

LOUIS L. HORCH, called as a witness on behalf of the respondents, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR LEVY:

Q. Mr. Horch, in 1921-1922 what business were you engaged in?

A. I was in the foreign exchange brokerage business.

Q. And what was the name of your firm?

A. Horch, Rosenthal & Co.

Q. Where was your office?

A. 27 Pine Street.

Q. How long had you been engaged in that business?

A. Many years - I think since 1905.

Q. Your business had been successful, had it not?

A. Yes.

Q. And without being particularly specific can you give us an idea of approximately what you were worth in 1922?

A. 1922, approximately a million and a half, a million six hundred thousand dollars.

Q. Where did you live?

A. I lived on Central Park West. I have forgotten the exact address.

Q. And you also had a home, did you not, in California?

A. I did.

Q. At that time were you acquainted with Miss Grant?

A. I was.

Q. How did you know her?

A. I met her through Mrs. Horch, my wife.

Q. Was she a friend of Mrs. Horch?

A. She was.

Q. In 1922 did you go to California?

A. Yes.

Q. And how long did you remain there?

A. Well, I should say close to four months, I went in 1921, the end of 1921.

Q. And when did you return to New York?

A. Oh, sometime in April.

Q. When did you first hear about Professor Roerich?

A. I first heard about Professor Roerich through Miss Grant in a letter which she wrote us to California.

Q. And when you returned to New York did you have any conversation with Miss Grant about Professor Roerich or Mrs. Roerich?

A. I did.

Q. Will you tell us what was said?

A. Well, Mrs. Grant told us what a wonderful man he is, and a great artist, and she was very anxious for us to meet him; and similarly she had written us to California.

Q. And after that did you meet Professor Roerich?

A. Mrs. Horch met him first and I met him afterwards.

Q. Who introduced you?

A. Through Miss Grant.

Q. Where did you meet him?

A. 885 West End Avenue.

Q. Whose house was that?

A. Where the Roerichs had a furnished apartment.

Q. And thereafter did you continue to see him from time to time?

A. Yes.

Q. And Mrs. Roerich?

A. Yes, I did.

Q. And your relations with them were social at that time, were they not?

A. They were.

Q. When did you say this was, what month?

A. In 1922 in April, so that these conversations with the Roerichs must have been in May or in June.

Q. When did you first meet Mr. and Mrs. Lichtmann?

A. I met them at the home of Nicholas and Helena Roerich at 885 West End Avenue.

Q. And that was also about the same time?

A. Yes.

Q. And did you continue to meet Mr. and Mrs. Lichtmann sociall for a while?

A. Not so often in the beinning, more later.

Q. Now can you recall when the matter of the Master School was first mentioned by anybody to you?

A. I believe it was first mentioned at the home of the Roerich by Prof. and Mme. Roerich first.

Q. And what was said?

A. Well, they merely spoke of the school, they did not speak very much about it, very little.

Q. Did they say what kind of a school it was?

A. They spoke about a school of art.

Q. What did they have to say about it?

A. They did not say very much about it at that time.

Q. Well, then let us get by that time. The next time what was said?

A. Professor Roerich invited me, asked me one afternoon to go with him to 312 West 54th Street to see the place, to see the school which he had spoken of.

Q. Up to that time had anything been said to you by anybody about interesting yourself in this school?

A. No, that took place on that date.

Q. On the day that you visited the school?

A. That is right.

Q. Did you visit the school at 312 West 54th Street with Professor Roerich?

A. I did.

Q. And who else went along?

A. Alone.

Q. Suppose you describe first the appearance of the place and what you saw there.

A. The place was situated in a building next to a police station, there was no elevator in the building, you had to walk up two flights, you had to walk up two flight of stairs, rather a poor neighborhood; and when you entered upstairs there was a long **loft**, the walls were white-washed and not painted, and no rugs on the floor, and no partitions whatsoever.

Q. How large a room was it?

A. Quite a good sized room.

Q. Larger than this room?

A. Oh, yes, larger than this room.

Q. What was in the room in the way of furniture?

A. As I recall, one long table, quite a few chairs and two pianos, as well as some pictures on the wall.

Q. You say ~~don~~ on that day, on the occasion of that visit, that Mr. Roerich first discussed the possibility of your becoming interested in the school?

A. He did.

Q. Will you tell us what that conversation was?

A. After he took me up there he told me about the school in detail; he told me that confidentially he would like to have Mrs. Horeh and myself become financial interested in the school and help the school, and that they had no more money left, and if they would not receive financial aid they would have to stop the school.

Q. When he spoke ~~with~~ of "they" did he tell you who he meant?

A. I think he meant Madam Roerich and the Lichtmanns too.

Q. Did you know at that time that the Lichtmanns were connected with the school?

A. Yes, I think it had been mentioned to me.

Q. Did you see Mr. and Mrs. Lichtman at the school that day?

A. No, there was nobody there, no secretary, no teachers, nobody there, we were the only two people there at that time.

Q. Tell us what you remember about that conversation.

A. When I told Professor Roerich that that was something I would like to think over and talk to Mrs. Horeh about it - she seemed to be more interested in those matters than I am, and I would let him know about that.

Q. When was the matter next discussed?

A. The next time it was discussed at the home of the Roerich, and this time Madam Roerich most strongly urged us that we should help this institution, that we should help them financially and take an interest in it, because otherwise it would have to stop.

Q. Suppose you tell us everything that you can recollect that was said.

A. ~~Yes~~ Well, I do not think there was much more told. Professor Roerich told me at that time that he would like to go to India too, and he would like to paint, and he also told me at the time that he was in financial difficulties.

Q. What did he say about that?

A. Well, he told us that his pictures which had been on exhibition throughout the United States were hypothecated with the bank, and it worried him considerably, and he would like it very much if I would take over this loan, and have it in friendly hands instead of the bank, which

might at any time start an action against him.

Q. What did you say to that?

A. I told him that I would let him know later, it was not decided at that particular time.

Q. Was Mrs. Horch present at that time?

A. Yes, Mrs. Horch was present at that time.

Q. And was Miss Grant present?

A. I think she was.

Q. Did they say anything to you about their plans for the school, what they hoped to accomplish and what the objectives were?

A. There were some remarks, that an institution of this kind without money, they could not keep it up at all.

Q. Was not the matter discussed about building a school that would incorporate under one roof all the arts?

A. Yes.

Q. And that was the idea behind the project?

A. Yes, exactly.

Q. Now these conversations went on for how long?

A. Oh, I should say until the Roerichs went away to Monhegan, Maine.

Q. And when was that?

A. I am not positive about the date, Mr. Levy; I should say about June or the beginning of July.

Q. And did the Lichtnams go away with them too?

A. Yes.

Q. To the same place?

A. Yes.

Q. And did you visit them up there?

A. Yes.

Q. Did Mrs. Horch go with you?

A. Yes.

Q. And were the/ conversations renewed up there?

A. Yes, they were.

Q. About your becoming financially interested in the school?

A. Yes.

Q. Suppose you tell us just briefly what was discussed up at Monhegan Lake.

A. I would be very glad to tell this. I had thought this whole matter over, had discussed it with Mrs. Horch---

MR. PLAUT: I do not think that is responsive. Is that what he said to them?

THE WITNESS: No

THE REFEREE: Strike it out.

THE WITNESS: I told them up there I would be willing to become financially interested, Mrs. Horch and myself, based upon certain conditions, that a corporation would have to be organized and I would have to be in control of it, because it would take a great deal of money to really put this institution on the map, and which they all agreed to.

Q. Who was present?

A. Well, Professor Nicholas Roerich, Madam Helena Roerich, Mrs. and Mrs. Lichtmann, Frances Grant, Mrs. Horch.

Q. Was Miss Grant up there too?

A. Yes, she was.

Q. They all agreed to that, you say?

A. They all agreed.

Q. Was anything said about Professor Roerich's painting that were hypothecated with the bank?

A. Yes.

MR. PLAUT: I object to that.

THE REFEREE: Is not that the same testimony that we had before with reference to the paintings and the hypothecation and the amount loaned on them?

MR. PLAUT: It is not testimony/ that I brought in, it is testimony that Mr. Levy brought in. As I see it it has no bearing on the stock of the corporation.

MR. LEVY: It is part of the relevant history of Mr. Horch's connection with it. It shows also the financial state that these people were in when Mr. Horch came to their rescue.

THE REFEREE: I will allow it, but get it over quickly.
Exception taken by Mr. Plaut.

Q. (Holding paper) I show you the check and ask you whether that is the check that you paid in order to take Prof. Roerich's paintings out?

A. Yes.

MR. PLAUT: I assume that this is all under the same objection. I do object to that

THE REFEREE: The same ruling.

Exception taken by Mr. Plaut.

MR. LEVY: I offer it in evidence.

MR. PLAUT: I object to it.

THE REFEREE: Objection overruled

Exception taken by Mr. Plaut.

Check dated September 14, 1922, to the order of Fifth Avenue Bank in the amount of \$8,353.19, made by Louis L. Horch, was admitted in evidence and marked Respondent's Exhibit No. 19, February 3, 1937, C.B.

Q. (Handing paper) I show you a paper and ask you whether or not this letter is in Professor Roerich's handwriting.

A. It is.

Q. And when is it dated?

A. It is dated the 16th of August, 1922.

MR. LEVY: Now, if your Honor please, the letter that I am about to offer is written in Russian and I want to offer a translation subject to correction, a translation we have ~~made~~ had made.

BY MR. PLAUT:

Q. Who made the translation?

A. The translation was made by Miss Esther Lichtmann.

Q. She is a party to this proceeding?

A. Yes.

MR. LEVY: I am offering this for the time being, and Mr. Plaut can have the letter translated if he wants to and we can correct it.

THE REFEREE: If the letter is admitted we will accept the translation subject to such action as Mr. Plaut may want to take with reference to the translation.

M MR. PLAUT: That is perfectly satisfactory. Do you offer the letter?

MR. LEVY: Yes, I offer it in evidence.

MR. PLAUT: I object to it on the ground of immateriality.

THE REFEREE: Objection overruled.

Exception taken by Mr. Plaut.

The letter and the translation thereof were admitted in evidence and marked Respondent's Exhibits Nos. 2- and 20-A respectively, February 3, 1937, C.B.

Q. You say the subject of incorporating was discussed?

A. It was; I was very definite about that.

Q. You insisted on a coporation?

A. Yes, and under my control.

Q. What happened about that when you came back to New York?

A. I went to see Mr. Harry A. Bloomberg.

Q. Had you known Mr. Bloomberg before that?

A. Yes.

Q. Had he been your lawyer?

A. I think so, I think he had been my lawyer before.

Q. And did you discuss the matter of incorporating the Master Institute with Mr. Bloomberg?

MR. PLAUT: I object to the question as not binding ~~him~~ on the petitioners.

THE REFEREE: Objection sustained.

Exception taken by Mr. Levy.

Q. Was the Master Institute thereafter incorporated?

A. It was.

Q. And the legal work was done by Mr. Bloomberg, was it not?

A. It was.

Q. And do you know under what law the Master Institute was incorporated?

A. Under the Educational Law.

Q. And what was the capitalization of the corporation?

A. \$7,500.

Q. And how many shares of stock were issued?

A. Seven shares of stock.

Did Mr. Bloomer discuss with you in the presence of Mr. and Mrs. Lichtmann and Professor Roerich and Mrs. Roerich at any time the necessity of having seven directors or trustees?

A. No, he did not discuss it.

Q. He did not?

A. No, I left all these matter to him more or less.

Q. You did?

A. Yes.

Q. The certificate -- I think it is called a charter, is it not, under the Educational Law?

A. I think so.

Q. The certificate of incorporation came through all right, did it not?

A. Yes.

Q. And thereafter did you invest any money in the corporation?

A. I did.

Q. And what was the first sum of money you turned over?

A. The first sum of money I turned over was \$8,000.

Q. (Handing book) I show you a book and ask you what it is.

A. This was a book kept by my secretary, the bank account in the Bankers Trust Company, one of my accounts in the Bankers Trust Company.

Q. And was that book kept in the regular course of your vusiness?

A. Yes.

Q. By your secretary?

A. It was.

Q. And what does it contain, what kind of entries?

A. Well, various types.

Q. I do not mean each individual item: Does it show disbursements by you?

A. It does show disbursements.

Q. From your private bank account?

A. It does.

MR. LEVY: I do not want to offer the whole book in evidence but I do offer an entry concerning a payment of \$8,000 in September 1922, or August, 1922.

MR. PLAUT: May I question the witness on that point?

THE REFEREE: Yes.

BY MR. PLAUT:

Q. This book contains a record of the disbursements from your own personal bank account, does it not?

A. It does.

Q. Is that made up from entries copied from your check book?

A. Do you mean at the time?

Q. Yes.

A. I think so.

Q. And made up by your secretary?

A. I believe that is so.

Q. It was your own personal check book, was it?

A. My own personal check book.

MR. PLAUT: I object.

BY MR. LEVY:

Q. You had a number of financial interests, business activities other than your foreign exchange business, had you not?

A. Yes.

Q. And the expenditures were paid out of your private bank account for those activities, were they not?

A. They were.

Q. For example, what kind of businesses did you engage in?

A. Well, I won't say exactly business, but I was interested as shareholder or bondholder in difference corporations.

Q. Speculating?

A. I did.

MR. LEVY: I offer it in evidence.

THE REFEREE: Cannot the witness refresh his recollection by looking at those entries?

MR. LEVY: I am offering this as corroborative evidence.

Q. Do you recall the date when you paid the \$8,000?

A. I think August 11, 1922.

THE REFEREE: What more do you want?

MR. LEVY: This is merely corroborative.

MR. PLAUT: I should think the check would be the best evidence.

THE REFEREE: Objection sustained.

BY THE REFEREE:

Q. To whom was that payment made?

A. Master Institute of United Arts.

BY MR. PLAUT:

Q. On what date?

A. August 11, 1922.

THE REFEREE: Did I understand the witness to say that that was the paid in capital of the corporation?

THE WITNESS: That is right, that is advance subscription for shares.

BY MR. LEVY:

A. About that time did you make other disbursements for the Master Institute?

A. I did from another bank account.

Q. For what purpose or purposes?

A. Well, as mentioned before, the place had practically no equipment at all, it was necessary to have partitions, there were no partitions, so an order was given for partitions, which cost approximately \$1,200; and I purchased a safe for the organization, and I purchased a desk and also the equipment that was necessary there at the time.

Q. (Handing checks) I show you some checks and ask you to look at them and tell us whether or not these are the checks that represent some of the disbursements you have just testified about.

A. They are.

Q. How many are there in that collection?

A. How many checks?

Q. Yes.

A. Twelve.

MR. LEVY: I offer them all in evidence as one exhibit.

MR. PLAUT: May I ask a question or two?

MR. LEVY: Yes.

BY MR. PLAUT:

Q. Who is Henry Mueller?

A. Henry Mueller is a man who constructed furniture and different things, a builder, and he built at that time the place where they put the pianos on.

Q. And who is George J. Wiedman?

A. He fixed the radiators so there would ~~be~~ be adequate steam.

MR. PLAUT: I object to the introduction in evidence of these various checks. I do not see that the payments represented by these have any bearing on the issues involved in the petition.

THE REFEREE: Objection overruled.

Exception taken by Mr. Plaut.

The 12 checks were admitted in evidence and marked as one exhibit, Respondent's Exhibit No. 21, Feb. 3, 1937, C.B.

(For convenience the following is a list of the checks:)

Date	Payee	Amount
Aug. 1, 1922	York Safe and Lock Co	90.00
Sept. 5, 1922	T. G. Sellow	161.75
Sept. 5, 1922	Improved Office Partition Co	128.00
Oct. 20, 1922	T. G. Sellow	61.50
Oct. 20, 1922	Chamberlin Supply Co.	15.50
Nov. 4, 1922	T. G. Sellow	32.50
Nov. 4, 1922	Chamberlin Supply Co.	15.75
Nov. 4, 1922	Henry Mueller	146.00
Nov. 9, 1922	Improved Office Partition Co.	235.50
Nov. 27, 1922	Chamberlin Supply Co.	30.25
Nov. 29, 1922	Underwood Typewriter Co.	50.00
Dec. 22, 1922	George J. Wiedmann	53.00
		<u>1019.25</u>

BY MR. LEVY:

Q. Did you have a conversation around December of that year with Miss Grant's mother in reference to Miss Grant's participation in this Institute?

