

ROERICH MUSEUM

Founded November 17th, 1923

NEW-YORK.

Believing that the lofty art and ideals of Nicholas Roerich serve as one of the glowing milestones of the evolution of humanity, we the Trustees of the Roerich Museum, which is devoted to the art and the ideals of this master, do hereby proclaim the Roerich Museum as the property of the people of the United States of America.

Ever striving for the unification of mankind through the great images of Beauty, Nicholas Roerich has dedicated his life to America and to the world, in the cause of free and enlightened development of humanity.

In proclaiming the Roerich Museum as the property of the American nation, we, the Trustees of the Roerich Museum, do hereby declare it an unalterable condition thereof, that the Roerich Museum shall never be dissolved, sold nor change its name or its original purpose as a monument to the art of Nicholas Roerich, nor shall the walls of the Roerich Museum ever be used for any purpose other than the exhibition of the paintings of this master to whose art the Roerich Museum is dedicated.

Further, be it resolved that in order to ensure the perpetuation of the aforesaid aims and purposes of the Roerich Museum, and in order that the desire of its Trustees, who are elected for life, shall never be altered, that each of the Trustees shall, during his lifetime, nominate his successor to office, with the confidence and purpose that the appointed successor shall carry into the future, the ideals with which the founders brought the Roerich Museum into being. And further, that each future Trustee, so appointed, and who shall himself hold his office for life, shall in turn designate his successor, thus perpetuating the destiny of this shrine to art.

In the event that unforeseen circumstances shall prevent a Trustee from nominating his successor, it is hereby resolved that the remaining Trustees shall, by a two thirds vote, elect a new member who in their light shall continue the traditions of this Foundation.

We, the Trustees of the Roerich Museum, do hereby make this gift to the people of America with the profound conviction that the inspired message of Roerich shall bring new beauty to this country, and that his call for a new brotherhood among men shall add glory to the present and the future America.

In witness of this Resolution, We the Trustees of the Roerich Museum, do each affix our signatures and the seal of the Roerich Museum.

New-York, this 24th day of July, 1929.

(Signed)

N. Roerich
Louis L. Horch
M.M.Lichtmann
Frances R. Grant
Nettie S. Horch

Sina Lichtmann
Sophie Schafran
George Roerich

November 5, 1929

Professor Nicholas Roerich,
310 Riverside Drive,
New York City

Dear Professor Roerich:

According to our verbal agreement regarding the perpetuation of all of your paintings according to the catalogue of 1929, we confirm herewith that we included in our yearly budget the sum of \$8,000.00 to be payable to you or to whom you may so designate this sum in monthly payments of \$666.00.

Anticipating your confirmation of this agreement, we are

Respectfully yours,

President

Vice-President

November 6, 1929

President and Vice-President of the
Roerich Museum,
310 Riverside Drive,
New York City

Dear Sirs:

I am in receipt of your letter of
November 5 which reads as follows:

"According to our verbal agreement
regarding the perpetuation of all of your
paintings according to the catalogue of
1929, we confirm herewith that we included
in our yearly budget the sum of \$8,000.00
to be payable to you or to whom you may
so designate this sum in monthly payments
of \$666.00."

I beg to inform you that I fully ac-
cept the aforementioned conditions.

Sincerely yours,

ROERICH MUSEUM

136 / 4

MEMORANDUM

TO My dear LinaDATE July 7 1930

We wrote Mr. Wilbur Carr about latest cable from Nettie about Our Mother's health. Enclosed sending you the Budget of the School. Don't you think it should be advisable for you to revise it? For outside people this is splendid Budget. Don't you think to figure about \$40,000. ^{for 1930-1931} for Tuition? This Budget to be a practical one. — Would appreciate your suggestions. We had lunch with Doctor Smith, he received a cable from London that they are writing him a letter about Father.

