

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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NICHOLAS ROERICH and HELENA ROERICH,
Plaintiffs,

- against -

LOUIS L. MORCH, NETTIE S. MORCH, and
MASTER INSTITUTE OF UNITED ARTS, INC.,
Defendants.
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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiffs' attorneys within twenty days after the service of this summons, exclusive of the day of service. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated, March 24, 1936.

PLAUT & DAVIS
Attorneys for Plaintiffs
Office & P. O. Address:
76 Beaver Street
Borough of Manhattan
City of New York.

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Plaintiffs, by PLAUT & DAVIS,
their attorneys, for their
complaint, allege:

1. The defendant, Master Institute of United Arts, Inc., is a corporation duly organized and existing under the Education law of the State of New York; and at all the times mentioned herein, the outstanding and issued capital stock of said corporation was and is seven shares of common stock without par value.

2. At all the times mentioned herein, the plaintiffs were and now are the owners of one share each of the issued and outstanding capital stock of the defendant, Master Institute of United Arts, Inc., and entitled to vote said stock at each and every meeting of the stockholders of said corporation.

3. During the period of 1923 to 1935 the defendant Louis L. Horch acted as the confidential agent and attorney in fact for the plaintiffs. The plaintiffs had and reposed great trust and confidence in the said defendant, and he accepted such trust and confidence.

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13. The defendants Louis L. Horch and Nettie S. Horch have failed and refused to return to the plaintiffs their two shares of the capital stock of Master Institute of United Arts, Inc.

14. Unless the defendants are restrained, irreparable damage and harm will be caused the plaintiffs, and the functions of the defendant Master Institute of United Arts, Inc. will cease and determine. There is no adequate remedy at law.

15. The defendant Louis L. Horch has never rendered the plaintiffs an account of the performance of his duties with respect to the two shares of stock of the defendant Master Institute of United Arts, Inc., deposited by the plaintiffs with him, and of the disposition made by him of the said two shares of stock.

16. By reason of the acts aforementioned, the deposit agreement of April 23, 1923, between the plaintiffs and the defendant Louis L. Horch should be rescinded, and the plaintiffs do hereby elect to rescind such agreement.

WHEREFORE, plaintiffs demand judgment as follows:

1. That the defendant Louis L. Horch be directed to render to the plaintiffs a just and full accounting of the two shares of capital stock of the defendant Master Institute of United Arts, Inc., deposited with him by the plaintiffs, and return said two shares of stock to the plaintiffs;

4. On or about April 23, 1923, the plaintiffs deposited their two shares of the capital stock of the defendant Master Institute of United Arts, Inc. with the defendant Louis L. Horch for safe keeping and upon the agreement made that day with the said defendant that they, the plaintiffs, were to retain the ownership and title in and to said shares of stock and retain all the voting privileges appurtenant to said stock. Upon information and belief, the said agreement or a copy of it was deposited with the records of the defendant, Master Institute of United Arts, Inc.

5. At all the times mentioned herein, the defendant Louis L. Horch was the owner of one share of the issued and outstanding capital stock of the defendant Master Institute of United Arts, Inc., and its president and a member of its Board of Trustees.

6. At all the times mentioned herein, the defendant Nettie S. Horch was the wife of the defendant Louis L. Horch; and she was the owner of one share of the issued and outstanding capital stock of the defendant Master Institute of United Arts, Inc. and its secretary and a member of its Board of Trustees.

7. Upon information and belief, on or about the 26th day of February, 1935, secretly and without notice to the plaintiffs, the defendant Louis L. Horch, in breach and in violation of the fiduciary duties imposed upon him by the relationship of confidential agent and attorney in fact for the plaintiffs and in breach and in violation of the agreement dated April 23, 1923, aforesaid, between him and the plaintiffs,

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wrongfully converted the two shares of stock of the plaintiffs which were deposited with him as aforesaid unto himself and declared himself to be the owner of said two shares of stock, and, upon information and belief, on or about February 26, 1935, the said Louis L. Horch assumed to and did convey the said two shares of stock of the plaintiffs unto his wife, the defendant Nettie S. Horch.

8. The defendant Nettie S. Horch, at all the times mentioned herein, had knowledge of the fiduciary relationship between the defendant Louis L. Horch and the plaintiffs and of the terms of the agreement of April 23, 1923, aforesaid.

9. At all the times mentioned herein, the defendant, Master Institute of United Arts, Inc., had knowledge of the fiduciary relationship between the defendant Louis L. Horch and of the terms of the agreement of April 23, 1923, aforesaid.

