

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

NICHOLAS ROERICH, HELENA ROERICH :
MAURICE M. LICHTMANN, SINA LICHTMANN :
and FRANCES R. GRANT, :

Plaintiffs :

-against- :

LOUIS L. HORCH, NETTIE S. HORCH and :
MASTER INSTITUTE OF UNITED ARTS, INC., :

Defendants

New York, November 19, 1936
11 o'clock A.M.

Examination held pursuant to the order of the Hon Aron Steuer, Justice,
made November 5th, 1936 and entered November 6, 1936.

APPEARANCES:

PLAUT & DAVIS, ESQS (By Herbert Plaut, Esq.*)
Attorney for the Plaintiffs
GREENBAUM, WOLFF & Ernst, ESQS., (By Harold H.
Stern, Esq) Attorneys for the Defendants.

IT IS STIPULATED by and between the attorneys for the respective
parties:

1. That the filing of this examination is waived.
2. That the examination may be sworn to before a Notary Public with the same force and effect as though sworn to before a Justice of this Court.
3. All objections as to materiality, relevancy and competency are reserved for the trial.
4. A copy of this examination will be furnished to the attorneys for the defendants, upon payment of the stenographer's charged for the same.

LOUIS L HORCH, having been first duly sworn, testified as follows:

Q. Mr. Horch, you are one of the defendants in this action, are you not?
A. I am.

Q. It is your claim, is it not, that you hold twenty promissory notes which
have been set forth in the amended answer to the complaint herein?
A. I do, yes.

Q. Do you have those notes in your possession? A. Yes.

Q. You claim these notes were delivered to you by Nicholas Roerich,
is that right? A. Yes.

Q. They were delivered to you, you claim, at various places and at
various times? A. Yes.

Q. And your claim is that they were delivered to you approximately the dates which appear on the face of the notes? A. Yes.

Q. What do you claim you gave for the delivery of those notes to you?
A. Cash.

Q. And you gave cash to whom? A. To Nicholas Roerich.

Q. So that each of these notes, you claim, was given for the amount of cash stated in the notes? A. Yes.

Q. Were these payments by you of cash made in the form of cash or in the form of checks? A. In the form of checks.

Q. And do you still have those checks?

MR. STERN: I object to that on the ground it is not within the scope of the examination, it is clearly outside -- what we have, you just know what we have. I object to the question as not being within the scope of the examination.

Q. I show you a certain letter bearing date September 3-, 1923, and ask you if that was written in your handwriting, and signed by you? A. Yes.

Q. It was signed by you? A. Yes.

MR. PLAUT: I will offer it in evidence.

MR. STERN: I object to it forming any part of this record on the ground it is not within the scope of the examination. It is purely a matter of defense or rebuttal; that there is no indication that it in any way is connected with the plaintiffs, or any of them.

Q. To whom was that letter written?

MR. STERN: I object to that question on the ground it is not within the scope of the examination.

MR. PLAUT: We are going upstairs.

(At this point, the attorneys attended before Judge Wasserfogel, who overruled the objection and directed the witness to answer.)

A. It seems it was written to the Roerichs.

Q. And when you say "the Roerichs" you mean Professor Nicholas Roerich and Madame Helena Roerich? A. That's right.

Q. And the letter is signed at the bottom LOGVAN, is that the name that you used at that time?

MR. STERN: We concede he wrote the letter and signed it, why go into that.

MR. PLAUT: All right. Counsel concedes that this letter was written by Mr. Horch.

Q. Do you recall what note was enclosed with this letter, as per the statement in the last paragraph "enclosed find note"? A. At this moment I don't recall.

Q. Do you recall whether you received the note back signed? A. I don't recall at this moment.

MR. PLAUT: I ask that this letter be marked Exhibit 1 for Identification.

(The paper just above referred to was marked PLAINTIFF'S EXHIBIT 1 FOR IDENTIFICATION of this date.)