Really otherwise extremely quite

With much love to your

INSTITUTION

Mother & yourself yours
 D. J. Carr

SIGNED

ADDENDA TO MINUTES OF THE 140th MEETING:

Mr. and Mrs. Horch herewith amend their former donations as follows:

\$1,112,496.74 had been advanced to the Roerich Museum of which the principal was donated in Perpetuity, retaining however, for themselves the interest at the rate of 4%.

At the Trustees Meeting held on October 11, 1931,

"Mr. and Mrs. Horch decided to donate \$500,000, completely relinquishing all interest on this amount, also donating interest accrued on the \$612,496.74 up to October 1st, 1931. Mr. and Mrs. Horch retain for themselves however, the interest at 4% on the \$612,496.74 for themselves and heirs."

135/6

PLAUT & DAVIS

RE: Revised taxes

11/3

1937

see p 658 printed record *Revised v. Hord*

"As far as I know the expectation was called many things. It was called the purchase of act abroad, for instance"

Katherine S. Campbell

L.L.H. diary 1931 - page 8.

Katherine visited Nettie and myself and told us confidentially if we needed three or four thousand dollars she would help us.

L.L.H. diary 1931 - page 23.

Katherine loaned us \$10,000 for a few days. It may help us to secure a loan from the bank. Swetig knows nothing about this loan. I advised Sina and Frances about the loan.

L.L.H. diary 1931 - page 31.

Katherine again offered to help us.

L.L.H. diary 1931 - page 50.

As written, Katherine loaned us \$10,000 with the proviso that she may need it shortly. This loan from Katherine was given to us before the loan was granted us by the Chemical Bank. No doubt Katherine will wish this money returned during the coming month.

L.L.H. diary page 59 - 1931.

Katherine offered to loan perhaps even partly to give \$3,000, perhaps even \$4,000 towards buying the adjoining house.

L.L.H. diary 1931 - page 120.

Trying to purchase another house in our block.

President's Report 1932 - page 39.

Long ago 321 West 123rd Street was placed in trust for the Roerich Museum. So were the American paintings and Tibetan art objects.

EXCERPTS RELATING TO HOUSE .

- 1) President's Report No.17, May 28, 1931. item "House next door".
 "As we cabled to you we purchased the house 321 West 103rd Street subject to the following conditions; The price paid for the house is 27,000, subject to a first mortgage of 13,400, held by the Guardian Life Insurance Co. We agreed to pay 4500 cash, of which 1500 is to be paid upon the signing of the contract and the balance of 3000 is to be paid within 30 days after signing of the contract and upon our taking title to the building. It is understood that the owner will give us a second mortgage of 9100 for five years without amortisation with interest at 6%. It was also agreed that taxes: real estate, water, etc. are to be prorated. As cabled to you Catherine has donated 1000 as a gift and has loaned us three thousand dollars. She has also made the provision that if it is possible she will donate still more of the three thousand to the institutions. We shall try very hard to rent out this house as it was purchased at a reasonable price. There is no reason why a very nice little income should come from it for the Museum. For instance, Dr. Kettner approached me without knowing anything about the house, and said that some of his students would like to live nearby. Perhaps they would be interested. "
- 2) President's Report #18, June 2, 1931/. "Purchase of house, 321 West 103rd Street. - Yesterday a contract was signed for the purchase of the house next door. We shall take title on June 29, 1931 and the present owners will leave the building on Sept.15,1931. As soon as we take title on June 29th, we shall get in touch with many real estate agents, for the purpose of renting it out. "
- 3) Minutes of the Board of Trustees of Roerich Museum, May 28,1931.: para 16:
 "Mr.Horch Reports the purchase of 321 West 103rd St. for ~~\$27,500~~ 27,000 Catherine Spencer donated \$1,000 and loaned \$3,000 for the necessary cash payment"... Signed L.L.Horch, N.S.Horch, M.M.Lichtmann, Sina Lichtmann and Frances R.Grant.
- 4) *Sub Roerich Museum Louis*
~~Cable received on May 28th and 29th May 1931: The following cable was received on May 28 1931 from NY~~
 "Adjoining house purchased for twentyseven thousand dollars of which fortyfive hundred payable in cash - Horch"
 & *the following cable was received on May 29th:*
 "Catherine donated onethousand dollars and loan threethousand dollars for purchase of building - Horch".
~~These were acknowledged in our Minutes #24, Roerich Museum Meeting, May 26-29 1931 and "Sincere thanks were expressed for the donation".~~
- 5) President's Report , June 8th, 1931:
 para 2 " Catherine Spencer:
 "Miss Catherine Spencer requested the return of \$500 against the money loaned and this was granted. This was withdrawn against the \$10,000 which as has been mentioned in previous letters is a temporary loan to the Institution , "
- 6) President's Report #4, June 25,1931:
 "Catherine Campbell.
 Miss Catherine Campbell gave instead of the \$650 about which I wrote you some time ago, a check for 700\$. Today Miss Campbel presented another \$300 to Urusvati, which is to be used for any purpose, which may seem fitting to the Trustees. Miss Campbell rejoiced greatly that the donation of \$650 as mentioned in the Minutes of the 26th Meeting of Urusvati will be used for special studies of Tibetan Medicines.

