as a measure of the acceptability of corporate business practice is inappropriate when laws are made under intense pressure from deep-pocketed lobbying groups funded by the same corporations the laws will

govern.

- Advocating for campaign finance reform, so that questions about whether the loyalties of public officials were bought would not need to be raised (which was the case in some of the situations I studied involving Disney).
- Striving for legislation that requires all sectors to pay a fair share of taxes.

If Disney and other similar corporations were paying their fair share, movies about the dire straits of arts programs in our schools might not be needed. When school coffers are relatively full, arts programs tend to do well. In less economically distressed times perhaps more of the music education community would agree with my assertion that the cost our national organization paid, in terms of the perpetuation of sexist and racist discourses, far exceeded whatever benefits *Mr. Holland's Opus* and *Music of the Heart* ostensibly provided.

NOTES

1. Portions of this presentation were excerpted from a chapter entitled "No Hero of Mine: Disney, Popular Culture, and Education," which will appear in my forthcoming book, *Stepping Across: Four Interdisciplinary Studies of Education and Cultural Politics* (New York: Peter Lang Publishing), in press. Royalties from the book are being donated to Citizens for Tax Justice, a non-profit watchdog group.
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10. *Ibid.*
11. "Agreement of Lease between 42nd Street Development Project, Inc., Landlord, and New Amsterdam Development Corporation, Tenant," 29 December 1994, 15.
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15. *Ibid.*, 24.
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20. Bressi, 4. See, "Agreement of Lease," 98, for details

- of this condition.
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 34. Ibid.
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 38. Ibid., 11.
 39. Julie Kailin, "How White Teachers Perceive the Problem of Racism in Their Schools: A Case Study in 'Liberal' Lakeview," *Teachers College Record* 100, no. 4 (Summer 1999): 728.
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 44. Ibid., 4.
 45. Ibid.
 46. Ibid., 25.
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 49. See "Frequently Asked Questions" at the "Pepsi-Notes Share the Joy With Music" website. Available online at http://www.pepsinotes.com/new/final_fa.asp. 31 May 2001.
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