Q. In Plaintiff's Exhibit 1 for Identification, next to the last paragraph reads "enclosed find note, please sign and return" and then there is a word which I can't make out. Can you tell me what that word is?

MR. STERN: Don't you think the letter speaks for itself?

MR. PLAUT: Yes, I think the letter speaks for itself, but I want to know what the letter says. A. I don't know myself.

Q. Could it be the word "naturally"? A. It might be and it might be something else.

Q. What notes did you have reference to when you wrote this note, that letter, Plaintiff's Exhibit 1 for identification, "within one year those notes will be destroyed"? A. I didn't have reference at all to those notes which are mentioned in this complaint, to those twney notes; in no way referring to those **twenty** notes.

Q. Were there other notes? A. Yes, there were.

Q. Were those other notes destroyed? A. Yes, they were.

Q. How many other notes, do you recall? A. Oh, there were quite a few; I have to think about that a little bit; there were quite a few notes. I made some other advances to them.

Q. Did you say the notes were not the notes that you have placed in your counterclaim in this action? A. That's right.

Q. Do you recall when those notes were destroyed those other notes were destroyed? A. I do.

Q. When were they destroyed?

MR. STERN: I object to that, as wholly immaterial to this cause of action, it has nothing to do with it and it doesn't come within the scope of the issues of this examination before trial, wholly incompetent and immaterial.

Q. Do you recall where you addressed this letter to the Roerichs, this letter Plaintiff's Exhibit 1 for identification? A. Not at this moment.

Q. Were they in Paris at the time? A. It is possible they were in Paris.

Q. Two lines appear under the words "you owe me nothing" in Plaintiff's Exhibit 1 for Identification, were they put there by yourself? A. Those lines?

Q. Yes. A. I don't think so, I can't remember that.

Q. And the reason you asked Professor Roerich to sign the note referred to in that letter, Plaintiff's Exhibit 1, was because it would save you \$6,000. in taxes, is that correct?

MR. STERN: I object on the ground the letter speaks for itself; isn't that sufficient for you, why clutter up the record?

MR. PLAUT: No, it is not sufficient.

Q. Well, the \$6,000. that you were saving in taxes referred to the \$6,000 in income taxes?

MR. STERN: I object to that on the ground it doesn't come within the scope of this examination, and secondly, the letter speaks for itself.

Q. Well now, in this letter you don't mention what taxes you were saving, what form of taxes you were saving; do you recall whether it was income taxes, Federal or State, or some other nature of taxes?

MR. STERN: I object to that on the ground the letter speaks for itself, and on the ground that doesn't come within the issues of this case, and thirdly, it is not within the scope of this examination before trial.

Q. You say, that the notes to be destroyed that you had reference to in Plaintiff's Exhibit 1 for Identification, were other notes? A. Yes.

Q. Were those other notes made prior to the date of this letter, Sept. 30, 1923? A. What is the date of this letter?

Q. September 30, 1923. A. I think so.

Q. And as to those notes which you claim were other notes, what did you give for those notes?

MR. STERN: I didn't understand that question.

MR. PLAUF: Cross it out.

Q. With reference to those notes which you claim were other notes, did you give anything to Professor Roerich for his making and delivering to you such notes?

MR. STERN: I object to that. It certainly doesn't come within the issues in this case, the consideration of other notes, no part of this counterclaim.

Q. Do you have a record of all the notes that Professor Roerich gave to you? A. Pretty well.

Q. Is it in written form or is it just reliance upon your memory? A. Well, the twenty notes I have actually and the other notes I have some notations which I made for myself.

Q. And you still retain that notation? A. Yes, I have that notation.

Q. And where is that writing?

MR. STERN: I object to that; what difference does all this make, if he has it, or he hasn't it; if he has it, he has it; we have conceded that.

MR. PLAUF: I understand you instruct the witness not to answer?

MR. STERN: Yes, I object to him answering that last question.