Certified to be true

extracts from documents

me

Jy Burkh

19/2/36



1) President's Report... As we enabled to you we purchased the house 321 West 103rd Street... 2) President's Report... Yesterday a contract was signed for the purchase of the house next door... 3) Minutes of the Board of Trustees of Repton Museum... 4) ... 5) President's Report... 6) President's Report...

Certificate

Katherine S. Campbell

L.L.H. diary 1931

RSC
K

Page B -- In our statement of "assets and liabilities" there is an account called "Campbell Metal Window Company." This really represents money loaned by Katherine but for certain reasons -- Swetig -- we gave it this name. Campbell Metal Window Company did put in the windows in our building, so it is logical that we owe them money.

L.L.H. diary 1931

RSC

Page G - Katherine said in case of great need she would help us again.

President's Report

RSC

21 May 28, 1931. As cabled to you, Catherine has donated
22 \$1,000 as a gift and has loaned us \$3,000. She has also
23 made the provision that if it is possible, she will donate
still more of the \$3,000 to the institution.

President's Report

RSC

2 June 8, 1931. Catherine Spencer. Miss Catherine Spencer
3 requested a return of \$500 against the money loaned. This
4 was withdrawn against the \$10,000 which, as has been men-
5 tioned in previous letters, is a temporary loan to the
institution.

President's Report

RSC

9 June 25, 1931. Catherine Campbell. Miss Catherine Campbell
10 gave a gift of \$650 about which I wrote you some time ago
11 and check for \$700.
12 David Campbell presented another \$300 for Urusvati, which
13 is to be used for any purpose which may seem fitting to the
trustees.
14 Miss Campbell rejoiced greatly that the donation of \$650
15 was mentioned in the minutes of the 26th meeting at Urusvati
and will be used for special studies of Tibet.

✓ KSC

President's Report 1932 - page 75.

Told him (Rickaby) we are ready to put up \$2,500 toward the fund to pacify the creditors. Rickaby only laughed. I then offered \$5,000 even \$10,000. All we need is \$12,000 to satisfy all creditors. This conversation lasted until six thirty and I promised to bring the money to his office the next morning. He appeared friendly in the end but there was no assurance of his change of attitude. The next day took \$10,000 in gold to his office and he said their mind was made up to take action. I tried for one and one-half hours to have him grant us an extension but it proved fruitless. I requested that he must meet some of the other trustees immediately as this was too serious a matter for me alone to assume the responsibility for. Miss Lichtmann, Miss Grant and Mr. Lichtman

came to the office and each in turn spoke ably to him trying to persuade him to wait six months. A receivership would ruin this great cultural work and the building.