MR. PLAUT: I object to it.

THE REFEREE: He may answer that question.

EXCEPTION taken by Mr. Plaut.

A. Yes. I cannot fix the exact date.

Q. Approximately?

A. During that period of time.

Q. Did you at any time after that conversation discuss the substance of the conversation with Miss Grant?

A. I did.

Q. Well, now, without going into details, I just want to develop one feature; what was the general substance of the conversation?

MR. PLAUT: I object. I think we ought to be informed beforehand what the purpose of it is.

MR. LEVY: I would be very glad to do that.

(Discussion off the record.)

MR. PLAUT: Now I object to the conversation upon the ground that the agreement speaks for itself and that all conversations leading up to it are embodied in the agreement, and that parol evidence is inadmissible for any purpose.

THE REFEREE: I will allow it.

Exception taken by Mr. Plaut.

MR. PLAUT: Do I understand that was a conversation between the mother--

THE REFEREE: No, this is concerning the subject matter of the conversation which was had between the mother and Mr. Horch and as reported in the conversation with Miss Grant.

A. Miss Grant had been concerned -- and this also had been told to me by Prof. and Mme. Roerich --

MR. PLAUT: I move to strike it out.

THE REFEREE: Strike it out.

THE WITNESS: That she was losing her daughter, Miss Grant, who became so interested in these Roerich ideas and ideals or doctrines, and that it was leading to a break almost between her and her mother. And at the same time -- if I may go on in this matter --

Q. Yes.

A. This is a matter I told to Harry Bloomberg, my attorney --

MR. PLAUT: I object to that and move to strike it out.

THE REFEREE: Strike it out. The question is as to the substance of the conversation between you and Mrs. Grant which you discussed subsequently in a conversation with Miss Grant.

Q. Is there anything further in that conversation that you can tell us about?

A. No, she was very much concerned about it.

Q. Did you have any talk with Professor Roerich during that time, in the autumn of 1922, about some difficulties that one of his sons was in?

MR. PLAUT: I object to that.

THE REFEREE: What is the purpose of it?

MR. LEVY: It is on the same point, that there was considerable concern concern both on Mr. Horch's part -- particularly on Mr. Horch's part, That if something should happen to Professor Roerich the stock might fall into the hands of this son who had gotten into a kind of a jam.

(Question repeated by the reporter.)

MR. PLAUT: Objected to.

THE REFEREE: Objection overruled.

Exception taken by Mr. Plaut.

A. I did.

Q. Now do you recall when the stock in this corporation was issued?

A I do.

Q When?

A I think it was November 22, 1922.

Q And where was the stock issued?

A Well, I had the shares.

Q Where did you get them?

A I got them from Mr. Bloomberg.

MR PLAUT: I move to strike out the answer as not responsive to the question.

THE REFEREE: Strike out the answer "Well, I had the shares."

Q Where did you get the shares?

A Mr. Harry Bloomberg.

MR. PLAUT: I move to strike it out: that is a person, that is not a place.

THE REFEREE: Strike it out.

Q Who gave you the shares of stock?

A The firm of Bloomberg & Bloomberg.

Q What individual in that firm?

A Mr. Harry A Bloomberg.

Q And where did this occur?

A In his office.

Q Were the certificates of stock detached from the book or did they remain in the book, the stock certificate book?

A I think they were taken out.

Q What?

A I think they were taken out of the book.

Q And what did you do with the stock when you received it?

A I took the stock to 312 West 54th Street, they had been made out in the names of -- one share in the name of Nicholas Roerich, one Helena Roerich, Frances R. Grant, Maurice M. Lichtmann, Sina Lichtmann, Nettie S. Horch and myself.

Q And what was done at 312 West 54th Street with that stock?

A I simply asked each one of them to endorse it on the back.

Q And did they?

A They did.

Q And that was in November, 1922?

A Yes.

Q And after they had endorsed the stock on the back in blank what did you do with the certificates?

A I took them to my home.

Q And where did you keep them?

A I kept them at home.

Q Did Miss Grant, Mr. or Mrs. Lichtmann or Mr. or Mrs. Roerich at any time have these certificates of stock in their possession?

A Never.

Q That was in November of 1922?

A Yes.

Q Did you have any discussions with any of these people concerning a new home for the school?

MR PLAUT: I object to that.

THE REFEREE: I will allow it.

Exception taken by Mr. Plaut.

A I did.

Q And when was the matter first discussed?

A Well, it is difficult to fix the exact time, Mr. Levy; I should say some time in 1923, early in 1923.

Q And did you in April, 1923, purchase No. 310 Riverside Drive?

A I did.

Q Do you recall how much you paid for the property?

A \$195,000.

Q And of that sum how much was cash?

A \$95,000

Q Have you got the check for that?

THE REFEREE: There is no issue as to the amount paid and no issue that Mr. Horch paid it, is there?

Mr. Levy; No.

THE REFEREE: I think that is in the record already.

Q In whose name was the property taken?

A The property was taken in the name of Maurice Lichtmann.

Q And what was the purpose of taking it in the name of Maurice Lichtmann?

A The reason was that approximately at the same time I was also negotiating to purchase 311 and 312 Riverside Drive, and I was concerned that the lady --

Q By the lady do you mean the owner?

A Yes, who owned 311 and 312 Riverside Drive -- if she heard that I purchased 310 Riverside Drive in my name and also was negotiating for 311 and 312 she would feel that I was assembling a plot and she would ask \$5,000 or \$10,000 more, and therefore I placed the property in Mr. Lichtmann's name, and the other was placed in the name of my secretary, Mr. F. W. Thomas, who was acting as dummy in the matter.

Q When these endorsements were put on the stock certificates by Miss Grant and the others did you have any talk with them about what they were doing at that time?

A I did.

Q And what was the conversation?

A I simply told them they should endorse these shares, that they were acting as nominees for me, that they were my nominees.

BY THE REFEREE:

Q Were they all together in a group or were they at separate tables or desks or what?

A They were in 312, all together at that time.

BY MR. LEVY:

Q And they signed the certificates and handed them back to you?

A Yes.

Q Now we come down to this agreement of April 23, 1923, and it has been testified that there was a meeting held at 312 West 54th Street.

A Yes, sir.

Q Do you recall that meeting?

A Yes, sir, I do.

Q And who was present at that time?

A Professor Roerich and Helena Roerich, Mrs. Horch, Mr. and Mrs. Lichtmann, Frances R. Grant, Mr. Harry Bloomberg the attorney and myself.

Q And at that time did Mr. Bloomberg produce this agreement that has been offered in evidence, Petitioners' Exhibit 9?

A Yes.

- Q Did Mr. Bloomberg produce this agreement of April 23, 1923?
A Yes.
- Q Prior to that time had you discussed it with him?
A I had.
- Q And had you discussed the purpose of it and what was to be put in it?
A I did not discuss exactly what was to be put into it, but I told him at the time --
- MR? PLAUT: I Object to what he said to him.
- Q Did you tell him what object you were seeking to accomplish?
A Protection.
- MR. PLAUT: I move to strike that out.
- THE REFEREE: Strike it out. The question is not what you told him, but whether you told him the object you were seeking to accomplish.
- THE WITNESS: I did.
- Q It has been testified here by Miss Grant, and I believe by Mr. and Mrs. Lichtmann, that this agreement was the subject of conversation between you and them some time prior to April 23, 1923.
A Yes.
- Q Had you discussed the drawing of this agreement with Miss Grant or Mr. and Mrs. Lichtmann?
A I had not.
- Q Had the subject come up at all?
A No.
- Q Now when Mr. Bloomberg came to 312 West 54th Street what did he say in the presence of all of you?
A He said very little, he simply took the agreement, read it out, and every one signed it, and nobody said very much about it.
- Q Did he tell you what he was there for?
A He was there for that purpose.
- Q Did he give them any explanation of what the agreement was or what was going on?
A Possibly he did, but I just don't remember at this time.
- Q How many copies of the agreement were there?
A As far as I remember one.
- Q And after they all had signed it what became of that copy?
A I received the agreement.
- Q And what did you do with it?
A I put in my records at home.
- Q And you continued to keep it?
A I did.
- Q And did you produce it here at this hearing?
A I did.
- Q From your own personal files?
A I did.
- Q In addition to this agreement was anything discussed at that time about powers of attorney?
A There was.
- Q What was said about powers of attorney?
A I spoke with Mr. Bloomberg about that.
- Q And after speaking to Mr. Bloomberg about it did he draw up any powers of attorney?
A He did draw up powers of attorney.
- Q And powers of attorney from whom to whom?
A From Nicholas Roerich, Helena Roerich, Frances R. Grant, Maurice Lichtmann and Mrs. Lichtmann.
- Q And were those powers of attorney signed?
A They were.
- Q By all of those people?
A They were.

Q Giving you general power of attorney?

A. That is right.

MR. PLAUT: Now unless you produce them --

MR. LEVY: I am going to produce them.

Q About what was the date of this?

A. Oh, ~~about~~ that was about April 30th.

Q Have you these powers of attorney?

A. The only one I have left is a photostat copy of the one I received from Nicholas Roerich, signed as of that date. There is one here if you want to see it.

Q Have you got it?

A. Yes.

Q What became of the original?

A. I do not know.

Q You do not know?

A. It was in the attorney's office.

Q And have you any idea of what became of the originals of the other powers of attorney from the other people?

A. Well, I was under the impression from a bank that every two or three years it is necessary to have another one made out, so I had new ones made out.

Q And what did you do with the old ones?

A. I filed them away or destroyed them.

Q Have you looked for them?

A. I have.

Q Recently?

A. I did.

Q And have you been unable to find them?

A. ~~xxxxxx~~ Yes.

Q The paper you hold in your hand, what is that?

A. That is a photostatic copy of a power of attorney made up by Bloomberg & Bloomberg, from Nicholas Roerich to Louis ~~xxxxxx~~ L. Horch.

MR. LEVY: I offer it in evidence.

MR. PLAUT: I would raise the point of not being the original document, and I assume that will be decided against me; and otherwise I have no objection.

MR. LEVY: Do you press the point?

MR. PLAUT: No, I will withdraw that and make no objection.

The paper was admitted in evidence and marked Repondent's Exhibit No.22, Febuary 3, 1937, C. B.

Q Now you say that you ~~xxxx~~ have made diligent search for the powers of attorney from the other people?

A. I did.

Q And have you been able to find them?

A. No.

Q To the best of your recollection were the ~~pawers~~ powers of attorney from Miss Grant, Mr. and Mrs. Lichtmann and Helena Roerich in the same form and language as the one that has just been offered in evidence?

MR. PLAUT: I object. I should like to interrogate the witness on the point.

BY MR. PLAUT:

Q When did you last see those powers of attorney?

A. Oh, I have not seen them for many years.

Q Where did you find that one which has just been marked in evidence as Repondents' Exhibit 22?

A. Among my files.

Q What files?

A. My files at home.

Q Does this particular file have a folder in it?

A. Possibly, yes. It must have been in the folder.

Q When did you find this Respondents' Exhibit 22?

A. Where?

Q When?

A. MR. LEVY: I have no objection to Mr. Plaut asking a few questions in order to clarify the admissibility of this evidence, but I do not want any cross examination at this time.

THE REFEREE: He is trying to help to account for the original, is he not? Is he not justified in examining on that point?

MR. LEVY: I suppose he is. I will withdraw my objection.

A. Oh, it must be about I think some time in 1936, early 1936.

Q Early 1936?

A. I think so.

Q And did you at the same time look for the others?

A. I am not sure at that time or thereafter at some time or other.

Q Where did you look for the others?

A In the files, various files that I had a good many years ago.

Q Can you be more specific?

A. No, I cannot not: I have some old files where I put old papers away.

Q Can you be more specific as to where you found this Exhibit 22?

A. The files I found in my apartment.

Q You have lots of files in your apartment; have you not?

A. Four or five.

Q Now in which of the four or five files did you find this one?

A. I do not know exactly how to tell you; there is a file cabinet there and it was among the papers there.

Q Was it in a folder?

A. I think it was possibly in a folder.

Q And what was written on the outside of the folder?

A. Possibly it had "Nicholas Roerich" on it.

Q You say possibly, you are not sure?

A. I can look at home and see if I have that folder. It was in the file, That I can show you.

Q Did you look in the file of Maurice Lichtmann for his?

A. I did.

Q And now you are being a little more specific on the point, where was that file?

A. Well, if I had them they would be there, but I have not got them.

Q When did you last have it?

A. Oh, I think some time in 1936.

Q What month?

A. I do not know exactly.

MR. PLAUT: I press my objection.

BY THE REFEREE:

Q You photostated the one signed by Mr. Roerich?

A. Yes.

Q Did you photostat the others at the same time?

A. No.

Q Was there a difference a difference between the two, that you wanted to have one photostated and not the others?

A. No, I did not have the others to photostat.

Q What did you do with the original of the Nicholas Roerich power of attorney?

A. I do not know, it was in the lawyer's office or it was simply lost.

Q What was the occasion of having it photostated at all?

A. I do not know; I wanted an additional copy, that is all.

Q You do not generally photostat documents that you have unless there is some reason for it, do you?

A. I cannot remember the reason at this moment, your Honor.

Q Did you ever return any one of these powers of attorney to the maker?

A. No.

THE REFEREE: I will overrule the objection.

Exception taken by Mr. Plaut.

(The following question was repeated by the reporter:

"Q To the best of your recollection were the powers of attorney from Miss Grant, Mr. and Mrs. Lichtmann and Helena Roerich in the same form and language as the one that has just been offered in evidence?")

A. Yes.

BY MR. LEVY:

Q Now these legal services that Mr. Bloomberg rendered, who paid his fees for them?

A. I did.

Q (Handing checks) I show you five checks to the order of Bloomberg & Bloomberg and ask you whether these checks are signed by you.

A. They are.

Q And for what purpose were those checks issued?

A. For legal services.

Q And were those legal services rendered to you or to the Master Institute?

A. Rendered a good part to the Master Institute, the purchase of the property.

Q And any services rendered for you individually?

A. Personally?

Q Yes.

A. Outside of the work for the institution?

Q Outside of the work for the institution and the purchase of the properties you were buying.

MR. PLAUT: That question assumes something that the witness did not say.

Q Suppose you tell us just what the checks were for.

A. It was work for the Master Institute of United Arts, legal services, and it was for ~~the~~ purchasing the property 310, 311 and 312 Riverside Drive; it was for the forming of the corporation called Corona Mundi International Art Center, it was for the business corporation suggested by Nicholas Roerich called Pan Cosmos Corporation, and other legal work that Mr. Bloomberg did for the institution.

MR. LEVY: I offer the checks in evidence.

MR. PLAUT: May I interrupt again?

BY MR. PLAUT:

Q Have you got the bills that Mr. Bloomberg rendered?

A. I do not think I have.

Q Did you ever have them?

A. Yes, I did have them.

Q When did you last see them?

A. Many years ago, Mr. Plaut.

Q Did you keep them in the files too?

A. I do not know what happened to the files, they are lost.

Q You did put them in the files, didn't you?

A. I assume so, many years ago.

MR. PLAUT: No objection.

The five checks were admitted in evidence and marked as one exhibit, Respondents's Exhibit No. 23, February 3, 1937, C. B.

(For convenience the following is a list of the checks:)

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Feb. 1, 1923	Bloomberg & Bloomberg	\$ 503.70
Mar. 26, 1923	Bloomberg & Bloomberg	53.49
Apr. 17, 1923	Bloomberg & Bloomberg	87.90
May 7, 1923	Bloomberg & Bloomberg	1,000.00
Feb. 4, 1934	Bloomberg & Bloomberg	2,214.33

Q All these properties that you acquired, 310 Riverside Drive, 311, 312 and 312-1/2 Riverside Drive, and 323 West 103rd Street, all these properties were purchased by

you with your own money, is that right?

A. That is right.

Q And these properties represent the land upon which the present Roerich Building was subsequently erected?