Q. Is it not a fact, that the twenty notes which you have placed in your counterclaim in this action are the only notes that Professor Roerich gave to you, as least, up to the date of September 30, 1923, the date appearing on Plaintiff's Exhibit 1 for Identification? A. No, he gave me other notes.

Q. Is it not a fact that upon all the notes, either those that are incorporated in the counterclaims, or the notes which you say are other notes, that on none of them was Professor Roerich liable to you for anything? A. He was liable to me on every one of the notes, because he received cash for them.

Q. Then when you wrote in the letter "You owe me nothing" the letter being Plaintiff's Exhibit 1 for Identification, did you mean the notes contained in your counterclaim or such other ones that you have been talking about today? A. Certainly not in the counterclaim; besides this, those phrases were put in, at that time general phrases had a great deal to do with the spiritualist cult of Roerich.

Q. You mean, the notes had something to do with the spiritualist cult? A. No, the various expressions that you find in here and other letters.

Q. Do you mean, the words, "You owe me nothing" meant something different than the normal meaning of those words? A. Yes, because, Mr. Plaut -- "You owe me nothing and I owe you everything" -

Q. It says, "you owe me nothing but I owe you a great deal". A. Exactly.

Q. Do you mean that the words "you owe me nothing but I owe you a great deal" didn't mean that Professor Roerich didn't owe you any money? A. He certainly did owe me money.

Q. So you say, you attached a different meaning to the words "you owe me nothing" than are normally attached to those words? A. Yes.

Q. And it didn't refer to money? A. No.

Q. And that in spite of the fact that you were talking about notes in that same paragraph of the letter? A. You can speak of a number of things in the same paragraph.

Q. I am asking you to look at the last sentence of the paragraph, doesn't it say "within one year those notes (in the plural)--will be destroyed"? A. That's right, but that didn't refer to those twenty notes.

Q. At the time you wrote this letter, you were in business, in the foreign exchange business in the Wall Street neighborhood, is it not a fact? A. I was.

Q. And you had business experience at the time that you wrote this letter, Plaintiff's Exhibit 1 for Identification? A. Yes.

Q. What would Professor Roerich owe you, if it were not money?

MR. STERN: I object to that.

Q. I show you a photostat of a letter and ask you whether that is your signature at the bottom of it? A. I would want to see the original of that letter.

MR. PLAUT: I have the original in my office, in the safe.

MR. PLAUT: Will you mark this letter for identification.

(The paper just above referred to was marked PLAINTIFF'S EXHIBIT 2 for IDENTIFICATION of this date.)

Q. Have you looked at Plaintiff's Exhibit 2 For Identification; do you

recognize that is a photostat of your signature? A. I do not.

Q. That is not your signature? A. I don't think it is, no.

Q. You deny it is your signature? A. I don't think it is, I want to see the original first. It doesn't change anything as far as that goes.

MR. STERN: Let us look at the original, and if we see the original we may concede it.

(Whereupon the hearing was adjourned to Wednesday, Nov. 25th, 1936 at 11 A.M.)

ADJOURNED TO NOVEMBER 25th, 1936, 11 A.M.

COPY

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PLAUT & DAVIS
86 BEAVER STREET
New York.
Nov. 13, 1936.

Mr. and Mrs. M. M. Lichtmann,
and Miss Frances R. Grant
310 Riverside Drive,
New York, N.Y.

Re: Lichtmann v. Master Institute (Mandamus)

Dear Mr. and Mrs. Lichtmann and Miss Grant:

I beg to advise you that the final order of mandamus was signed yesterday. We are enclosing a copy of it.

We expect to complete this order Monday or Tuesday of next week and ask for an inspection of the books.

It will be necessary to have an expert accountant go over these books with us so that a complete and thorough examination may be had, and if you have any such person in mind, I will be glad to have you communicate his name to me so that I can confer with him.

Very truly yours,
HERBERT PLAUT (Signed)

HP:s
Enc.