L.L.H. diary - 1932.

Page 60. 321 West 103rd Street house was placed in trust by us so as to protect it in case of difficulties with the bondholders' committee.

L.L.H. diary - 1932.

Page 135. I had supper with Battle at the Calumet Club and he wanted to know the conclusion of the conference. I told him as he will be in Buffalo tomorrow he advised me to say that the money belonged to Mrs. Horch and to tell Rickaby as long as we advance the money, then he should wait before taking any action (this money was loaned to us by a friend).

L.L.H. diary - 1932.

Page 136. April 1, 1932. Took Tom the head guard with me to protect me. Brought \$10,000 in gold to show Mr. Rickaby. He appeared astonished but quickly advised me that the receiver would be appointed on Monday. I spoke to this man and fought with this man for one hour and fifteen minutes but to no avail. His mind was made up. *Page 137. We put the gold into a vault.

May 28, 1931.

Mr. Horch reports the purchase of 321 West 103rd Street for \$27,000. Katherine Spencer donated \$1000 and loaned \$3000 for the necessary cash payment.

KSC

March '32 - They took 10,000 gold & Picaby buying & offered receivership to do that
 the gold was loaned by a friend - see former attorney Battle advised
 H.H. & Ted Rick - this gold belonged to Nestl.
 April 1st - note saying that this gold was now deposited in a vault.
 Jan 30 - looking for someone to purchase house next door -

December 23rd. Catherine visited Nettie and myself and told us confidentially if we needed three or four thousand dollars she would help us. Certainly appreciate this greatly, showed a fine spirit.

March 7th. 1932. Catherine loaned us 10,000 for a few days. It may help us to secure a loan from Chemical Bank.

March 21st. 1932. Chemical Bank asked for my personal financial statements before considering granting loan of 30,000 dollars. We will see. Catherine again offered help to us.

April 26th. 1932. Loan not to exceed 30,000 dollars. We received a loan from the Chemical Bank. As written Catherine loaned us 10,000 dollars with the provision that she may need it shortly. This loan by Catherine was given to us before the loan was granted us by the Chemical Bank. No doubt Catherine will wish this money returned during the coming month.

May 15, Catherine offered to loan perhaps even partly to give \$3000.00 perhaps \$4000.00 towards buying the adjoining house.

June 27th 1932 Trustees replied that I had not asked the Trustees regarding x approaching Catherine for the \$10,000.00 loan. (over)

April 30 - 1932 - A check for \$2500 was sent to the attorneys as part payment for their services - this sum was advanced by a "friend" - (R.S.E.) (did it.)

Dear Mrs. Lichtmann,

136/12
Naggar, Jan. 30, 1934.

I am writing you on behalf of the N.R. Paintings and Art Collections Inc. to inform you that the account of Mrs. Campbell and Mrs. Morani can be closed since these two accounts are to be credited with \$2000.00-and the rest of the sum will be forwarded directly here. Mrs. Campbell is advised of these accounts being closed.

Cordially yours,

Esther J. Lichtmann

(copy of a letter received)

Pan American Union
Washington D.C., U.S.A.

March 30, 1935.

Dear Mr. and Mrs. Lichtmann:

I am directed by the President of the United States to invite you to attend the signing of the Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact) at the White House on Monday, April 15th. The signing will take place at 11:45 o'clock in the Cabinet Room of the Executive Offices, and it will be greatly appreciated if you will arrange to be in the Executive Offices of the White House not later than twenty minutes to twelve o'clock on the morning of Monday, April 15th.

I beg to remain,

Most sincerely yours
L. S. Rowe
Director General

Mr. and Mrs. M. M. Lichtmann,
Roerich Museum,
310 Riverside Drive,
New York, N.Y.

MINUTES OF THE 350th MEETING
OF THE TRUSTEES OF ROERICH MUSEUM
HELD ON AUGUST 29th, 1935.

