

M. J. CORBETT & CO., INC.
N.Y.C.(etc.)

March 21, 1938

Mr. Gene Fosdick
227 Riverside Dr.,
New York City, N.Y.

Dear Mr. Fosdick:

We send you, herewith, the decision of the Department in answer to the application for recognition of Flamma, Inc. as a corporation organized under the Laws of the State of Indiana, for permission to import works of art and other articles under the provisions of paragraph 1809 of the Tariff Act of 1930.

The Department has denied the application, for the reasons which have already been discussed between us in our conferences.

Because of the fact that the articles which you plan to now import apparently may be brought in free of duty under other paragraphs of the law, is it not desirable to with-hold any further action in connection with this present attempt until Flamma, Inc. is better established?

Yours very truly,

M.J. Corbett & Co., Inc.

By: (sig.) F.W. Bennett.

fb/ajm

COPY

March 19, 1938.

The Collector of Customs,
New York, N.Y.

Sir:

The Bureau is in receipt of an application from M.J. Corbett & Co., Inc., New York, N.Y. on behalf of Flamma, Inc., a corporation organized under the laws of the State of Indiana, for permission to import works of art and other articles under the provisions of Paragraph 1809 of the Tariff Act of 1930.

It appears that Flamma, Inc., was organized primarily to enlist individuals throughout the world in the work of disseminating and interchanging cultural and spiritual expressions of the various nations, races, and peoples and to establish centers for the stimulation of cultural activity through exhibitions, concerts, and cooperative study.

The Bureau requested the supervising customs agent at New York to investigate this matter and that officer's report, which has been received, indicates that Flamma, Inc., is at present time merely in a formative state. It further appears that the only objects which it is intending to import immediately are certain paintings by Nicholas Roerich which, if imported, will be exhibited in the apartment in New York City occupied by Mr. Gene Fosdick, President of Flamma, Inc. Some time in the future it is intended that exhibitions will be held at local village libraries, town halls, church lecture room, etc., although no arrangements for such exhibitions along these lines have as yet been made. The exhibition of any paintings imported to be placed in Mr. Fosdick's apartment, it is understood, will be open to the public and members of Flamma, Inc., only by appointment and to suit Mr. Fosdick's personal convenience or necessities.

From the record before it, the Bureau is of the opinion that articles imported by Flamma, Inc., at the present time are not "for exhibition", as contemplated by paragraph 1809 of the tariff act. See T.D. 38030.

If, in the future, Flamma, Inc., believes it is prepared to exhibit imported articles for the encouragement of the arts, the Bureau will consider a further application in its behalf.

Copies of this letter are being forwarded to M.J. Corbett & Co., Inc., and to the supervising customs agent at New York.

Very truly yours,
(Signed) Frank Dow
Acting Commissioner of Customs

CB/HSP/PC 2-14-38
3-7-16-38

March 25, 1938.

Mr. F.W. Bennett
c/o M.J. Corbett & Co.,
8 - 10 Bridge St.,
New York City, N.Y.

Dear Mr. Bennett:

Thank you for your letter of March 21st containing the decision of the Dept. in Washington, and for your efforts in our behalf. Of course we are not pleased with the outcome but have decided to accept your advise regarding a postponement of any further action in this matter for the time being. We shall take immediate steps to place FLAMMA in a better position for meeting the demands of the Department.

I cannot let pass without protest the almost insulting "understanding" of the Dept., that the exhibition "will be open to the public and members of FLAMMA, Inc., only by appointment and to suit Mrs. Fosdick's personal convenience or necessities." This is an entirely uncalled-for warping of fact, since it was clearly stated to the agent of the Dept. that one of a number of rooms rented by me in the bldg. 227 Riverside Dr. was set aside for the exclusive use of FLAMMA, and has been for some time. The Dept. can hardly claim ignorance of the fact that many of the Public Exhibitions of this city may be viewed only by appointment. My "personal convenience" has no place in these considerations, especially since there are other officers and employees who have keys to this room in their possession.