A. Yes.

Q And how much did you pay for 310 Riverside Drive?

A. \$195,000.

Q And how much cash was there paid?

A. In 1923 do you mean?

Q Yes.

A. \$95,000.

Q And how ~~much~~ about 311 Riverside Drive, how much did ~~you~~ that cost you?

MR. PLAUT: I object to this. I see no relevancy to it.

THE REFEREE: Objection overruled.

Exception taken by Mr. Plaut.

A. 311 and 312 Riverside Drive cost \$110,000

Q The two together?

A. Yes.

BY THE REFEREE:

Q Subject to a mortgage of how much?

A. Subject to a mortgage of \$52,500.

BY MR. LEVY:

Q And 312 Riverside Drive cost you how much?

A. I would say about \$71,000 -- about \$70,000.

Q I have a figure here of \$68,000. Is that your recollection?

A. It is more than that.

Q And how much was the mortgage there?

A. That had to be paid up all in cash at the time, there was no mortgage. It was paid at one time.

Q So you paid \$70,000 cash for that building?

A. Yes, that is right.

Q And acquired it free and clear?

A. Yes.

Q And 323 West 103rd Street, how much did that cost?

A. \$50,000.

Q And how much was the mortgage?

A. I think \$25,000.

MR. LEVY: I am going to offer in evidence for the purpose of corroboration all the checks that were paid for the acquisition of this property.

BY THE REFEREE:

Q Were these papers routed in any way through a bank or were they all made directly by you to the various parties?

A. Made directly by me.

Q Is there anything to indicate that the company assumed the obligations as advanced by you to the banks, or is there nothing to show it?

A. Do you mean on the books of the Master Institute or of the association?

Q Any place you know.

A. Well, on the books of the Master Institute they have a financial statement here on which appear 310 and 311 and 312 Riverside Drive.

Q As an asset of the company?

A. Yes.

Q And against it the liability for the purchase price?

A. No liability whatsoever, because I considered the Master Institute of United Arts my own corporation, so I did not set it up that way.

MR. LEVY: I will offer these one at a time.

MR. PLAUT: I see no reason for encumbering the record; he said the payments were made, and as far as I am concerned they require no corroboration.

MR. LEVY: I will withhold my offer at this time and think it over.

THE REFEREE: If you want them to go in I will allow them.

MR. LEVY: I will withhold the offer for the time being.

BY MR. LEVY:

Q Now these mortgages, were they subsequently satisfied?

A. They were.

Q All of them?

A. Yes.

Q And by whom were they satisfied?

A. By me.

Q And was that paid for out of your personal funds?

A. Yes.

Q When did that occur?

A. That was in 1928.

Q You have checks here for that too, have you not?

A. I have, yes, sir.

Q And what did that amount to approximately?

A. Well, 310 was \$100,000 and 311 and 312 must have been \$57,000, and another \$25,000 for 323, and the other thing was purchased all at one time.

Q Now during this period -- I am referring now to the early years of the corporation, 1922, 1923 and 1924 -- in addition to buying these properties did you pay for other expenses of the Master Institute?

A. I did.

Q Of what nature?

A. Whatever their needs were.

Q Did you buy any pianos for them?

A. Yes.

Q How many?

A. I offhand cannot remember, Mr. Levy, I think early in 1923 two were purchased.

Q And just generally what was the nature of your expenditures?

A. I think, approximately again, I must have advanced officially on the books about \$70,000, but outside of that even I advanced additional sums too which do not appear on the books of the Master Institute.

Q (Handing papers) I show you a batch of checks starting December 2, 1922, and ask you whether these are some of the checks you paid to the Master Institute for their current expenses?

THE REFEREE: To the Master Institute?

Q Gave to the Master Institute for its expenses?

A. Yes, they are.

MR LEVY: I offer the entire batch in evidence.

MR. PLAUT: How many are there?

MR. LEVY: I did not count them; there are a lot of them.

MR. PLAUT: Are they arranged chronologically?

MR. LEVY: Yes.

(Discussion off the record.)

Q You had a number of bank accounts, did you not, Mr. Horch?

A. I did.

Q And these checks to the Master Institute were drawn on various bank accounts, were they not?

A. I believe so.

MR PLAUT: That is funny, they all seem to be drawn on one bank.

THE WITNESS: That is possible.

MR. PLAUT: Would you have your office prepare a list of these checks, showing the dates and the amounts, and the banks upon which they were drawn? Maybe we can offer the list in evidence.

MR. LEVY: You are perfectly welcome to come over and examine them.

THE REFEREE: Are these checks objected to or are they not?

MR. PLAUT: I notice here some checks made out to Master Institute of Roerich Museum. Is that the same thing as Master Institute of United Arts?

MR. LEVY: Ask Mr. Horch.

THE WITNESS: What date is that?

BY MR. PLAUT:

BY MR. PLAUT:

Q December, 1929.

A. That really belongs to a different of checks.

Q Here is one to the order of Emil J. Bistrom.

A. That also does not belong in there.

(The witness then separated the checks into two batches.)

MR. PLAUT: May I see these others?

MR. LEVY: Yes.

Q You say all the rest of these are to Master Institute of United Arts, Inc.?

A. Yes.

MR. PLAUT: What is the purpose of offering them in evidence? I object to them as being immaterial and needlessly encumbering the records.

THE REFEREE: Objection overruled.

Exception taken by Mr. Plaut.

The bundle of checks were admitted in evidence and marked as one exhibit, Respondents' No. 24, February 3, 1937, C. B.

(For convenience, the following is a list of the checks:)

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Dec. 2, 1922	Master Institute of United Arts	\$2,500.00
Feb. 17, 1923	Master Institute of United Arts	15.00
Mar. 13, 1923	Master Institute of United Arts	1,000.00
Apr. 2, 1923	Master Institute of United Arts	1,000.00
Apr. 2, 1923	Master Institute of United Arts	1,500.00
Jan. 2, 1924	Master Institute of United Arts	500,000
Mar. 3, 1924	Master Institute of United Arts, Inc.	1,500.00
Mar. 31, 1924	Master Institute of United Arts, Inc.	1,500.00
May 7, 1924	Master Institute of United Arts	2,000.00
May 24, 1924	Master Institute of United Arts	2,000.00
June 10, 1924	Master Institute of United Arts	2,500.00
June 12, 1924	Master Institute of United Arts	4,000.00
Aug. 28, 1924	Master Institute of United Arts	1,000.00
Oct. 10, 1924	Master Institute of United Arts	180.00
Nov. 1, 1924	Master Institute of United Arts, Inc.	1,100.00
Nov. 11, 1924	Master Institute of United Arts	600.00
Nov. 25, 1924	Master Institute of United Arts, Inc.	300.00
Apr. 6, 1926	Master Institute of U. A.	152.25
Apr. 13, 1926	Master Institute of U. A.	2,500.00
Apr. 26, 1926	Master Institute of United Arts	45.95
May 3, 1926	Master Institute	1,200.00
June 1, 1926	Master Institute of U. A.	22.50
June 2, 1926	Master Institute of U. A.	1,500.00
June 11, 1926	Master Institute of U. A.	420.00
July 3, 1926	Master Institute of United Arts	5.00
Sept. 10, 1926	Master Institute of United Arts, Inc.	500.00
Feb. 10, 1927	Master Institute of U. A.	19.00
Mar. 20, 1927	Master Institute of United Arts, Inc.	11.14
Mar. 22, 1927	Master Institute of United Arts, Inc.	151.63
Mar. 22, 1927	Master Institute of United Arts, Inc.	4.83
Apr. 15, 1927	Master Institute of United Arts, Inc.	2,500.00
May 12, 1927	Master Institute of U. A.	500.00
May 31, 1927	Master Institute of United Arts	1,000.00
June 1, 1927	Master Institute of United Arts, Inc.	500.00
June 9, 1927	Master Institute of U. A.	22.08
June 9, 1927	Master Institute of United Arts, Inc.	43.83
June 9, 1927	Master Institute of United Arts, Inc.	500.00
Aug. 2, 1927	Master Institute of United Arts	500.00
Aug. 13, 1927	Master Institute of United Arts	2.30
Aug. 13, 1927	Master Institute of United Arts	6.11
Aug. 23, 1927	Master Institute of United Arts, Inc.	24.41

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Sept. 2, 1927	Master Institute of United Arts, Inc.	\$ 12.00
Jan. 23, 1928	Master Institute of United Arts	7.00
Apr. 16, 1928	Master Institute of United Arts, Inc.	25.00
Apr. 30, 1928	Master Institute of United Arts	30.00
Apr. 30, 1928	Master Institute of United Arts	60.00
May 1, 1928	Master Institute of United Arts	20.00
May 2, 1928	Master Institute of United Arts, Inc.	20.00
May 8, 1928	Master Institute of United Arts, Inc.	40.00
May 11, 1928	Master Institute of United Arts, Inc.	30.00
May 16, 1928	Master Institute of United U. Arts	25.00
May 18, 1928	Master Institute of United Arts, Inc.	10.00
May 21, 1928	Master Institute of United Arts, Inc.	30.00
May 21, 1928	Master Institute of United Arts, Inc.	30.00
May 22, 1928	Master Institute of United Arts, Inc.	85.00
May 24, 1928	Master Institute of United Arts, Inc.	25.00
May 26, 1928	Master Institute of United Arts, Inc.	20.00
May 28, 1928	Master Institute of United Arts, Inc.	25.00
June 1, 1928	Master Institute of United Arts, Inc.	25.00
June 2, 1928	Master Institute of United Arts, Inc.	14.00
June 4, 1928	Master Institute of United Arts, Inc.	30.00
June 4, 1928	Master Institute of United Arts, Inc.	30.00
June 6, 1928	Master Institute of United Arts, Inc.	10.00
June 9, 1928	Master Institute of United Arts U. A.	45.00
June 14, 1928	Master Institute of United Arts, Inc.	15.00
June 15, 1928	Master Institute of United Arts, Inc.	30.00
June 22, 1928	Master Institute of United Arts, Inc.	20.00
June 29, 1928	Master Institute of United Arts, Inc.	52.00
July 16, 1928	Master Institute of United Arts, Inc.	12.00
Aug. 8, 1928	Master Institute of United Arts	43.60
Aug. 8, 1928	Master Institute of United Arts, Inc.	123.96
Aug. 14, 1928	Master Institute of United Arts, Inc.	10,000.00
Sept. 6, 1928	Master Institute of United Arts	90.00
Sept. 22, 1928	Master Institute of United Arts, Inc.	250.00
Sept. 27, 1928	Master Institute of United Arts, Inc.	19.00
Oct. 5, 1928	Master Institute of United Arts	150.00
Oct. 12, 1928	Master Institute of United Arts	148.00
Oct. 15, 1928	Master Institute of United Arts	50.00
Oct. 30, 1928	Master Institute of United Arts	36.00
Nov. 7, 1928	Master Institute of United Arts	20.00
Nov. 23, 1928	Master Institute of	50.00
Nov. 30, 1928	Master Institute of United Arts	71.00
Dec. 3, 1928	Master Institute of United Arts	31.33
Dec. 7, 1928	Master Institute of United Arts	31.25
Dec. 7, 1928	Master Institute of United Arts	33.56
Dec. 8, 1928	Master Institute of United Arts	10.15
Jan. 7, 1929	Master Institute of United Arts	30.00
Jan. 11, 1929	Master Institute of United Arts	8.10
Jan. 18, 1929	Master Institute of United Arts, Inc.	39.00
Feb. 14, 1929	Master Institute of United Arts, Inc.	24.61
Feb. 26, 1929	Master Institute of United Arts	98.00
Apr. 24, 1929	Master Institute of United Arts, Inc.	35.00
Apr. 25, 1929	Master Institute of United Arts, Inc.	60.00
Apr. 30, 1929	Master Institute of United Arts, Inc.	79.00
May 9, 1929	Master Institute of United Arts, Inc.	7.00
May 11, 1929	Master Institute of United Arts, Inc.	92.00
May 14, 1929	Master Institute of United Arts, Inc.	45.00
May 23, 1929	Master Institute of United Arts, Inc.	21.00

<u>Date</u>	<u>Payee</u>	<u>Amount</u>
May 28, 1929	Master Institute of U. Arts	\$ 148.60
May 29, 1929	Master Institute of United Arts, Inc.	20.00
May 29, 1929	Master Institute of United Arts, Inc.	10.00
June 1, 1929	Master Institute of United Arts, Inc.	25.00
June 13, 1929	Master Institute of United Arts, Inc.	42.00
June 25, 1929	Master Institute of United Arts	150.00
July 19, 1929	Master Institute of United Arts	2.80
July 26, 1929	Master Institute of U. A.	10.00
Aug. 30, 1929	Master Institute of United Arts, Inc.	4.40
Sept 6, 1929	Master Institute of United Arts, Inc.	500.00
Sept 13, 1929	Master Institute of United Arts, Inc.	288.00
Sept 16, 1929	Master Institute of United Arts, Inc.	40.00
Sept 21, 1929	Master Institute of United Arts, Inc.	120.00
Sept 28, 1929	Master Institute of United Arts, Inc.	300.00
Sept 30, 1929	Master Institute of United Arts, Inc.	211.50
Oct. 1, 1929	Master Institute of United Arts	200.00
Oct. 4, 1929	Master Institute of U. A.	20.00

Adjourned to February 10, 1937, at 10 A. M.

NEXT PETITIONERS' EXHIBIT NO.47

NEXT RESPONDENTS' EXHIBIT NO.25

Index of WITNESSES

	D	C	RD	RC
James Graham Phelps Stokes				
Louis L Horch				

INDEX OF RESPONDENTS' EXHIBITS

No.	Page
19	Check dated September 14, 1922, to the order of Fifth Avenue Bank in the amount of \$8, 353.19, signed by Louis L Horch
20) 20-A)	Letter and translation thereof
21	12 checks signed by Louis Horch for equipment
22	Photostatic copy of power of attorney from Nicholar Rperich to Louis L. Horch
23	5 checks to the order of Bloomberg & Bloomberg signed by Louis L. Horch
24	Batch of checks starting with December 2, 1922, payable to the Master Institute and signed by Louis L. Horch.

GRANT vs. NEWBERGER.

New York, February 10, 1937
Adjourned to February 15, 1937, at 10 A.M.

New York, February 15, 1937.
Met pursuant to adjournment.
Present: The Referee, Mr. Plaut, Mr. Davis, Mr. Levy and Mr. Stern.

Continuation of the direct examination of

LOUIS L. HORCH:

MR. LEVY: Before I start, your Honor, I want to call your attention to an offer I made on page 553 of the record. I offered an entry in this book of a payment of \$8,000 for the Master Institute, and at that time your Honor sustained the objection and I did not press the offer at the time. I would like to renew it on the ground that it has been testified that this was a book of account kept by Mr. Horch in the regular course of business. He has testified that the check cannot be found, he has not got the check, and this is evidence of that payment. I offer it for the purpose of -

THE REFEREE: As I understand it that payment was not even in issue. It was not denied that that payment had actually been made by Mr. Horch. Is not that the fact, Mr. Plaut, and that there was not issue on that point?

MR. PLAUT: No issue on the point that the \$8,000 payment was made.

THE REFEREE: I think that that is all that it is intended to prove, is it not? Mr. Horch has gone over it and stated the object of it.

MR. PLAUT: That part is in issue, of course.

THE REFEREE: I understand, and as to that testimony will be admitted. But as I understand it there was no question but that the check had been actually paid over by Mr. Horch out of his money at or about the time of the organization of the corporation.

MR. PLAUT: May I see the book, Mr. Levy?

MR. LEVY: He testified that this was an account book kept by his secretary at that time.

MR. PLAUT: I see no objection to reading it in now.

MR. LEVY: I am just going to read this single entry:

"August 11. M.S. of Un. A.

\$8,000.00"

And the same concession applies, I assume, to my offer on page 579 of the record in which I offered some checks for the payment of the real estate and Mr. Plaut said:

"I see no reason for encumbering the record; he said the payments were made, as far as I am concerned they require no corroboration."

I assume that is a concession that the purchase price of the real estate involved herein was paid for by Mr. Horch out of his personal funds.