Present: Mr. L.L.Horch, Chairman; Miss Esther J. Lichtmann; Mr. S.M. Newberger.

1. Mrs. Sina Lichtmann and Miss F.R.Grant called up Mr. Horch's Office only shortly before the meeting, stating that they would not be present.
2. The following statements were contained in the Director's Report 198 of the Master Institute. This report was received by Mr. Horch on August 22nd, 1935.

Paragraph 9: "A financial report of the condition of the School was sent to the President, Mr. Horch, stating that we need \$270.-, constituting the most urgent expenses and payment of bills, such as telephone, electric light, and printer. On August 2nd Mr. Horch sent a check of \$50, specifying that it should go for the catalogue. On the day we received the check, we had in our bank account \$2.06 deposit."

Paragraph 10: "...The Administration has not been paid for 4 months."

Paragraph 15: "The financial situation of the Master Institute is again being brought to the attention of the President, Mr. Louis L. Horch. The Summer Session of this year, due to the impossibility of advertising, did not materialize. The lessons which now, namely one student in French and one in voice, do not even cover the postage used weekly by the School at present, The Director has taxed her thought and efforts to the utmost, but the condition is such that unless the Roerich Museum will help the Master Institute with some immediately needed funds for circularization of the catalogues, three Sunday advertisements in the "Times", one or two advertisements in the "Art Digest", payments for electric lights and telephones, all debts to ~~the~~ printers which have been outstanding for several months, and salary for the Secretary, the Master Institute will not be able to begin its season this year.

The Director wishes to call attention of the President and the Trustees to the fact that during the last year, whenever there was need to extend financial help to the Roerich Museum and the President called on the Director for this purpose, Master Institute gave all it had at that time, thus depriving itself of any surplus funds to enable itself to exist during the summer months, and to prepare its program of activities for the Fall.

"The Director stresses again that the studios, offices, corridors and rest rooms of the Master Institute are in a very deplorable condition, needing certain painting to be done, repairs, and a general overhauling. There are no funds whatsoever to consider this. The fixing of pianos which has been delayed for the last two years cannot again be accomplished this year, and the only thing that can be done is the tuning of the instruments, which the Director is securing free of charge.

"The Director hopes that serious consideration will be given to all these points and that financial help will be extended from the Roerich Museum to the Master Institute at the earliest possible date. The administration due to the Director for the last 4 months amounts to \$375.

In a letter dated August 24th, the Director Mrs. S. Lichtmann, writes the following:

"Had it not been for the payment of \$40 by a Patron, Mrs. Necarsulmer, which she made earlier than usual because of my request, the Master Institute could not have continued its existence at that time. I trust that you will give your attention this coming week to this serious matter."

3. Mr. Horch states that he has given serious attention to the statements of Mrs. Lichtmann and gives the following reply:

It is well known to all Trustees that the Roerich Museum has no funds at ~~them~~ its disposal. All Trustees are aware that the Museum faces constantly law suits from Bondholders and other creditors, and has just passed through a lengthy receivership. At present the Museum is faced with a Deficiency Judgement. Mr. Horch is doing everything in his power to save the Museum from further disasters. The Museum therefore has no funds at its disposal at this time. The Trustees all are aware, that the Roerich Museum depends on donations and support from the Institutions.

When Professor Roerich was here in 1934. On March 25th, in his presence the Budgets of the different Departments were presented. The Budget of the Master Institute, presented by its Director Mrs. S. Lichtmann, showed that the School expected \$20,000 from tuition fees, and a surplus of \$3355 for the year of October 1st, 1934 to October 1935. This sum was to be given to the Roerich Museum for its upkeep expenses, as it appears on that Budget as Income for the Roerich Museum. It is but natural that for the space and other privileges which the Master Institute enjoys, that the Master Institute would contribute a substantial sum for the upkeep of the Museum.