10. Upon information and belief, on or about the 26th day of February, 1935, the defendants Louis L. Horch and Nettie S. Horch, who were and still are in possession of the books and records of the defendant Master Institute of United Arts, Inc., secretly and without notice to the plaintiffs made entries in the said books and records of said corporation to indicate therein that the defendant Nettie S. Horch was the sole owner of all of the issued and capital stock of the defendant Master Institute of United Arts, Inc., including the shares of stock of the plaintiffs; and the records of said corporation now purport to show that the

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defendant Nettie S. Horch is the sole stockholder and that the plaintiffs are not stockholders.

11. On or about the 16th day of December, 1935, the defendant Nettie S. Horch, claiming to be the sole stockholder of the defendant Master Institute of United Arts, Inc., and the only person entitled to vote said shares at said meeting or at any meeting of stockholders of said corporation, purported to hold a meeting of stockholders of said corporation; but no notice of the time, place, or the holding of the said meeting was given to the plaintiffs, and the plaintiffs had no knowledge thereof.

12. Upon information and belief, at said purported meeting, the defendant Nettie S. Horch, purporting to be the sole stockholder, voted upon certain resolutions and measures, and took action as the purported stockholder of the said corporation, which resolutions were inimical to the rights of the plaintiffs and contrary to their wishes and desires. Among such measures were the removal of the plaintiffs as members of the Board of Trustees of said corporation and the election of relatives of the defendants Louis L. Horch and Nettie S. Horch to take the plaintiffs' places on said Board of Trustees, and the removal of Sina Lichtmann and Frances R. Grant, collaborators of the plaintiffs and co-founders with the plaintiffs of the defendant Master Institute of United Arts, Inc., and the election of other persons to take their places on said Board of Trustees.

2. That the agreement of April 23, 1933, between the defendant Louis L. Horch and the plaintiffs be rescinded and annulled;

3. That the defendants Louis L. Horch and Nettie S. Horch be ordered and required to return, transfer, deliver and hand over unto the plaintiffs the two certificates of stock in the defendant Master Institute of United Arts, Inc. which the plaintiffs deposited with the defendant Louis L. Horch, and that the defendant Master Institute of United Arts, Inc. be ordered to issue ^{certificates representing} unto the plaintiffs two shares of its capital stock;

4. That the defendant Master Institute of United Arts, Inc. be ordered and required to make entries and notations in its books, records and documents that the plaintiffs are stockholders of record of two shares of its capital stock, and that neither the defendant Nettie S. Horch nor the defendant Louis L. Horch is the owner or holder of either or both such shares of stock;

5. Enjoining, restraining and preventing the defendants from carrying into effect or acting upon the measures, resolutions or acts voted upon at the meeting of December 16, 1935;

6. Enjoining, restraining and preventing the defendants Louis L. Horch and Nettie S. Horch, or either of them, from holding any meeting of

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stockholders of the defendant Master Institute of United Arts, Inc. in which they, or either of them, claim or purport to be the owners or holders or persons entitled to vote the plaintiffs' two shares of the capital stock of said corporation;

7. Enjoining, restraining and preventing the defendants from holding any meeting of stockholders of Master Institute of United Arts, Inc. at any time unless due notice of the holding of such meeting or meetings is given in the manner provided by law to the plaintiffs and unless the plaintiffs and the persons who are stockholders of record of said corporation are given the right to vote at said meeting;

8. Enjoining, restraining and preventing the defendants Louis L. Horch and Nettie S. Horch and each of them, their agents, servants, employees, and attorneys, from exercising any of the rights of ownership, voting, or disposing, transferring or assigning, the plaintiffs' two shares of capital stock of the defendant Master Institute of United Arts, Inc.;

9. That injunctions in due form issue during the pendency of this action enjoining, restraining and staying the defendants from doing any of the acts mentioned in subdivisions (5), (6), (7) and (8) of this prayer for relief.

10. For such other and further equitable relief as to the Court may seem just and proper.

PLAUT & DAVIS
Attorneys for Plaintiffs
76 Beaver Street
Borough of Manhattan
City of New York.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

HERBERT PLAUF, being duly sworn, deposes and
says:

I am a member of the firm of PLAUF & DAVIS,
attorneys for the plaintiffs herein. I have read and
know the contents of the foregoing complaint and the same is
true of my own knowledge, except as to the matters therein
stated to be alleged on information and belief, and as to
those matters I believe it to be true.

The reason why this verification is made by me
and not by the plaintiffs is that they are not within the
county where I have my office for the practice of law.

The sources of my information and the grounds
for my beliefs are: examination by me of copies of the books,
records and papers relating to the facts hereinabove con-
tained.

Sworn to before me this
24th day of March, 1936.

Herbert Plaut

Milton Rein

Milton Rein
Notary Public for the State of New York
Commission Expires March 1, 1937

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COPY SUMMONS and COMPLAINT

PLAUT & DAVIS

Attorneys for Plaintiffs,

76 BEAVER STREET
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