THE REFEREE: As I recall, the petitioners' own witness testified to that fact, that Mr. Horch paid these various sums. There was an issue as to the reason why title was taken of one parcel in Mr. Lichtmann's name, and things of that sort, but there was no issue as to the approximate amounts of the payments or that the money came from Mr. Horch.

MR. PLAUT: That is right. The only reason I have is that the record is a little confused as to the amounts paid. It was confused by the figures for the mortgages. I cannot tell from reading the record now, if it does make any difference, how much was paid in cash and how much paid later to satisfy the mortgages.

THE REFEREE: I think that was clearly brought out. There were specific amounts paid at the time subject to certain mortgages and subsequently the mortgages were paid. There is very little doubt in my mind about that.

MR. PLAUT: It is all right with me. in

MR. LEVY: So that ~~will~~ we will have it in concise form I want to offer in evidence a record of the chain of title of this property. We have it scattered throughout the record but I do not know that the record is entirely clear.

THE REFEREE: I cannot accept it in that form unless it is consented to by Mr. Plaut.

MR. LEVY: I will show it to Mr. Plaut (handing paper).

MR. PLAUT: This paper seems to contain a correct resume of the chain of title. The only point I wish to make is that in reference to 312 Riverside Drive the chain of title does not contain anything about Master Institute, but it is a chain from various conveyors which leads up to Mrs. Horch and then Mrs. Horch's conveyance is to Roerich Museum, Inc., and in 1928 Roerich Museum, Inc., conveyed to Roerich Museum.

MR. LEVY: That was the fact, was it not Mr. Horch?

THE REFEREE: I think so, yes.

MR. PLAUT: I am just pointing out that in some of these the conveyances were made directly to the Roerich Museum without any intervention of Master Institute. And the same applies to 312-1/2 Riverside Drive, the conveyance being to the Roerich Museum in 1928; and also 323 West 103rd Street, the conveyance is to Mr. Horch and then in 1928 from Mr. and Mrs. Horch to Roerich Museum, Inc., and then later in 1928 from Roerich Museum, Inc., to Roerich Museum.

THE REFEREE: That all appears in the record already.

MR. PLAUT: Yes, but I wanted to make clear that there are various sums of money here paid that are not for ~~the~~ Master Institute property but Roerich Museum property.

THE REFEREE: I understand that.

MR. PLAUT: I have no objection to this paper being used in evidence.

THE REFEREE: By way of a summary.

MR. PLAUT: Yes. And the figures on those papers as to amounts, those are gross amounts after the mortgages were satisfied, is that correct?

MR. LEVY: Yes.

The paper was admitted in evidence and marked Respondents' Exhibit 25, February 15, 1937, R.W.P.

BY MR. LEVY:

Q Now, Mr. Horch, at the last hearing you were questioned about the agreement of April 23, 1923. Do you recall that?

A. I do.

Q And you testified that you had discussed it with Mr. Bloomberg and that Mr. Bloomberg prepared it pursuant to your direction?

A. That is right.

Q Will you tell us, Mr. Horch, just what instructions you gave to Mr. Bloomberg concerning the preparation of that agreement?

MR. PLAUT: I object to that as not binding on us.

THE REFEREE: Was not the same objection made at the last hearing?

MR. LEVY: The same objection was made and since that time I have been examining the authorities and I am renewing the question now.

THE REFEREE: On what ground do you press the point now?

MR. LEVY: I believe it is admissible for this reason. In this proceeding we are not being sued upon the agreement itself. There is no attempt herein to vary the terms of a written agreement by parol evidence. As I understand it --

THE REFEREE: This instrument is not being used as the basis of the present proceeding?

MR. LEVY: Precisely.

THE REFEREE: It is being used as an admission by Mr. Horch in the present proceeding as to the ownership of the stock, as I understand.

MR. PLAUT: Yes, and also as an explanation of how the stock certificates happened to be in his hands.

MR. LEVY: It is my understanding and I think the authorities sustain me that it is always permissible to contradict or explain admissions and the motive in a situation of this kind is always relevant.

THE REFEREE: You urge now the point that since this was used chiefly as an admission by Mr. Horch against interest, you can explain the admission so as to show that in effect it was not an admission of the facts as claimed by Mr. Plaut.

MR. LEVY: Yes.

THE REFEREE: What have you to say about that, Mr. Plaut?

MR. PLAUT: I cannot follow your reasoning and I still press my objection. I think that to permit parol evidence to come in now unless it is to give the setting under which the agreement was made would be to violate the parol evidence rule.

THE REFEREE: Well, does this contradict a writing that is sought to be enforced in this proceeding, or is it merely explaining an alleged admission? I say alleged admission; you are urging that it is an admission and you urge that on its face it appears to be a strong admission against interest. Is it not possible at all times to explain an admission against interest?

MR. PLAUT: If the agreement were nothing more than that I suppose it would be. However, the agreement --

THE REFEREE: You are not seeking to enforce this agreement. The proceeding does not proceed on that theory, surely.

MR. PLAUT: In the sense that I am not asking that the agreement be carried out, you are right, but in the sense that this agreement contains an embodiment of the relationship between the parties this proceeding does ask to have that agreement confirmed.

MR. LEVY: May I say in addition, that it is our position in this case that this is not an agreement, not a valid, binding agreement. It is our claim that Mr. Horch was the owner of all the stock from the very beginning, and I submit we have a right to explain that.

THE REFEREE: Seeking now to show that this paper, though it seems to be a formal, written agreement, nevertheless is only a piece of paper?

MR. LEVY: Here is a case, if your Honor cares to look at it, Baird against Baird. I will give you the citation.

THE REFEREE: Of course if you are seeking to show here that you never delivered this instrument and it never came into being as a legal document, you may prove it, but that is not the contention. You are admitting the delivery of the instrument. You are not urging a conditional delivery of it, are you?

MR. LEVY: It was not delivered. It was signed but it remained in our possession.

THE REFEREE: And you want to show the surrounding circumstances?

MR. LEVY: Yes.

THE REFEREE: I am inclined to allow it, although I ruled it out the last time, in view of the contention now urged. I will admit it at the present time and if you, Mr. Plaut, want to brief the point I will take it subject to a motion on your part to strike it out.

MR. PLAUT: Let me put my objection and exception on record and reserve my right to move to strike out.

THE REFEREE: I think the objection is clearly stated.

MR. PLAUT: Yes, I think I have covered it.

THE REFEREE: I think it is covered sufficiently, and of course the exception is noted. Proceed.

Q (Question repeated.)

THE REFEREE: It will be understood that this entire line will be subject to your objection and exception.

MR. PLAUT: Yes, to save interrupting by repeated objections.

THE REFEREE: I am assuming there are going to be further questions along the same line.

MR. PLAUT: And it will not be necessary for me to state my objection to every questions.

THE REFEREE: It will not.

A. I spoke to Mr. Bloomberg and asked him, am I protected in case either Nicholas Roerich or Helen Roerich, Mr. and Mrs. Lichtmann or Miss Grant should die and their heirs should come and claim any of my shares of stock. I had great confidence at that time in Miss Grant, Mr. and Mrs. Lichtmann and Mr. and Mrs. Roerich but I had no confidence in their heirs. I wanted to know if I was protected, and if I was not protected, to draw up some paper.

MR. PLAUT: Can we have the date of this conversation, please?

THE WITNESS: The conversation was a short time before the agreement was drawn up. My confidence in Mr. and Mrs. Roerich and Mr. and Mrs. Lichtmann and Miss Grant was founded on a number of facts. Miss Grant has been a great friend of Mrs. Horch for many, many years, and also I have done a great deal for the Roerichs. By that time I had advanced sums of money to them to pay their debts and --

MR. PLAUT: Wait. Is this part of your conversation, or what you thought?

THE WITNESS: No, I did not tell him that.

MR. PLAUT: Then I move to strike it out.

THE REFEREE: Yes, strike it out.

Q Go ahead. Is that all that was said by you to Mr. Bloomberg?

A. Well, I made it quite clear to him that I had no faith in the other three; as I mentioned before, there were certain occurrences about Miss Grant's family connections and also the two Roerichs which I have correspondence on, if it is necessary to show it.

THE REFEREE: There is no testimony as to the occurrences with respect to the two Roerichs. You have merely indicated your lack of faith in the son of Mr. Roerich --

THE WITNESS: Two sons.

THE REFEREE: The two sons.

MR. LEVY: There was testimony about certain difficulties that the son had gotten into and your Honor has suggested that we did not need to go into the details.

THE REFEREE: We will leave the subject of the difficulty out but merely the fact that there were difficulties.

Q After that conversation with Mr. Bloomberg he prepared this agreement to accomplish the purposes he told him he wanted to accomplish?

A. That is right.

~~MR. PLAUT: I object to that form of question.~~

MR. PLAUT: I object to that form of question.

THE REFEREE: Objection sustained.

Exception taken by Mr. Levy.

Q Now after that did the Master Institute, and by after that I mean after the corporation started to function -- did the Master Institute employ an accountant?

A. It did.

Q What was his name?

A. Either Weinberg & ~~Weinber~~ Company or Weinberg & Josephson.

Q Was he regularly employed by the Master Institute?

A. Yes.

Q How often did he audit the books?

A. I think monthly.

Q I want to go back a moment and ask you this: this certificate of stock was endorsed in blank by you, was it not?

A. Not at that time.

Q No, but it was endorsed however subsequently?

A. It was.

Q Are you able to tell us when it was endorsed in blank by you?

A. I can.

Q When?

A. In approximately 1925.

Q What was the occasion for that?

A. Because I went to Europe^{at} that time I wanted any shares that I had so it was possible for my wife -- to be accessible to her.

Q Did your wife have access to your papers too?

A. Yes.

Q I show you this report and ask you whether or not that is a report of the accountant concerning the financial situation of Master Institute in November, 1924.

A. In October, October 31st.

Q Or in October, 1924.

A. It is.

Q. And that accountant was an employee of the Institute for the purpose of auditing the books?

A. Yes.

Q. And this report was prepared by him from the books in the regular course of business, was it not?

A. Yes.

MR. LEVY: I offer this report in evidence.

MR. PLAUT: Was not this offered once before?

MR. LEVY: I do not think so.

MR. PLAUT: No objection.

The report was admitted in evidence and marked Respondents' Exhibit 26, February 15, 1937, R.W.P.

MR. LEVY: I want to call your Honor's attention to two entries in Respondents' Exhibit 26, namely, that the report shows that on October 31, 1924, Mr. Horch had invested \$36,119 in the Master Institute and the liabilities show capital stock of \$7500. That is the principal purpose for offering that.

Q. Now show you, Mr. Horch, the accountant's report dated April 30, 1925. Is that the report of your accountant for that month?

A. Yes.

MR. LEVY: I offer that in evidence.

MR. PLAUT: This is the one which was marked for identification. No objection.

The paper previously marked Respondents' Exhibit 11 for identification was admitted and marked Respondents' Exhibit 11, February 15, 1937, R.W.P.

MR. LEVY: The part I want to call your Honor's attention to in this exhibit is that in April, 1925, the books showed under the heading of fixed assets of the Master Institute 310 Riverside Drive at \$95,000.

THE REFEREE: Net above the mortgage?

MR. LEVY: Net above the mortgage, and 311 Riverside Drive at \$30,000 net above the mortgage and no offsetting liability to Horch.

THE REFEREE: There is an item of loans payable but the payee is not identified, and the total is \$49,537.67.

MR. LEVY: Yes, but that is obviously not a set-off to the real property which amounts to \$125,000.

THE REFEREE: This would not prove it, because there might have been some payments. In the absence of other evidence this would not prove that the \$49,000 is an offset against that asset.

MR. LEVY: Yes.

Q. May I will ask you Mr. Horch, can you explain these entries?

A. May I just see that a moment?

(Paper handed to the witness.)

MR. PLAUT: Of course, I think that any testimony on this would be objectionable in that what the amount of assets or liabilities the company had at a later date would not determine who owned the stock.

THE REFEREE: No, but there was a contention that very substantial contributions were made, and that was some evidence that he had written letters stating there was no indebtedness. All that is on the same point and you introduced the testimony with reference to those letters.

MR. PLAUT: Yes, after the point was brought out on cross examination of my witness by Mr. Levy, over my objection.

THE REFEREE: But it is in the case just the same.

THE WITNESS: I believe the loans, \$49,000, which was my way of keeping the records, had nothing at all to do with the property itself.

Q. How about the \$125,000?

A. I think possibly the \$125,000 was the two properties, 310 and 311 Riverside Drive.

THE REFEREE: It happens that the two sums aggregate \$125,000, \$95,000 and \$30,000.

THE WITNESS: Yes.

MR. LEVY: I offer the report of October 31, 1929.

MR. PLAUT: I assume this is a duplicate original, isn't it?

MR. LEVY: Yes.

MR. PLAUT: No objection.

The paper was admitted in evidence and marked Respondents' Exhibit 27, February 15, 1937, R.W.P.

MR. LEVY: The point of that exhibit is that at that time the property had been transferred from the Master Institute and was no longer carried on the books.
Q. Now up to that time, Mr. Horch --

THE REFEREE: That just bodily removed from the liability side the paid-in surplus of \$125,000.

MR. LEVY: Yes.

THE REFEREE: In other words, here was an asset that had been an asset of Master Institute that was just physically taken out.

MR. LEVY: Precisely, and no --

THE REFEREE: And no contribution to make up for it.

MR. LEVY: Right.

THE REFEREE: And what appeared to be a surplus then became a deficit?

MR. LEVY: Right.

THE REFEREE: And the company from that minute on was in the red by virtue of the withdrawal of assets from it?

MR. LEVY: Right.

Q. Up to that time, Mr. Horch, had anybody besides yourself contributed any money whatsoever to the Master Institute?

A. Nobody had contributed one cent to the upkeep or expenses or deficits of Master Institute but myself.

THE REFEREE: Up to what time do you mean?

MR. LEVY: Up to the date of the last exhibit, October 31, 1929.

Now I offer in evidence the accountant's report of Roerich Museum dated December 31, 1929.

MR. PLAUT: For what purpose?

MR. LEVY: The purpose of that is to show that the property that was carried on the books, the real estate that had been carried on the books of the Master Institute, had been transferred by the Master Institute to the Roerich Museum and on the books of the Roerich Museum there was an offsetting liability not to the Master Institute which had conveyed the property but to Mr. Horch.

MR. PLAUT: No objection.

The paper was admitted in evidence and marked Respondents' Exhibit 28, February, 15, 1937, R.W.P.

(Discussion off the record.)

BY MR. LEVY:

Q. Mr. Horch, on this balance sheet, Respondents' Exhibit 28, there is an entry, loans payable to L. L. Horch of \$1,274,362.29.

MR. PLAUT: That is not right. That is not the figure.

Q. Or \$1,272,159.86.

A. What is the figure again?

Q. \$1,272,159.86.

A. Right.

Q. I ask you first when did you pay off the mortgages on the real estate.

MR. PLAUT: We had that last time.

MR. LEVY: Well, I am asking it again.

A. 1928.

Q. What was the total investment in 1929 in all the real estate?

MR. PLAUT: I object to that. That is not the way to prove investments of money.

MR. LEVY: Summarizing the testimony that has already been given.

MR. PLAUT: I will give you that figure. It is four hundred and some odd thousand dollars including mortgages that were satisfied.

THE REFEREE: Why not let the witness do it?

MR. PLAUT: If it is the same figure he can.

THE REFEREE: If it is not the right figure you have the right to cross examine him.

A. I should say approximately \$430,000.

Q. Does that include 311 Riverside Drive?

A. Yes.

Q. It includes all these properties?

A. Yes.

BY MR. PLAUT:

Q. May I ask a question here? Does it include 312-1/2 Riverside Drive?

A. Yes.

Q. And 323 West 103rd Street?

A. You mean that is the other property, that small house there?

Q. No, that is 321.

A. It includes 325.

THE REFEREE: 321 is the only one excluded and that is the one I understand Mrs. Campbell advanced the money for. Is that right?

THE WITNESS: Yes.

MR. PLAUT: The reason I raise that point at this time is that those are the ones that were directly routed through to Roerich Museum.