No personal favor was done Mr. Horch by any of the Trustees in giving funds from their departments to the Roerich Museum or the European Center, since these contributions constitute a moral obligation.

The records received from the Bookkeeper show the following status:

Funds Received from Master Institute by Roerich Museum

July 1934	- -	\$40.00
October	- -	50.00
November	- -	60.00
December	- -	150.00
	- -	56.00
January 1935	-	100.00
		75.00
		<u>\$531.00</u>

Funds given to Master Institute

May 1935 (From Tax Exemption)	\$150.00
June (" " ")	100.00
August (by Mr. Horch) -	50.00
	<u>\$300.00</u>

The Master Institute has given on balance approximately \$231.- to the Roerich Museum in 13 months. Mr. Horch appreciates these sums given by

the Master Institute, but also wishes to state that these sums were used exclusively for the needs of the Museum and European Center. However, this is far below the financial assistance which the Roerich Museum expected to receive from the Master Institute.

Mr. Horch wishes once more to call attention to the fact that we owe for electric light over \$1,000. The Company constantly threatens us with cutting off our current.

The Chemical Bank demands larger payments, and threatens action. We are still in debt to the N.Y. Telephone Company. Payments to Westinghouse must be made now.

Mr. Zimmermann and Mr. Fosdick wish to have their loans repaid. Today papers were served by a Bondholder for a \$3,000 law-suit. Beginning next month we must pay \$500 per month to Miss Norton. This is not to mention all the old accounts on which people are constantly demanding payments.

In reply to Mrs. Lichtmann's statement that the surplus of the Master Institute was considerably depleted by her giving sums to the Roerich Museum, it can be stated that actual figures do not prove this. One of the causes why the surplus of the Master Institute is so low is because of the embezzlement of sums by the Bookkeeper, Mrs. Cunningham, known thus far to amount to approximately \$360.

In reply to Mrs. Lichtmann's statements that she has not drawn "Administration", Mr. Horch deeply regrets this, and states that he would have preferred to have the secretarial salary eliminated in favor of the Director's salary, especially as the Summer Session was so poorly attended.

Inasmuch as the Roerich Museum unfortunately has no funds at its disposal the Roerich Museum cannot accede to Mrs. Lichtmann's request for funds.

Since Mrs. Lichtmann stated that she cannot open the School unless the Roerich Museum furnishes the requested sums, the President would like to know what further steps Mrs. Lichtmann wishes to take.

When the receipts of a School decline from approximately \$30,000 per year to \$6,000 per year, then a most serious situation is being presented to the Trustees. This is a situation which cannot be covered up by excuses or by blaming the Receivership. - Some other departments, for example the International Art Center, gave some of its most important international exhibitions during the Receivership. The Roerich Society, under Mrs. Horch's direction, during the same period contributed a great deal toward the upkeep of the Museum.

In the season 1929-1930 tuition receipts of the School were \$37,173.56. In the report of the Director, Mrs. S. Lichtmann to the Board of Regents, the tuition receipts from July 1st, 1934 to June 30th, 1935 were \$5,904.26.

4. Mr. Newberger wishes to express his surprise and regret that, in view of the urgency expressed by Mrs. Lichtmann (in her notes to Mr. Horch) as to the financial situation facing the Master Institute, it was not possible for her, and Miss Grant, to attend tonight's meeting of the Trustees. I understand that the situation is considered by Mrs. Lichtmann as so grave that failure of the Roerich Museum to provide the Master Institute with immediate financial assistance would necessitate the closing of the Institute.

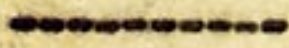
This would seem to call for instant and serious consideration by all the Trustees. My personal impression has always been that the Master Institute was originally visualized as a source of financial support to the Museum, as ~~were~~ were other Departments, and not that the Museum was to support the Master Institute. I understand that the income of the Master School has been for the past year about thirty per cent of the amount estimated in the budget, and that the amount advanced by the Institute to the Museum has been about 10% of the amount contemplated in the budget for that purpose.