However, since you advise that we may purchase and import duty free original paintings by living artists it seems unnecessary to antagonize the Dept. by further insistence re: para. 1809. But, your use of the word "apparently" in your letter prompts me to ask reassurance of the possibilities under para. 1807 by the following questions:

1. Under Para. 1807 may FLAMMA, as a corporation, purchase, and import duty free, original paintings from a living artist, or broker?
2. May FLAMMA, Inc. import, duty free, gifts of original paintings?
3. Must value of imported gifts be declared?
4. May original paintings imported duty free be sold? If so does duty become automatically payable? Would such amount of duty be based on sale price here, purchase price abroad, or declared value upon entrance?
5. Is it necessary to exhibit original paintings admitted duty free?
6. Would any sort of tax be assessed by the Government for receipt, possession or transfer of original paintings imported duty free.
7. Would original paintings, imported duty free, as a result of purchase by, or gift to, FLAMMA, INC., protected as property of the corporation against attachment or seizure, for the satisfaction of any judgements held, or in the future acquired, against an officer or member of the corporation, the artist, or the broker?

- 3 -

These adverse circumstances are causing serious delays in our work, but we are very grateful to you for your help. I do not know how soon we may proceed, we are even taking under advisement the possibility of moving our headquarters to Indiana where possibilities "for exhibition" may be more quickly realized. In such event N.Y. would still be the port of entry would it not?

Very truly yours,

Gene Fosdick, Pres.

COPY.

M.J. Corbett & Co.
etc.

N.Y.C.

April 14, 1938

Flamma Inc.

227 Riverside Dr.,
New York City, N.Y.

Attention Mr. Gene Fosdick

imported at the port of
consigned Gentlemen:

Reference is had to your letter of March 25, 1938,
wherein you raise certain inquiries as to the free entry of
original paintings.

For your information we quote below paragraph 1807 of
the Tariff Act of 1930 (from the free list):-

" ---(you-have-this)----- "

(This declaration may be made by a person authorized to
administer oaths under section 562 of the Customs Act of 1929,
Public, etc.) In addition to the value and usual details the invoices
must show the fact that the painting is an original and give the
name of the artist.

The following supporting evidence must also be produced:-

- 1 - The certificate of the Artist who executed the article showing
it is original.

or.

If for some reason it is impossible to produce the certificate
of the artist, a declaration of the shipper or seller contain-
ing these details and in addition containing an explanation
satisfactory to the customs as to why the artist's certificate
cannot be secured

- 2 - A declaration of the importer on customs Form 3309, a copy
of which we have attached for your examination.

Original paintings are permitted entry into this country
free of duty upon the production of proper documents, and not con-
ditionally upon their disposition after importation. It makes no
difference how the paintings are acquired - whether by purchase
or gift - but in any event the true value of the articles should
be shown on the invoice used on entry. Should you fail to submit
the proper documents, duty will be assessed.

We would not advise you as to your questions 6 and 7 as
these questions should be referred to a general counsel since they
do not involve customs matters.

Very truly yours,

M.J. Corbett & Co. Inc.
by (sig.) F.W. Bennett

AFIDAVIT FOR FREE ENTRY OF ORIGINAL PAINTINGS, ENGRAVINGS, DRAWINGS, SCULPTURE, ETC.

(Par. 1807, Tariff Act of 1930)

UNITED STATES CUSTOMS SERVICE

District No. _____, Port of _____

Collector's Office, _____, 193

I, _____, declare under oath that I am the ultimate consignee of the following works of art: _____

_____ imported at the port of _____, per S. S. _____, and that the said articles are to the best of my knowledge and belief * _____ and were produced by _____ at _____

Declared to under oath before me this _____

_____ of _____, 193

(Title or designation)

* State whether originals, or, in the case of statuary, whether originals or first or second replicas, and in the case of etchings, engravings, or wood-cuts, whether printed by hand from hand-etched or hand-engraved plates or blocks.

(This declaration may be made before any person authorized to administer oaths under sec. 486, Tariff Act of 1930, or Notary Public, etc.)

AFFIDAVIT FOR FREE ENTRY OF ORIGINAL PAINTINGS, ENGRAVINGS, DRAWINGS, SCULPTURE, ETC.

(Par. 1807, Tariff Act of 1930)

UNITED STATES CUSTOMS SERVICE

District No. _____, Port of _____

Collector's Office, _____, 193

I, _____, declare under oath that I am the ultimate consignee of the following works of art: _____

imported at the port of _____, per S. S. _____

consigned to _____, and that the said articles are to the

best of my knowledge and belief * _____ and were produced

by _____ at _____

Declared to under oath before me this _____

day of _____, 193

(Title or designation)

(This declaration may be made before any person authorized to administer oaths under sec. 486, Tariff Act of 1930, or Notary Public, etc.)

* State whether originals, or, in the case of statuary, whether originals or first or second replicas, and in the case of etchings, engravings, or wood-cuts, whether printed by hand from hand-etched or hand-engraved plates or blocks.