THE REFEREE: The point is that that is a consolidated balance sheet and won't help us any --

BY MR. LEVY:

Q. Are you able to break down this figure and tell us what it included?

A. Yes, fairly well, approximately at that time.

MR. PLAUT: I object to that. I think that is not the way to prove that. The books would have to be shown and the payments in the form of checks.

MR. LEVY: That is a matter for cross examination I submit.

THE REFEREE: I sustain the objection.

Exception taken by Mr. Levy.

Q. Did you subsequently, Mr. Horch, make a gift to the Roerich Museum?

A. I did.

Q. Of how much money?

A. I think it was one million -- it was split up; it was conditional. One part was outright and one part was conditional.

MR. LEVY: I offer in evidence copy of a letter dated October 10, 1931, to the trustees of Roerich Museum, signed Louis L. Horch and Nettie Horch.

MR. PLAUT: No objection.

The paper was admitted in evidence and marked Respondents' Exhibit 29, February 15, 1937, R.W.P.

Q. Now this gift that you made of \$1,111,006.55, how was that given?

A. Under the condition stated --

Q. I do not mean the conditions, but how was it paid?

A. I have given it in cash.

Q. Had there been at that time or was there at that time an indebtedness to you?

A. There was on the books.

MR. PLAUT: I move to strike that out.

THE REFEREE: It was given by the foregoing an indebtedness in that amount.

Q. Is that the fact?

A. The indebtedness to me?

Q. Yes.

A. That is right.

Q. In other words, what I am getting at is that you did not sit down and write out a check for \$1,111,000.

A. No.

Q. And this gift was, as his Honor said, given by foregoing the indebtedness that already existed to you?

A. That is right.

Q. In 1928 and 1929 the building was being constructed, was it not?

A. Yes it was.

Q. And at that time did the American Bond & Mortgage Company that had been making the building loan get into difficulties?

A. In 1929, yes.

Q. And will you tell us what occurred at that time?

A. You mean difficulty with the American Bond & Mortgage Company?

Q. Yes.

A. I should say approximately in August, 1929, they could not make any further payments to the contractors on the building, they could not make any more payments. At that time we tried to get a loan if possible to meet this obligation but it was impossible to secure any money from anyone, and it would cost 50 or 60 per cent. bonus, but nobody would offer any. I then took the last savings of Mrs. Horch and myself and paid approximately \$169,000 out to satisfy the contractor at that time so that this building would open, and the opening of the building at that time made possible that interest payments to the bondholders would be made for two years, amounting to a quarter of a million dollars.

Q. In addition to that did you pay contractors out of your personal funds?

A. I did, and advanced moneys also so that the building should be hastened and should be opened when it was. There was one occasion when the building construction firm, called the Longacre Building Construction Company, refused to go except we would take some of their second mortgage bonds that had been issued, and I arranged for \$14,000 of those bonds to be taken, otherwise they refused to go on. There were many problems and difficulties which I took care of in financing this.

MR. LEVY: I have here a bunch of checks covering all those payments.

If the fact is not disputed I won't offer them.

MR. PLAUT: My understanding is that the figures came to \$117,000.

Mr. Horch just said \$169,000.

THE WITNESS: Let me answer you. There was one amount of \$106,000, but subsequently in the following months I had to give additional amounts.

BY MR. PLAUT:

Q. Is this gross sum included in that \$1,111,006?

A. Yes, it is.

MR. LEVY: If the fact is conceded I won't offer these.

MR. PLAUT: \$117,000 is the same to me as \$169,000.

MR. LEVY: Yes, I do not think that the amount is important.

MR. PLAUT: A lot of money.

BY MR. LEVY:

Q. Now, Mr. Horch, who was the attorney representing the Master Institute and yourself at that time?

A. Julius M. Lowenstein.

Q. And he handled the legal end of this business, did he not?

A. He did.

Q. And did you in 1928 have a talk with Mr. Lowenstein concerning the necessity of having the trustees of the Institute residents of New York?

A. Yes.

Q. And did you also discuss with him the agreement of April 23, 1923?

A. I did.

Q. And Mr. Lowenstein was dealing at that time with the banks, was he not?

A. He was.

Q. In connection with financing this corporation?

A. Yes.

Q. And as the result of the conversations you had with Mr. Lowenstein did he draw up an agreement?

A. He drew up a cancellation agreement --

MR. PLAUT: Wait a moment.

Q. Did he draw up a document? We won't describe it for the moment.

A. He did.

Q. And was that instrument signed by you and the other members of the corporation?

MR. PLAUT: I object to that unless they prove it. I object to that because there is no issue in this case of cancellation. There is no affirmative defense of cancellation whatsoever.

THE REFEREE: Under this petition would it be necessary? I am not now speaking of the equity case. We are trying now the summary proceeding.

MR. PLAUT: Yes.

THE REFEREE: Why would it not be permissible to introduce in evidence a cancellation in this proceeding -- I have not seen it as yet -- without having pleaded it expressly?

MR. PLAUT: Because it was affirmatively pleaded in the petition that this was a jural relationship between the parties. If there is anything to show that that agreement had been cancelled it would have been incumbent upon them I think to plead it.

THE REFEREE: I do not think so on the petition here.

MR. PLAUT: There is a formal answer which omits it.

THE REFEREE: Yes. Even if they sought an amendment here I would allow an amendment and give you ample opportunity to meet the ^{new} issue, which of course you would have in this proceeding in any event.

MR. PLAUT: I take it that you are going to overrule my objection?

THE REFEREE: I take it I would overrule your objection in the first place and secondly if an amendment was sought, assuming one to be necessary, I would allow it, because you would have ample opportunity, having claimed surprise, to meet that issue.

MR. PLAUT: After overruling my objection on the point I may need that opportunity of investigating it.

THE REFEREE: You will certainly have full opportunity.

MR. PLAUT: May I note my exception.

Q. Mr. Horch, have you the agreement?

A. No.

Q. When did you last see it?

A. I should say about December, 1932.

Q. And where did you see it?

A. I took it down to show it to Mr. Schur of Greenbaum, Wolff & Ernst.

Q. Did you leave it there?

A. No.

Q. What did you do with it?

A. I showed him that as well as some other papers and took it back home again, and he asked me to have copies made.

Q. Did you?

A. And I did not see it any more.

Q. Where did you put it?

A. I had it on the fourth floor in my office, the same floor as a number of other offices were on, and when I much later on was asked by Greenbaum, Wolff & Ernst to bring it down it had disappeared as well as some other papers which were important.

Q. Have you made a search for it?

A. I have.

Q. And have been unable to find it?

A. No.

Q. Did you after your talk with Mr. Schur have copies made?

A. I did.

Q. I show you this paper and ask you whether or not this is a copy of the agreement you have just referred to.

A. It is.

MR. LEVY: I offer it in evidence.

MR. PLAUT: I object to it upon the ground that that is not the best evidence. The original is not here and I do not think there has been a satisfactory explanation for the disappearance of the original.

THE REFEREE: Prima facie there has been. I will allow you to cross examine.

BY THE REFEREE:

Q. I would like to ask, when was that copy made?

A. Right just at the time, at the end of December, 1935.

Q. Was that a carbon copy of the original or a copy subsequently typed?

A. It was just a copy that was typed.

Q. Typed subsequently?

A. At the same time I brought it back and had it ~~typed~~ copied.

Q. But was it typed subsequent to the typing of the original?

A. Yes.

Q. The original was drawn by whom?

A. L. M. Lowenstein.

BY MR. LEVY:

Q. Mr. Lowenstein has died, has he not?

A. He has.

Q. When did he die?

A. I think in 1932, around that time.

Q. Did you make any inquiries at Mr. Lowenstein's office for records concerning your affairs and the affairs of the Master Institute and the Roerich Museum?

A. I did.

Q. And with what success?

A. I saw some ~~papers~~ papers but they were not this.

Q. There were no copies of this agreement among the papers?

A. No, there was not.

BY THE REFEREE:

Q. Did you get a bill for drawing this paper from Mr. Lowenstein?

A. Yes.

Q. Were the bills itemized?

A. No.

Q. Just general services? I was trying to find out whether there was any other paper in existence as an original document which would confirm your contention that the original of this instrument was once in existence.

A. I am sorry, your Honor, I have not been able to find it. The bill of Mr. Lowenstein was for one round amount.

BY MR. PLAUT:

Q. Let me ask you this question: when do you say that the original of this thing was made?

A. The original was made on July 9, 1928.

Q. Now then how many copies were made?

A. Well, there must have been two or three I suppose, but I don't remember that exactly.

Q. How many did you get?

A. I received one.

Q. Where were the other two or three?

A. Mr. Lowenstein must have them.

Q. You know a Mr. Maas?

A. I do.

Q. And Mr. Maas is the executor of Mr. Lowenstein's estate?

A. Yes.

Q. And you have had dealings with him recently, have you not?

A. Well sometime ago.

Q. Well, in 1935 you had dealings with him, did you not?

A. I think so.

THE REFEREE: Is that Herbert O. Maas?

THE WITNESS: That is right.

Q. Did you have any dealings with him in 1936?

A. No.

Q. Did not Mr. Maas ask you for a payment of Mr. Lowenstein's bill for services rendered, in behalf of the estate?

A. That is right.

Q. When was the last time you spoke to him about that?

A. About the bill?

Q. Yes.

A. I don't know, but he did speak to me.

Q. Was it within the last year?

A. I don't think so.

Q. Have you asked Mr. Maas to look for the other copies of this paper?

A. Not exactly Mr. Maas, but I was down to the office of Mr. Lowenstein where they have the files of different things and I looked through ~~those files~~ and did not find anything.

Q. Who let you look through those files?

A. In some several files, I mean the files pertaining to the Roerich Museum and Master Institute.

Q. They were Mr. Lowenstein's files, though, were they not?

A. Yes. They were given to me by his secretary, or the young lady who took care of them at that time.

Q. You took them home?

A. No, it was in his office.

BY THE REFEREE:

Q. I understand that after Mr. Lowenstein's death you went to his office and spoke to the girl in charge and that girl handed you Mr. Lowenstein's file concerning these matters and you were permitted to look through it?

A. Yes.

Q. And you made a search for this paper?

A. Yes, but that was not right after Mr. Lowenstein's death.

Q. How long after?

A. I should say quite some time after; if I am not mistaken sometime in 1932, the end of 1932.

Q. Did you inquire whether Mr. Lowenstein had any register in which he entered the items of services rendered by him?

A. I asked them to look up anything they might possibly have at that time and they had nothing further.

BY MR. PLAUT:

Q. Did you ask the secretary to look for a copy of this agreement?

A. I asked them to look for papers. I don't think I asked for that particular thing. I asked could I go down and look those papers over, and later on they sent me up some records.

Q. Did you ask Mr. Maas for this agreement?

A. No.

Q. Mr. Maas has Mr. Lowenstein's files now, hasn't he?

A. No, he sent them back to us.

Q. You have the files?

A. Yes.

Q. Mr. Lowenstein's office files you have in your possession now?

A. I mean pertaining to our work.

BY MR. LEVY:

Q. In addition to Mr. Schur did Mr. Kline of our office see this agreement?

A. Yes.

MR. LEVY: Mr. Kline is now in this building. We can get him down here.

THE WITNESS: I think Mr. Kline saw it, but I am not sure, but Mr. Schur

I am sure of.

BY MR. PLAUT:

Q. Where did you keep your copy of this agreement from 1928 to the time you brought it down to Mr. Schur's office?

A. Well, I think sometimes those papers were in my apartment and sometimes on the fourth floor.

Q. You are sure you had it in November, 1935?

A. I did.

Q. What date did you take them down to Mr. Schur's office?

A. That I am not sure exactly.

Q. You left it at Mr. Schur's office?

A. No, I brought it there, I think I took it back, it might have been there a few days and then I called for it.

Q. Did you leave any other papers there?

A. No, I don't think at the time I left any more. He told me to call for them again, but he had many papers pertaining to these matters.

Q. You thought this was pretty important paper, did you not?

A. I thought it was important. I showed it to the attorneys. I did not say very much about it.

Q. When did you make that copy, before or after you saw Mr. Schur?

A. After I saw Mr. Schur.

Q. Where, at your home or his office?

A. No, I made it on the fourth floor.

Q. You typed it out yourself?

A. No, I did not.

Q. Who typed it out?

A. Mrs. Horch.

Q. And when was that done?

A. A few days or possibly the same day, when I returned from Greenbaum, Wolff & Ernst's office.

BY THE REFEREE:

Q. Did the original bear the signature of all these parties?

A. Yes.

Q. As it appears in this copy?

A. Yess.

Q. Did you see them sign it?

A. You mean at the time in 1928?

Q. Yes.

A. Yes, I did.

BR MR. PLAUT:

Q. You have prepared a number of affidavits in this and connected litigations?

A. Yes.

Q. And never once have you mentioned in your affidavits any reference to this cancellation agreement?

A. I really don't remember.

Q. You do ~~not~~ know that you did not mention it, do you not?

A. I do not.

MR. PLAUT: Will you agree that not once has there been any mention of it?

MR. LEVY: I believe that is a fact.

THE WITNESS: Then that is correct.

Q. You put the books of the Master Institute in Mr. Schur's safe keeping, did you not, in December, 1935?

A. I think I did.

Q. And you took this back?

A. Well, there were other papers taken back at the same time.

Q. The agreement itself you left at Mr. Schur's office, did you not?

A. You mean the agreement --

Q. Of April 23, 1923?

A. I did.

Q. And yet you took this back?

A. And other papers too I might have taken back at the time. I don't remember. That is very hard to remember exactly.

Q. And you cannot for where it has gone?

A. No, not only this but I lost some other papers too.

Q. What other papers?

A. Resignations in connection with the Master Institute, Roerich Museum and Roerich Museum, Incorporated.

Q. Are you sure of that?

A. Absolutely.

Q. What date was it?

A. When they disappeared?

Q. What date was the resignation you are talking about?

A. That was in 1928.

Q. What other papers disappeared?

A. That is what I had in mind, because those were three distinct papers, those three resignations.

BY THE REFEREE:

Q. Three resignations, one from each of the three companies?

A. Yes, and there were duplicates I think too.

BY MR. PLAUT:

Q. Where did you keep those papers just before they disappeared?

A. On the fourth floor.

Q. Did you keep them in a file?

A. Yes, I had them in a file. I had many files there.

Q. Let us be specific. Exactly where were those papers?

A. I am telling you, on the fourth floor.

Q. Do you mean on the floor itself or in some file?

A. No, there are six or seven files there in iron cabinets.

(A. No, I am speaking now of the fourth floor. In my apartment I had at least three files.)

(Q. In your apartment

Q. On the fourth floor was your office?

A. Yes.

Q. Had you a lock and key?

A. Yes.

Q. How about the filing cabinet, have they locks on them?

A. I think most of them had.

Q. In your file did you keep this paper after you made the typewritten copy?

A. That is difficult to answer.

Q. What was the occasion of making the typewritten copy when you had the original?

A. Because Mr. Schur asked me to send down a copy.

Q. Did you send a copy?

A. I brought it down to him.

Q. And he has a copy in his office?

A. This copy right here I brought down.

Q. Where is the ribbon copy? What you have here is a carbon. Where is the ribbon copy?

A. May I just see it? (Paper handed witness.) I really don't know. I may have the copy at home.

Q. And you sent Mr. Schur the carbon copy?

A. Yes.

Q. And did you have it photostated, did you?

A. No.

Q. And did he did not ask you for a photostat with signatures on it, did he?

A. In this one here?

Q. Yes.

A. No, he did not.

Q. Don't you think the signatures were important?

A. I think so, but - I wish I had it.

Q. I wish you had too. How many pages did that paper comprise? or was it composed of?

A. I think it was just on one page and possibly one page of acknowledgment.

Q. Did it have a lawyer's back on it?

A. Yes.

Q. Who was the lawyer?

A. Mr. Lowenstein.

Q. Was it a back with his name written on it?

A. Julius M. Lowenstein, yes. That is as far as I remember.

Q. Did it have an acknowledgment before a notary public on it?

A. I think it did have.

Q. You know that has not got it.

A. No.

Q. You know it has not got any notary's acknowledgment on it?

A. No.

Q. Was there any reason for not copying the notary's acknowledgment on it?

A. I really don't know.

Q. Did Mr. Schur ask you to make a new and complete copy of the paper?

A. Well, he just simply said a copy. He did not say anything about it.

MR. PLAUT: I still object.