I have heard reports of improving conditions in other schools during the past year, if not in all departments, at least in some departments. I do not understand how the receivership of the Building could be held directly accountable for all of the decline in the earnings of the Master Institute.

It is my impression that, under the reorganization plan for the Building, which from my knowledge of other situations was miraculously favorable to the Roerich Museum, that our first duty is perforce to the bondholders, and I regret that I am unable to visualize how the Museum can properly extend financial aid to the departments which are supposed to contribute to the maintenance of the Museum. I am sure that all the Trustees deeply appreciate the support which the Master Institute has from time to time extended to it, and in this appreciation I heartily concur; however, I submit that in my opinion the various departments must find means of self-support and continued assistance to the Museum rather than to look to the Museum to support them.

I note with gratification the continued progress of the Roerich Society and understand that it has made substantial contributions to the Museum.

Mr. Horch has performed an astounding accomplishment in the successful conclusion of the reorganization proceedings. He still faces tremendous difficulties in the deficiency proceedings, etc., and I am sure he merits the united support of all the Trustees in the unremitting battle which he is waging for the existence and maintenance of the works and the building.



Miss E.J. Lichtmann heartily joins Mr. Newberger in his appreciation of Mr. Horch's untiring efforts to save the works.

5. In regard to Miss F.R.Grant's and Mrs . S. Lichtmann's statements in paragraph 7, Minutes 349 of the Trusrtees'Meeting held here on August 17th, ".....that since Professor and Madame Roerich began to guide the Institutions founded by them, the Trustees began to rise together...."; also, "Moreover, Prof. and Madame Roerich have given everything they had to all Trustees and to the furtherance of the work;" -

MR. HORCH WISHES TO GO ON RECORD WITH THE FOLLOWING STATEMENT:

Mr. Horch wishes to remind the Trustees that when Mr. and Mrs. Louis L. Horch approached, they were financially independent, had a large capital at their disposal and enjoyed the highest integrity in all their circles as well as in their business relationships.

At the end of 13 years, under the complete guidance of Prof. and Madame Roerich, giving all their time and effort to the exact execution of Profes-sor and Madame Roerich's plans, Mr. and Mrs. Horch find themselves heavily in debt, having signed all notes and obligations for all Institutions, are now facing a Deficiency Judgement, and are on the verge of bankruptcy. Mr. Horch wishes to remind the Trustees, that the Institutions began to thrive when Mr. Horch began to advance his entire fortune.

Before Mr. and Mrs. Horch came, the Master School occupied only a large studio on the 3rd floor at 312 West 54th Street. The names and fame of the Trustees grew when a great twenty-seven Building was erected to honor the name of Roerich, and provide high positions for the Trustees.

The ground on which this Building (310 Riverside Drive) stands, was donated by Mr. Horch. The cost of the ground amounted to \$400,000.-

If the Museum which honors the Artist is in existence, it is due to Mr. Horch's having purchased the paintings. The paintings were not donated.

Due to the financial assistance by Mr. Horch, the "Central Asiatic Roerich Expedition" took place.

The various trips of Mr. and Mrs. Lichtmann to Moscow, Mongolia, India and Europe, as well as Miss Grant's first trip to South America, were financed from the same source.

When the American Bond and Mortgage Co. failed, and threatened to stop the completæon of the Building, which would have meant the loss of the entire Building, Mr. Horch contributed his last savings to carry through the work to its completion.

Miss F. Grant and Mrs. Sina Lichtmann quickly forget as to who has financed the Pancosmos Corporation, the Beluha Corporation, the Ur Corporation, Alatas, Master Institute, Corona Mundi, etc.etc.etc., for which large sums were given by Mr. Horch. Mr. Horch also assisted the News Syndicate.

Apparently the Deficits of former years of the various Institutions are easily forgotten, which Mr. Horch helped to cover. Mr. Horch has vouchers to substantiate the facts. The donations secured by Mr. Horch from his friends are also forgotten.