THE REFEREE: On the ground it is secondary evidence?

MR. PLAUT: On the ground it is secondary evidence and not shown to be a complete copy.

THE REFEREE: Objection overruled.

EXCEPTION taken by Mr. Plaut.

The paper was admitted in evidence and marked Respondents' Exhibit 30, February 15, 1937, R.W.P.

MR. LEVY: May I withdraw Mr. Horch for a moment and call Mr. Kline.

EUGENE M. KLINE, called as a witness in behalf of the respondents, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LEVY:

Q. Mr. Kline, you are an attorney and counsellor at law, are you not?

A. Yes.

Q. And in December, 1935, were you associated with the firm of Greenbaum, Wolff & Ernst?

A. Yes.

Q. Who are the attorneys for the respondents in this case?

A. Yes.

Q. Where you working on the litigation involved in the Roerich Museum?

A. Yes, I had been working on the Roerich Museum matters before the litigation started, since about two months before the proceeding started.

Q. Were you working with Mr. Schur, who was a partner of Greenbaum, Wolff & Ernst?

A. Yes.

Q. Do you remember Mr. Horch coming to the office and bringing an agreement which purported to be a cancellation of the agreement of April 23, 1923?

A. That was one of the papers in the file. I don't know when it came into the office.

Q. I show you Respondents' Exhibit 30 and ask you to look at it and tell us whether you ever saw it before.

A. Yes.

Q. You saw that before. Did you ever see a paper which purported to be the original of which Respondents' Exhibit 30 is a copy?

A. Yes.

Q. Will you tell us when and where and under what circumstances you saw it?

A. In the files of the Master Institute and Roerich Museum there was an original and some copies of a cancellation agreement. The original of course was signed by all the parties that are on here. And Mr. Horch for some reason asked to take the original to his own office for inspection or for something. Of course we did not decline, we let him take it out of the office. A few weeks later I asked him for that paper, since it was a pretty important document I think, and he said he would look for it, but somehow he misplaced it. Since then he has been looking for it and has never been able to find it. To my best recollection this is a copy of the original.

Q. And the paper that you described as the original you saw it in the office of Greenbaum, Wolff & Ernst?

A. Yes. As I say I worked on it and had a great many occasions to look at it.

Q. Are you familiar with the signatures of any of the people whose names are signed to that agreement?

A. I am pretty familiar with all of them.

Q. You have examined during the course of your investigations a number of documents upon which those names were signed?

A. Yes.

MR. PLAUT: I object to that. I do not think Mr. Kline will testify he is

an expert. He has been asked whether he has seen signatures on frequent occasions and his answer is yes.

- Q. Is it your best judgment that the signatures that you saw attached to the paper you described as the original were the signatures of Mr. and Mrs. Horch and Mr. and Mrs. Lichtmann and Miss Grant?

A. MR. PLAUT: I object to that.

THE REFEREE: Objection sustained.

MR. LEVY: You may examine.

CROSS EXAMINATION BY MR. PLAUT.

- Q. In December, 1935, you were working with Mr. Schur of the firm of Greenbaum, Wolff and Ernst on the various matters in connection with the Master Institute and Roerich Museum?

A. Yes.

- Q. Who was your immediate superior in that regard?

A. That is right.

- Q. And where is Mr. Schur?

A. The last I heard of him he had gone away on a trip.

MR. LEVY: At present he is in Florida, I believe, but will be back I imagine in a week or so.

- Q. You saw an agreement dated April 23, 1923, between the seven parties in litigation here?

A. That is right.

- Q. When is the first time you saw ~~it~~ that?

A. Well, the first time I came across it I believe is going through the files and studying it on the facts of the Roerich Museum case.

- Q. That was after the application for the injunction had been made?

A. No, I think I came across that agreement before that.

- Q. Mr. Horch had consulted you about these various relationships between him and the other people prior to that time?

A. He consulted with Mr. Schur.

- Q. And were you present in those conferences?

A. Some of them.

- Q. In what file was the agreement of April 23, 1923?

MR. LEVY: Just one moment. I object to that. I think this inquiry should be limited to this document.

THE REFEREE: I will allow it

Exception taken by Mr. Levy.

- A. Do you mean the original agreement of 1923?

- Q. Yes.

A. As I remember it there was only one copy of that agreement that we had and --

BY THE REFEREE:

- Q. When you say one copy you mean the original?

A. I mean the only one. I have an idea that -- I am not clear on it but I think that was one of the papers that Mr. Horch brought down in a batch when I started working on the Roerich Museum stuff.

- Q. When was that brought down?

A. At ~~the~~ one time before this meeting which is being contested Mr. Schur asked my advice on whether this meeting could ~~xxxx~~ be legally held and so on, and I said before I could pass any judgment on it I would have to have all the papers in the files which I had gone over and I thought there might be some more which I could examine, and I think Mr. Schur sent to Mr. Horch for all the papers he might have in this matter, and that is where I first saw that.

- Q. How long prior to the meeting was this time when Mr. Schur asked your advice on the the legality of the meeting?

A. I could not say exactly whether it was a couple of weeks before. I mean in time for notices to be sent out.

- Q. How long have you been admitted to the Bar?

A. Since December, 1935.

- Q. When Mr. Schur asked you your advice as to the legality of the meeting you were not yet a member of the Bar?

A. No, it was later in the month that I was admitted.

Q. When Mr. Schur asked your advice as to whether this meeting that was contemplated would be legal he turned over to you a batch of papers, did he not?

A. That is right.

Q. Was the agreement of April 23, 1923, in that batch?

A. I do not believe so. I just said -- I believe, that I asked if there were any other papers around.

Q. Now answer my question. Was it in the batch or not?

A. I do not believe it was.

Q. And then you asked to see some more papers?

A. Yes.

Q. What papers were brought down to you then?

A. As I say, Mr. Horch came in later with a lot of papers and among them were this cancellation and the original, the other agreement, and some more papers, powers of attorney and various things.

Q. Was that cancellation agreement that you saw clipped to or attached to the agreement of April 23, 1923, when it was brought to you?

A. I do not think so.

Q. Was it in the file?

A. I do not think so. I think it was just brought down in a red bag or some sort of bag.

Q. Can you fix the time when you first saw the cancellation agreement?

A. Not precisely.

Q. Was it before the date of the meeting though, was it not?

A. Yes.

Q. You held that paper in your office for quite a while?

A. Yes.

Q. How long would you say?

A. How long did we hold it in our office?

Q. Yes.

A. I could not say. It was some months.

Q. Some months?

A. Yes.

Q. You had it in your office in December, 1935, did you not?

A. That is right.

Q. And you held it in your office for some months?

A. Yes.

Q. Until March, 1936?

A. No.

Q. February, 1936?

A. If you try to make me place a date I could not do it. All I know it was for some some short time around the meeting, for some weeks before and after that date that we had that cancellation agreement. I cannot really say when we sent it back to Mr. Horch.

Q. You are quite sure it was some months?

A. Some appreciable period of time, probably about two months.

Q. That would put it about the middle of February, 1936, would it not?

A. I do not want to go into any date. I don't know exactly how long.

Q. Well, two months from December, 1935, is practically the middle of February, 1936, is it not?

MR. LEVY: The witness has stated he could not fix the date ^{precisely} ~~approximately~~.

THE REFEREE: I think he can answer that question.

A. My approximation of two months would include of course the time before the meeting, so I don't know exactly when we sent it back to Mr. Horch.

Q. Now was it in a file?

A. In a file in our office?

Q. Yes.

A. We kept in a file, yes.

Q. Did you keep the file of original documents in the safe?

A. In our safe?

- Q. Yes.
- A. No.
- Q. You studied the original document, the agreement of July, 1928, a lot?
- A. Well, yes.
- Q. You had copies made, of course?
- A. I do not think I had copies made.
- Q. Did you use copies at all?
- A. There were copies in the file.
- Q. There were copies?
- A. Yes. Are you talking about the cancellation agreement?
- Q. Yes, sure.
- A. Yes.
- Q. Who made the copies, do you know?
- A. No.
- Q. Your office?
- A. I do not know.
- Q. Do you recall whether the copies were double space or single space?
- A. Well, this I believe is one of the copies.
- Q. Yes, but you said you had other copies, or there were copies, in the plural, rather.
- A. It is my recollection they were like this.
- Q. Did your office prepare that copy?
- A. I don't know.
- Q. You had that copy in your office at the same time you had the original, did you not?
- A. I believe so.
- Q. Then you gave the original back to Mr. Forch?
- A. That is right.
- Q. Did you send it in a letter?
- A. I don't remember. I think he called for it.
- Q. Did you get a receipt for it?
- A. No.
- Q. Is it not the practice of your office to take receipts when you part with original documents?
- A. No.
- Q. Have you got any correspondence on the subject of returning the original to him?
- A. I have no idea.
- Q. Have you got any correspondence on the subject of the agreement at all?
- A. I don't think we ever corresponded very much. We used to telephone pretty regularly.
- Q. He was at your office very regularly during this period of time in December, 1935, and the following January, was he not?
- A. That is right.
- Q. And during that time you had not only the original but these copies?
- A. That is right.
- Q. You are quite sure you did not get these copies, one of which you are looking at now, after the time that he got the original back in his possession?
- A. No. I am pretty sure the original was in the file and the copies in the file together.
- Q. Did you notice whether the original had an acknowledgment before a notary?
- A. I do not believe it had.
- Q. Are you sure?
- A. I don't remember it had an acknowledgment.
- Q. Did the original have an attorney's back on it?
- A. If you want me to describe what I remember about the agreement I will do so.
- Q. ~~Yes~~ No, just answer the questions I am putting to you.
- A. No, I don't think it had an attorney's back on it.
- Q. You are sure of that?
- A. Well, pretty sure.
- Q. Did you keep the original bound in any file that you had?
- A. We never made any bound files. That is your practice, that was not Greenbaum, Wolff & Ernst's practice.

Q. We never lose papers, that is the difference.

THE REFEREE: Of course that is off the record.

Q. Who punched those holes in the side of the paper you have in front of you?

A. I haven't the least idea.

Q. Are you sure that was not in a bound file?

A. I have not the least idea whether it was ever in a bound file.

Q. But you are sure you did not put those holes in the side of the paper, aren't you?

A. I don't think I ever have punched a hole in a paper in my life. If it did not the holes I did not punch them.

Q. That is not part of your job, is it?

A. No.

Q. When you saw this paper did it have holes punched in the side?

A. Which paper?

Q. The one in front of you.

A. I believe it did, although I cannot really remember. I think it did.

Q. You prepared the affidavits that were used in opposition to the various matters in connection with this litigation, did you not?

A. Well, I worked on some of them.

Q. At the time you drew those papers you knew about that cancellation agreement?

Q.x. And never once was it mentioned, was it? A. I certainly did.

MR. LEVY: Wait a moment.

THE WITNESS: Shall I answer?

MR. LEVY: Well, yes, go ahead.

A. It was none of my doings. I --

Q. Answer the question directly.

A. All right. The cancellation agreement as far as I was --

Q. Wait a minute, Mr. Kline. You know that question can be answered yes or no. Will you answer it?

MR. LEVY: I stated a moment ago that it had never been mentioned.

MR. PLAUT: But I want the witness to answer.

A. Your question is why it was never mentioned?

THE REFEREE: No, the question is not why, but was it mentioned.

THE WITNESS: No.

Q. There were numerous affidavits prepared by you in the office there in reference to this and connected litigations?

A. There certainly were.

Q. Does your office follow the practice of having photostats made of original documents?

A. No.

Q. Did you ever see a photostat of this document?

A. I don't remember any photostats of the document.

Q. Did you have any photostats made of the original agreement of April 23, 1923?

A. Not that I know of.

Q. Do you remember seeing this photostat of the agreement of April 23, 1923 (handing paper)?

A. Yes.

Q. Didn't you have that photostat prepared?

A. You mean personally or the office? I don't know who had this prepared now.

Q. It was prepared by your office?

A. I don't know.

Q. You gave me that photostat, didn't you?

A. Yes. When you refer to a photostat of the agreement --

Q. Wait a moment. You know you are to answer when you have questions put to you.

A. All right.

THE REFEREE: If there is any desire on the part of the witness to explain the previous answer I think it is proper.

THE WITNESS: Yes. When he asked me previously about a photostatic copy of that agreement I assumed he meant the cancellation agreement and I said I did not think we had any photostatic copy.

Q. Now at the time you rendered an opinion that the meeting was legal you counseled Mr. Horch that it was legal?

MR. LEVY: Wait. That is an unfair question. It is perfectly obvious that Mr. Schur asked the witness to look up the law concerning a certain situation and that he did and conveyed his results to Mr. Schur.

THE REFEREE: Well, the witness can answer the question.

MR. LEVY: Yes, but there is an implication in the question which I think is unfair.

MR. PLAUT: I will withdraw that question.

Q. Did you prepare a written memorandum as to the legality of the meeting?

MR. LEVY: One moment, if you please. I think that is somewhat outside the range of this investigation and I object to it?

THE REFEREE: I will allow it. It is cross examination.

Exception taken by Mr. Levy.

A. I don't know whether I prepared a written one or not.

Q. Did you put anything in writing at the time you rendered an opinion to Mr. Schur as to whether or not the meeting was legal that contained a reference to this cancellation agreement?

A. I don't know whether I ever sent him a written memorandum or whether I just conferred with him personally.

Q. Have you your files here?

A. I don't know. I have no control over the files any more.

Q. Why not?

A. I have not been working for Greenbaum, Wolff & Ernst now for a few weeks.

MR. PLAUT: Maybe Mr. Levy will allow the witness to look through the file and see if they have any reference to it.

Q. Go ahead. You may look through the file. Mr. Levy I understand gave you permission.

MR. LEVY: We will be very glad to give him permission, but I do not think we should hold this up now for such an examination.

THE REFEREE: What is your wish?

MR. PLAUT: I would like Mr. Kline to make it now.

MR. LEVY: I say it is my intention to call Mr. Schur as soon as he returns from Florida, who was the member of the firm in charge of the litigation, and he can answer these questions with more authority than Mr. Kline can.

THE WITNESS: Well, I mean off the record I believe they know the contents of the files as well as I do now, and if there is any such document I can look for it.

Q. You are under oath you know --

THE REFEREE: Mr. Kline has stated that to the best of his recollection he does not whether he rendered a written opinion to Mr. Schur or not. You asked him if there is anything in the file in connection with it. He says he has no further connection with that office. Mr. Levy says those papers are here now and he has no objection to his examining them. Now the only question is whether it is worth while to take the time to do it now. If you want it done I will wait until he looks through the file. The witness has stated that Mr. Levy and Mr. Stern are familiar with the papers here and will be able to answer whether there is such a paper.

MR. STERN: There is no such paper here.

MR. PLAUT: I will be glad to have Mr. Levy and Mr. Stern take the stand and testify but I will not accept their statement.

Q. That memorandum was written prior to December 15, 1935, was it not?

A. Yes -- oh, wait a moment --

THE REFEREE: You say it was written?

THE WITNESS: It was rendered. I say I don't remember whether orally or written.

Q. Whether it was written or oral it came from you to Mr. Schur prior to the date of the holding of the meeting on December 15, 1935?

A. That is right.

Q. For how long previous had you been working on the subject?

A. Some months.

Q. Some months?

A. Not on the exact subject of the meeting but on the subject of the Master Institute, and the meeting I had been working on and off a week or two before.

Q. That would confine you practically to the month of ~~January~~ December, 1935, and further confine you to the first part of December, 1935, wouldn't it?

A. Yes.

BY THE REFEREE:

Q. You had been working exclusively on these matters during that period?

A. No, but I had been working with Mr. Schur --

Q. On various things off and on for two months prior to this date, on matters involved here?

A. Yes.

Q. And when I say here, not in this particular litigation, but on all Master Institute matters?

A. That is right.

BY MR. PLAUT:

Q. Will you kindly inspect the files and bring your attention then to the period up to December 15, 1935, and see if you can find any written memorandum that you gave to Mr. Schur concerning the legality of the meeting?

(The witness then proceeded to examine papers submitted to him by Mr. Stern.)

Q. Have you made a search, Mr. Kline?

A. Yes, I looked through the papers.

THE REFEREE: When you say you looked through the papers you mean all the papers in the file which was brought by Greenbaum, Wolff & Ernst to this office for this hearing?

THE WITNESS: Yes.

Q. You looked through the complete file?

A. I cannot hear you.

Q. I say did ~~you~~ that appear to be a complete file?

A. No.

Q. Were there some other papers missing?

MR. KLINE: Not missing. They are in the office.

Q. Some papers that are not here?

A. Yes.

Q. Did it contain memoranda that you wrote on various phases of this litigation?

A. It may.

Q. I beg your pardon?

A. You mean the files which are not here?

Q. No, the files which are here.

A. No.

Q. No memoranda at all?

A. No, but I saw one or two memorandums of mine, I am sorry.

Q. What date are they?

A. Fairly recent.

Q. Was there anything in December, 1935?

A. No.

Q. I assume you found no memorandum here which contains any reference that you made in December, 1935, to any cancellation agreement?

A. Right.

Q. At the time that you saw the original did you also see this copy which has been marked Respondents' Exhibit 30?

A. I believe so.

Q. They were in your office at the same time?

A. ~~Exhibit~~ Yes.

Q. When you first got the original you got this copy too?

MR. LEVY: I think we have been all over that.

THE REFEREE: He has answered that. On cross examination he said he believed he had both at the same time and also he believed he had a copy or two similar to the one in evidence.

Q. I mean when did you first saw the ^{original} ~~original~~ did you also see the copy Respondents' exhibit 30.

A. Well, while it was in our office I saw them. They were in a file. I don't know whether I saw them all together the first time or not, but some time or other they were together.

Q. Did you see the copy prior to the date of the holding of the meeting on December 16, 1936?

A. Yes.

Q. In the office? It was there?

A. I think so.

MR. PLAUT: That is all.

REDIRECT EXAMINATION BY MR. LEVY:

Q. You started to say before, Mr. Kline, or give us your recollection of this agreement and you were prevented. Will you tell us now just what you recall about it?

A. Well, as I say, I had to go over this agreement pretty much. As I remember it, the agreement was signed by the people who are signed here --

MR. PLAUT: Wait. I move to strike that out. That is what he said before.

THE REFEREE: The names appeared in writing?

THE WITNESS: In writing, and I thought they were authentic, if I am allowed to say so. Also at that time I believed that it satisfied the requirements of cancellation, a sealed instrument.

MR. PLAUT: I move to strike that out. That is not responsive.

THE REFEREE: Strike it out.

THE WITNESS: I am trying to describe it --

THE REFEREE: Describe what you saw.

THE WITNESS: It had the letters "L.S." next to the names and on a dotted line.

THE REFEREE: Alongside the signatures?

THE WITNESS: Yes. I don't think that it was in the same form as this copy, you see. It was on a sort of square white paper. I don't think it was on loose leaf paper. It was better paper I think. It did not have holes in it. It was white paper. I don't remember anything else about it.

Q. You testified I believe there was no lawyer's back on it as far as you recall?

A. No, no lawyer's back.

Q. Are you sure about that or is that to your present recollection?

A. I am pretty sure it did not have any lawyer's back on it.

MR. LEVY: I guess that is all.

THE WITNESS: There was --

RECROSS EXAMINATION BY MR. PLAUT:

Q. Wait a moment. You said it is on white paper that was better quality than this paper which has been produced here as Respondents' Exhibit 30?

A. I am just guessing. Of course you were facetious about the bad quality of the paper.

Q. Well, I think it is very important. We are not trying to be facetious. We are trying to account for the missing document.

BY THE REFEREE:

Q. When you say you are guessing do you mean you are guessing as to the quality of the paper or that it was white paper?

A. No, the white paper is my memory, but the quality of the paper, it is just my recollection.

BY MR. PLAUT:

Q. Are you quite sure the original had L.S. written after every name?

A. Yes.

Q. Was it long form legal cap or paper approximately the size of this?

A. It was not legal cap, it was about the same size as that. I think they call it square white paper.

BY THE REFEREE:

Q. The size of a letterhead?

A. About the same size as that, without holes.

BY MR. PLAUT:

Q. Did it have margin line on the left hand side?

A. I don't think so. It was not on legal cap at all.

Q. Of course it did not have any rivets at the top of it?

A. I don't think so.

MR. PLAUT: That is all.

MR. LEVY: That is all.

THE WITNESS: May I just interject something?

MR. PLAUT: Now wait a minute. We have both finished.

THE REFEREE: Suppose you call Mr. Levy's attention to what you think Mr. Levy has omitted.

(The witness confers with Mr. Levy.)

MR. LEVY: No.

BY MR. PLAUT:

Q. I will give you another question. How many sheets were there to the original?

A. How many sheets?

Q. Yes.

A. One.

MR. PLAUT: That is all.

L O U I S L. H O R C H, recalled for further examination, testified as follows:

MR. PLAUT: I want to state for the record that I am renewing my objection to the admissibility of Respondents' exhibit 3 and move to strike it out.

THE REFEREE: On the same grounds?

MR. PLAUT: Yes, and furthermore it now appears this was not even a copy of what is supposed to be the original. There are differences. It is certainly only an approximation of what the original was.

THE REFEREE: You say it is not a copy. What testimony is there that it is not a copy?

MR. PLAUT: We have Mr. Kline's testimony that the original had L.S.'s after each name. We have had other testimony that there was a notary's certificate or acknowledgment on the original.

THE REFEREE: Witnesses differ with reference to the ~~original~~ contents of the document. That does not mean that the paper which was testified to by one of the witnesses to be a copy and to have been copied is not admissible.

MR. PLAUT: I think the rule requires it to be an accurate copy.

THE REFEREE: This witness testified that it was. One of the other witnesses differed as to certain of the items. That does not mean it is not admissible. It may affect the value of the proof but it does not affect its sufficiency.

MR. PLAUT: Mr. Horch himself testified that the original had a notary's acknowledgment on it.

THE REFEREE: Yes, he said he thought so and he also testified that it had a lawyer's back on it, and Mr. Kline testified that his recollection was definitely that it did not have a lawyer's back to it. Does that render the document inadmissible? The question is, has the proper foundation been laid for the admission of secondary evidence. That is the first point.

MR. PLAUT: Yes.

THE REFEREE: Now he says he saw the document, both witnesses saw the document but they cannot account for it. They claim they had searches made, and this witness claims it was a copy.

MR. PLAUT: No, he says it is not accurate. He says there are certain parts missing.

THE REFEREE: It is without the acknowledgment.

MR. PLAUT: But the acknowledgment is a very important part.

THE REFEREE: The acknowledgment is an important part but it does not make this part inadmissible.

MR. PLAUT: Well I take my exception.

BY MR. LEVY:

Q. Mr. Horch, was Professor Roerich in this country in 1929?

A. Yes.

Q. Did you have a conversation with him in 1929?

A. I did.

Q. In reference to this agreement?

A. I did.

Q. Will you state the substance of your conversation with him?

THE REFEREE: When you say this agreement, which one? The agreement of cancellation?

Q. First I will refer to the agreement of April 23, 1923.

A. Well, Professor Roerich came to this country in June, 1929, and was very much

interested in the progress of the building and all the departments connected with it, and I told him at the time that in his absence that the agreement of April, 1923, had been cancelled and Miss Esther J. Lichtmann and Mrs. Shafran had acted as my nominees while he and Madam Roerich were away. He says, "I know all bout it, Esther Lichtmann has told me about it."

Q. Was that the substance of the conversation?

A. That was the substance of the conversation. I told him a great deal more about the building and so forth. He lived in my home at the time.

Q. Now was Professor Roerich in this country in 1934?

A. He was.

Q. And was that during the time that the reorganization was in progress?

A. Yes, while it was in progress.

Q. And were these hearings being conducted at that time before Referee Burlingham?

A. Yes, just about that time.

Q. Can you recall when he came to this country in 1934?

A. I believe approximately in March, I think so.

Q. How long did he remain here?

A. I think approximately five weeks.

Q. And during that time did you talk to him about the reorganization plan?

A. I did. I spoke to him the first day he was here.

Q. And did you talk to him about acquiring the building?

A. Yes, I told him the hearings were on before Burlingham and I told him of my financial status.

Q. Suppose you tell us everything that was said in that conversation.

A. I told Professor Roerich this, that all the money that I did have is gone, I had no funds left whatsoever. My financial situation was very serious at that time. I told him further about the hearings as they are coming up before the Hon. Mr. Burlingham, and told him that I would like it vlearly understood that if this building comes back to my corporation or to any other corporation that I would have to be in control of it. He said, "There is no question about it because you have invested your money in this, and besides this, I don't expect to return to this country any more, and as you know Mr. and Mrs. Lichtmann and Miss Grant will soon leave here and you and Mrs. Horch will be in complete charge here."

Q. That is what he said?

A. Yes.

Q. Was anything else said on that subject?

A. General conversation. I don't remember any further.

Q. One other thing. There has been some testimony in this case concerning the necessity of trustees of the Master Institute being stockholders. You heard that testimony?

A. I heard the testimony.

Q. Did you at any time learn that that was not necessary?

A. You mean that trustees would not have to be here?

Q. Yes.

A. In 1935, yes.

Q. Was that the first time you heard that?

A. That was the first time I heard that.

Q. From whom did you hear that?

A. I heard it from Mr. Schur.

MR. LEVY: That is all. You may examine.

MR. PLAUT: Will you read the last few questions and answers?

(The last few questions and answers were read by the reporter.)

CROSS EXAMINATION BY MR. PLAUT:

Q. In 1922 you testified that you were worth \$1,600,000?

A. Approximately that, yes.

Q. You ~~made~~ had made that money in the business that you were in?

A. I did.

Q. And that was the foreign exchange business?

A. That is right.

Q. You had been engaged in the foreign exchange business since 1905?

A. I think so, about that.

- Q. Had you been in business for yourself during those seventeen years?
- A. You mean in the foreign exchange business?
- Q. Yes.
- A. No, I had a partner, various partners.
- Q. What was the name of your partner?
- A. C. N. Roenthal. The name of the firm was Horch, Rosenthal & Company.
- Q. And prior to that time you had been associated with others in foreign exchange business?
- A. Yes.
- Q. What was your previous association?
- A. You mean before Horch, Rosenthal & Company?
- Q. Yes.
- A. For a little while I was in business for myself, also in foreign exchange, and prior to that I was with A. Mayer & Company, also foreign exchange.
- Q. And you had worked up your business to quite a substantial extent?
- A. I did.
- Q. And had made that money in your business?
- A. I did.
- Q. And when you started in business you had a very small capital?
- A. Very small.
- Q. So that all of this money that you made by 1922 was due to your own business acumen and ability?
- A. Yes.
- Q. Were you a member of the board of directors of any corporation prior to 1922?
- A. I do not think so, no.
- Q. And you had been solely engaged in foreign exchange business?
- A. Yes, solely. It was international in scope but it was all foreign exchange.
- Q. Now on February 25, 1935, you did certain acts with reference to the stock of the Master Institute, did you not?
- A. I guess that is the date.
- Q. Now will you tell me what you did with reference to the stock of the Master Institute on that day?
- A. Well, I think it is shown in the book itself. It was --
- Q. Would you prefer to have the book before you when you testify?
- A. Yes, I think it would be easier. I could say generally but if you want to have it specific --
- Q. Yes, let us have it exact so we won't have to come back to it.
- (The book produced and handed to witness.)
- A. On February 25, 1935, five shares which had been prior in the names of Maurice Lichtmann, Frances Grant, Sina Lichtmann, Esther J. Lichtmann and Sidney M. Newberger were transferred to my self.
- Q. What were the numbers of the certificates which were transferred to yourself, that were turned in for cancellation? I will withdraw the question. Do I understand you to say that on February 25, 1935, five certificates of stock were turned to the corporation and cancelled and one new certificate issued in your name?
- A. Right. It was issued to Nettie S. Horch.
- Q. The five shares?
- A. Seven.
- Q. No, I think you misunderstood my question.
- A. On February 26.
- Q. I am talking about the February 25 transaction.
- A. Yes.
- Q. On that day five certificates were turned in and one certificate for five shares was issued to you?
- A. I guess that is right.
- Q. And the names of the stockholders on those five certificates were Frances R. Grant, Maurice M. Lichtmann, Sina Lichtmann, Esther J. Lichtmann, and who was the other?
- A. Sidney M. Newberger.
- Q. And Sidney M. Newberger. What were the numbers of the certificates that were turned in?
- A. I see some numbers listed here. Shall I go back or take them?

Q. Have you the original cancelled certificates in the batch of papers here?

A. Yes. 3 --

Q. Who was 3?

A. Maurice Lichtmann. 4, Frances R. Grant. 7 is Sina Lichtmann. 8 is Esther J. Lichtmann. 12, Sidney M. Newberger.

Q. When had certificate No. 8 to Esther J. Lichtmann been issued?

A. July 9, 1929.

Q. Have you got the certificate here?

A. I have it here in the certificate book.

Q. Have you got the stock certificate itself?

A. Yes, I think this is the one right here.

Q. May I see it?

A. Yes, surely (handing paper).

Q. MR. PLAUT: I offer it.

MR. LEVY: No objection.

The certificate was admitted in evidence and marked Petitioners' Exhibit 47, February 15, 1937, R.W.P.

Q. Now have you the certificate No. 12?

A. I do not see it here?

MR. STERN: It probably is up town. I can get it for you.

MR. PLAUT: You have not it here?

MR. STERN: No, but I can get it for you.

Q. What date was certificate No. 12 issued, according to the stub book?

A. July 9, 1928.

MR. STERN: It is February 18, 1935.

MR. PLAUT: February 18, 1935 appears on the stub book?

MR. STERN: Yes.

THE REFEREE: It was exchanged for the other certificate on that date.

The witness evidently read from the wrong place.

THE WITNESS: Yes, I am afraid I did.

Q. Will you bring with you the next time certificate No. 12?

A. Gladly.

Q. Certificate No. 8 which has been marked Petitioners' Exhibit 47 was issued on July 9, 1928. Was there a certificate turned in for cancellation at that time in exchange for which this certificate No. 8 was issued to Miss Lichtmann?

A. I think there must be.

MR. STERN: Yes.

THE WITNESS: No. 6?

MR. STERN: Yes.

Q. No. 6?

A. Yes. (Handing paper.)

Q. You have handed me a paper which has already been marked in evidence as Petitioners' Exhibit 7. That certificate was made out in the name of Helena Roerich?

A. Right.

Q. Now when certificate No. 12 was issued in February, 1935, was there any certificate turned in and cancelled?

A. There was.

Q. What certificate was that and to whom was it made out?

A. It was made out to Sophie Schaffran. Do you wish the date?

Q. I think that covers it. It was certificate No. 9 in the name of Sophie Schaffran?

A. That is right.

Q. Have you got that certificate here?

(Certificate produced by Mr. Stern.)

Q. Does your book indicate what date certificate No. 9 was issued?

A. July 9, 1928.

MR. PLAUT: I will offer that.

MR. LEVY: No objection.

The paper was admitted in evidence and marked Petitioners' Exhibit No. 48, February 15, 1937, R.W.P.

MR. LEVY: That book is in evidence, is it not?

MR. PLAUT: No, the book is not in evidence. You put the stock ledger book in.
 Q. Now when certificate No. 9 was issued in July of 1928 was there another certificate turned for cancellation?

A. There was.

Q. Of which certificate 9 took its place?

A. Certificate 2.

MR. STERN: That is in evidence (handing certificate)

Q. And by that you mean this paper which has been marked Petitioners' Exhibit 4 in evidence?

A. Yes.

Q. Does Mrs. Newberger appear at all on your books as a stockholder at any time?

A. I do not think she does.

Q. You have looked through your stub book of certificates?

A. Yes.

Q. And find Mrs. Newberger's name is not there?

A. Yes.

Q. It is not there?

A. I do not see it.

Q. I show you a photostat of Petitioners' Exhibit 19 and indicate to you that Mrs. Newberger's name appears as a stockholder on the list of stockholders at that time. Do you see that.

A. I do.

Q. And yet she was not a stockholder?

A. That is right.

Q. Have you any explanation for that?

A. The only explanation I make is this: no doubt an error was made, but I treated this as my corporation. If we made some mistakes in the matter here and there it did not make any difference to me.

Q. Mr. Newberger received the delivery of certificate No. 9, Petitioners' Exhibit 48, from Mrs. Schaffran on February 18, 1935, according to the reverse side of the certificate. Does that accord with your recollection of the date the certificate was turned over?

A. What date do you say, Mr. Plaut?

Q. February 18, 1935.

A. From Sophie Schaffran, you mean?

Q. Yes.

A. That is right, yes.

Q. Was that done before or after this consent of stockholders, Petitioners' Exhibit 19, dated February 18, 1935, was signed?

A. You mean that this was issued before?

Q. Yes.

A. Or at the same time.

Q. What is your recollection on the subject?

A. As far as I recollect I think about at the same time, as far as I can recall.

Q. And yet Mrs. Schaffran's name appears on this consent of stockholders Exhibit 19 as a stockholder on that date, is that right?

A. Yes. This seems to be made out to Mr. and Mrs. Newberger.

Q. Now then on February 25, 1935, you yourself took the five certificates, Nos. 3, 7, 4, 12, and 8, and cancelled them?

A. That is right.

Q. And new certificates for five shares of stock was made out in your name?

A. Yes.

Q. That new certificate bore what number?

A. I think No. 13.

Q. Have you got the certificate here?

(Paper produced and handed to Mr. Horch by Mr. Stern.)

MR. PLAUT: I offer it.

MR. LEVY: No objection.

The paper was admitted in evidence and marked Petitioners' Exhibit No. 49, February 15, 1937, R.W.P.

MR. LEVY: All of this is set forth in the pleadings and not denied.

MR. PLAUT: It is set forth but my proof of it is not complete. I think we ought to have all this on the record.

Q. What did you do then with certificate 13, Petitioners' Exhibit 49?

A. This was cancelled.

Q. On what date, Mr. Horch?

A. I think from the record it was February 26. It was cancelled on February 26.

Q. And was there a certificate issued on February 26?

A. There was.

Q. And how many shares was that?

A. Seven shares.

Q. That included the five shares represented by certificate No 13, Petitioners' Exhibit 49, and two other shares?

A. That is right.

Q. What were the two other shares that were cancelled at that time?

A. One and five.

Q. Have you those certificates here?

MR. STERN: Yes (handing papers.)

MR. PLAUT: I will offer ~~the~~ in evidence certificate No. 1.

MR. STERN: It is in evidence.

Q. Certificate No. 1 is this paper which has already been marked Petitioners' Exhibit 3, is it not?

A. Yes.

Q. And certificate No. 5 is this paper which has already been marked in evidence as Petitioners' Exhibit 6, is that right?

A. Yes.

Q. Then on February 26, a new certificate for seven shares was issued in the name of Mrs. Horch?

A. That is right.

MR. PLAUT: And that is this paper which I offer.

MR. LEVY: No objection.

The paper was admitted in evidence and marked Petitioners' Exhibit No. 50, February 15, 1937, R.W.P.

Q. Then entries were made on the stock ledger book to conform to these transfers which you have testified to, is that correct?

A. Yes.

Q. And did you make the entries in February, 1935, in your own handwriting?

A. I did. I have not the other book here, but I did.

Q. All the entries for the transactions in February, 1935, in the stock certificate stub book are in your handwriting?

A. I think they all are.

Q. There is no doubt in your mind.

A. No, I will just look and see. I don't think there is any other handwriting there (after examining book.) They are.

Q. And the entries for the 18th of February are likewise in your handwriting?

A. You mean in the stub book?

Q. Yes.

A. No, that is not my handwriting.

Q. Whose handwriting is it?

A. I really don't know. It is not mine. It may be somebody from the office of Greenbaum, Wolff & Ernst.

MR. PLAUT: Can you help us out? Mr. Levy do you know?

MR. LEVY: Do you know, Mr. Stern?

MR. STERN: No, but I can find out for you. MR. PLAUT: Will you try to check / it up?

Q. Going to the stock ledger book are the transactions in February 1935 in your handwriting?

A. Did you say the 18th or the 25th?

Q. Take the 18th first.

A. On the 18th, no, not all; some of it is and some is not mine.

- Q. How about the 25th and 26th of February?
A. There is Louis I. Horch, 13 shares. This is all in my handwriting here.
- Q. How about the transfers for instance with reference to Mr. Lichtman's certificate No. 5, is that in your handwriting?
A. Ye, it is, on February 25th.
- Q. How about Mrs. Lichtmann, is there an entry for her?
A. No I do not see any entry.
- Q. That, I think, you told me on the examination before trial, was omitted because of inadvertence. Is that correct?
A. In what way?
- Q. There is no record in that stock ledger book of a transfer from Mrs. Lichtmann to you according to the transfer you say actually took place on February 25.
A. It took place but it is not entered here, is that what you mean?
- Q. Yes, there is no entry in that book? A. No.
- Q. And you told me I think before that it was not done because of inadvertence?
A. Right.
- Q. How about the other entires on February 25, as to Miss Grant's certificate No. 4?
A. That is in my handwriting.
- Q. How about Sidney M. Newberger, is there an entry for him? A. There is two handwritings.
- Q. Yes. A. The one for the 18th is not mine. The one for the 25th is mine.
- Q. You do not recognize the one for the 18th? A. No.
- Q. How about Esther J. Lichtmann? A. The 25th is mine and the other is not.
- Q. The transters then that took place on the 26th from you to Mrs. Horch, are they in your handwriting? A. They are.
- Q. Now the reason that these transfers of stock were made on the 25th of the five shares to you and on the 26th whereby Mrs. Horch received the cerfiticates for seven shares, was done by you because of several reasons. I think you have told us one, that you claim that the stock always belonged to you? A. That is right.
- Q. You have testified in direct exmination that the Master Institute of United Arts, Incorporated was your own corporation? A. That is right.
- Q. And that from the beginning you were to be in control of it? A. Right.
- Q. ~~And that from the beginning you were to be in control of it?~~ Your claim is now that you were the only real stockholder in this corporation? A. It is.
- Q. And that the other six people in the original set-up were merely your nominees? A. Right.
- Q. They were dummy stockholders? A. Right.
- Q. And then you say nominees or dummies you include Mr. and Mrs. Lichtmann, Miss Grant, Professor and Madam Roerich and your wife also? A. I do.
- Q. So the Master Institute was your corporation? A. It was.
- Q. Was the Roerich Museum also your corporation? A. Well that is a different set-up. There you had trustees.
- Q. Did you consider it to be your own corporstion? A. Well, from the legal point I felt I had no right to consider it my own corporation, although from every other part of it it was. If I had not made the whole thing possible it would not have been. I considered I had a right to consider it mine.
- Q. The Roerich Museum was organized in 1923? A. Oh, you mean that corporation, the Roerich Museum, Incorporated?
- Q. Well, let us talk about that corporation. Was that your corporation? A. It was.
- Q. You owned all the stock in that? A. I did.
- Q. Now there was another corporation known as Roerich Museum without the Inc.
A. Corona Mundi, you mean?
- Q. No, Roerich Museum. A? As I mentioned before, legall I had no right, there were trustees there but from a real point of view, having provided the money to make the whole thing possible, from the moral point of view it was mine, but legally of course not.
- Q. You trstified that you had a conversation up in Maine with the Roerich and the Lichtmanns and Miss Grant in which you said you would have to be in control. A. I did.
- Q. And they all agreed? A. They did.
- Q. And then you came back from Maine and you saw Mr. Bloomberg? A. I did.
- Q. And you trstified on direct examination that Mr. Bloomberg did not discuss with you the necessity of having seven directors or trustees. That you left all those matters to him? A. I did.
- Q. Did you discuss with Mr. Bloomberg how many trustees there were to be? A. I did.
- Q. Did you tell him seven. A. I did.

- Q. Did you tell him how many shares of stock there were to be put into the certificate of incorporation? A. Well, I think that I left to him. I mean, after all, he was the attorney and I left that to him.
- Q. How did you get the seven? A. Well there were just seven at the time, Mr. and Mrs. Roerich, Mr. and Mrs. Lichtmann, Miss Grant and Mrs. Horch and myself.
- Q. What do you say is the reason why the stock was placed in the names of these six people besides yourself? A. Well, because I was told by Mr. Bloomberg that trustees had to appear as shareholders. That is the reason why.
- Q. And you did have a discussion then with him as to the necessity of having seven trustees or shareholders? A. Well if you call it as such, yes.
- Q. What do you say was the reason for that seven? A. Mr. Bloomberg told me that trustees would have to appear as shareholders.
- Q. Yes, and that is why there was seven trustees? A. Yes, exactly.
- Q. And seven shareholders? A. Yes.
- Q. You were under the impression that the directors of the corporation then had to be stockholders? A. ~~Yes~~ That is what I was under the impression, yes.
- Q. You remember you also had the thought that because this was a non-profit educational corporation it would not look well to have only one shareholder? A. Right.
- Q. Mr. Bloomberg sent a bill for organizing the corporation didn't he? A. He did.
- Q. How much was the bill? A. Well, I think I should answer that conditionally, Mr. Plaut.
- Q. All right/ A. He sent a number of bills to me. I cannot itemize them exactly. I think there was one, at least it struck me in remembering, which is all past my recollection, for that particular work, there was one check for \$1990 which included a good part of the organization of this work.
- Q. Is that among the checks you produced here? A. I don't think it is. I think we have it right here.
- MR. LEVY: Were those checks not introduced?
- THE WITNESS: I don't think one of them was.
- THE REFEREE: You put them in in a batch.
- THE WITNESS: This was just a single check that lies in there (Indicating)
- MR. LEVY: Will you look through these checks and see if it is there?
- Q. There were five checks put in as Exhibit 23? A. It is right in that bundle there. Here it is (Holding check).
- Q. You have shown me a check to the order of Bloomberg & Bloomberg in the sum of \$1990.78, dated March 12, 1923. A. Then of course there were additional ~~check~~ bills and additional checks.
- Q. That \$1990.78 included bills for other work besides drawing up the corporation? A. It did.
- Q. Can you help us out and tell us about how much you paid for the corporation? A. I don't think I could tell you exactly, but I paid for it, that I do know.
- MR. LEVY: Do you want to offer this?
- MR. PLAUT: No, I have it in sufficiently.
- Q. When you thought it would not look well to have but one stockholder of a non-profit educational corporation did you discuss that with Mr. Bloomberg? A. I might have discussed it with him.
- Q. You knew of course that this corporation was not made a non-profit educational corporation until about three years later? A. That is right. I simply discussed it with Mr. Bloomberg and told him the different things and he naturally was the attorney who took care of these matters.
- Q. I say that this corporation, Master Institute, did not acquire the feature of being a non-profit making organization until 1928. A. That is correct.
- Q. And you discussed that with him back in 1922 when the corporations organized? A. Well it is very hard to say whether I did or did not.
- Q. You are not quite sure? A. No I am not sure about that.
- Q. Did you have any discussion with Mr. Bloomberg upon the subject of the stock being in the name of the nominees? Did he give you any advice on that?
- A. Well I don't think he gave me any particular advice on the matter. I just told him what I wanted to be in complete control and I left these matters more or less to him. It is very hard now to recollect all those conversations at that time.
- Q. Did Mr. Bloomberg draw up the minutes of the first meeting of incorporators of this corporation? A. I think he did, but I don't remember the meeting.
- Q. He drew up the by-laws too? A. Whatever were drawn up were drawn up much later not at this time in 1922/

Q. When were they drawn up? A. Much later. I don't know that they were even adopted.

Q. Have you seen them here?

MR. STERN: They were here but I don't think I brought them down to-day. I will have to bring them down for you.

Q. Have you got anywhere the minutes of the first meeting of the incorporators? A. I have not

MR. STERN: That is in the same volume.

MR. PLAUT: You say in the same volume?

MR. STERN: Well, it would not be in the first volume if it is in there. I will bring the first volume down at the next hearing and you can have

MR. PLAUT: Allright

/ it.

Q. Now the claim that you made in this proceeding that you were the owner of the stock proceeds upon the theory that you were the only one who paid for it too, is that correct?

A. Certainly. The only way I would enter this whole thing with this group of people was that I was to control this thing in every way because I put all the money up that was in the corporation.

Q. And that was in your mind in July or August, 1922, when you had this discussion with various people? A. Yes.

Q. Did you contemplate then how much money you were going to put into it?

A. I knew it would cost a good deal of money, but I did not know, that is why I insisted on having control.

Q. You say it needed money? A. Yes.

Q. For what purpose? A. Well this proposed building was to get together a collection of teachers but to get students and make the school known is quite another matter; and the quarters were entirely inadequate; they had no equipment, it was a defunct corporation or company, whatever they had there; you could not do this thing without a great deal of money. I knew that.

Q. Did you have any idea how much money you were going to put up? A. No, but I knew it would be a great deal of money.

Q. And that is what you had in the back of your head when you told them that you had to be in control? A. I did.

Q. These transfers in 1935 were done also on the advice of counsel? A. Yes, Mr. Schur told me, as mentioned before; it was on the advice of counsel.

Q. Mr. Schur told you you might transfer the other 5 shares from the other people to yourself and then transfer it so that Mrs. Horch would get the 7 shares? A. That is right.

Q. When did you have conferences with Mr. Schur upon this subject? A. As far as I can recollect it must have been in 1935. I should say, if this was done in February, 1935, it must have been some time in 1935.

Q. Was it done on February 20, 1935? A. I cannot tell you.

MR. LEVY: You mean the conversation?

Q. Yes, the conferences with Mr. Schur, were they held on February 20, 1935.

A. It is awfully hard to fix the time in that line.

Q. Now you recognize what purport to be minutes in this volume (handing book)? A. I do.

Q. Does that refresh your recollection as to when you saw Mr. Schur with reference to this problem? A. Not exactly. There is nothing to fix exactly the date. I would have to think about it.

Q. You state there you have had many conferences in the preceding week? A. I did.

Q. And the matters of the Masver Institute were discussed between you and him? A. That is right.

Q. Then in that week, say from February 12th or 13th to Feb 20th, 1935, was this subject of the ownership of stock discussed between you and Mr. Schur? A. There is a possibility. It is awfully hard to fix exactly the time. It took place. There is no question about that, but I just don't know the time.

Q. You and Mr. Schur went over the records of the Master Institute during that week, though? A. We did.

Q. And there were reports that you discussed as between yourself and Mr. Schur? A. I did.

Q. Because of the absence of Prof. and Mme. Roerich? A. That is right.

Q. And you looked up the old minutes and records of the corporation? A. That is right.

Q. And was not there any discussion when you had those conferences? A. It is very likely Mr. Plaut, it was around that time, but it is very hard for me just to tell just when this took place.

Q. Was it February 20, 1935 that you had those conferences? A. I would not want to answer and make it as close as all that.

Q.

Q. Certainly before February 23, 1935, when you actually did the transfer.
A. It looks that way.

Q. But you are sure you did have a conference with him on that subject although you cannot place the time? A. I did.

Q. When you had that conference with him did you show him the agreement of April 23, 1935?

A. I don't know if I showed it to him, Mr. Plaut, exactly, but I think he knew about it by that time. It is awfully hard to remember those things at this moment.

Q. Had you showed it to him before? A. At this minute I can't remember.

Q. But you say he knew about it? A. I think he knew about it.

Q. Can you tell me what you base your opinion on? A. I don't really know whether he spoke to me about it at that time or not.

Q. At any rate, you decided you could transfer the stock to yourself? A. I did.

Q. And that was done before you actually did transfer it? A. Well naturally.

Q. IN your direct examination you testified about powers of attorney that you had. A. Yes.

Q. And you produced here a photostat of a power of attorney that was given to you by
r. Roerich? A. That is right.

MR. PLAUT: May I have it please?

(Paper produced by Mr. Stern)

Q. Didn't you base your right to transfer the stock in 1935, upon the power of attorney?

A. No.