Mr. Horch ~~also~~ wishes also to go on record, that he deeply and heartily appreciates any assistance given to the Institution by any of the Trustees, or by any friends.

IN REGARD TO EXPENDITURES which were permitted during the 13 years: Mr. Horch wishes to state that despite the fact that the Institution opened in 1929 with debts, and a \$75,000 loan from a Bank, and even after the auction by Corona Mundi of paintings and art objects at low figures, expenditures were permitted by our Leaders, Professor and Madame Roerich which would never have been permitted in any other organization. Professor Roerich was present in New York when the new building opened its doors.

Professor and Madame Roerich had assumed complete guidance and their Indications were carried out by us in the most minute way. Every word from Professor Roerich was accepted as law, without questioning it.

When thousands of dollars were spent yearly beyond our means, Mr. Horch protested, but he was regarded as an "Enemy of Culture" because he dared to tell the truth and summon the co-workers to build up the Institutions on an honest basis, within our means and without injuring other people.

6. Mr. Horch states that the Budget 1934-35 submitted by the Director of the Roerich Museum Press, Miss Grant, showed an expected Income of \$1100.00 Only \$25 was given, according to the Bookkeeper's report, by the Roerich Museum Press to the Roerich Museum during that period. No financial statements of the Roerich Museum Press have been received by the Trustees for many months.

The Roerich Society expected to give \$1,000 to the Roerich Museum, and gave \$1,150.- during 1934-1935.

7. Miss E.J. Lichtmann announced that Mr. Horch and herself have received another \$100.- from Major Stokes for Urusvati. The check is being sent to Mrs. S. Lichtmann for transmittal to Urusvati.

8. Mr. Horch announced that in September, after the return of members from vacations, he will call a meeting of the Permanent Committee.

9. It is more than gratifying for Mr. Horch to announce that the Bondholders will receive for the first time in almost four years, an interest payment amounting to the rate of 1% per year.

Miss Lichtmann and Mr. Newberger express their deepest appreciation to Mr. Horch who has so valiantly fought for years for the interests of the Bondholders and the Institutions.

10. Mr. Horch announces that new taxes and all other charges for the Building are promptly paid.

136/20

Morris, Plante & Saxe

ROBERT C. MORRIS
MARTIN SAXE
ROBERT C. BEATTY
ROGER H. ANDERSON
DAVID S. ELKINS
JOHN F. SYRON

LAW OFFICES
76 WILLIAM STREET
NEW YORK CITY
TELEPHONE JOHN 4-6295
CABLE ADDRESS "MORPLAN"

November 9, 1936.

Plaut & Davis, Esqs.,
76 Beaver Street,
New York City.

Dear Sirs: re Nicholas Roerich Paintings and
 Art Collection, Inc.

Replying to your favor of the 7th instant, we regret we
cannot permit an examination of our files in connection with the
above matter as they are confidential.

Very truly yours,
Morris, Plante & Saxe

DSE-g

136/21

November 13, 1936.

Messrs. Greenbaum, Wolff & Ernst
285 Madison Avenue
New York, N. Y.

Attention Mr. Schur

Re: Nicholas Roerich Paintings and Art Collections, Inc.

Gentlemen:

On April 17, 1936, we wrote you a letter reading as follows:

"In going over the papers which you sent to us of Prof. Roerich, we find that none of the books, papers and records of the above corporation were turned over to us.

"Will you kindly advise us at your very earliest convenience when we may expect to receive them?"

On April 24, 1936, you sent us a letter reading as follows:

"In reference to your letter of April 17, 1936 addressed to Mr. Schur, I can see no reason why the books, records and papers of the above corporation should be turned over to anyone.

"There is nothing in your letter of April 17th to show any reason why the books of the corporation should not be kept by the president and secretary thereof."

We now request, on behalf of our clients, Nicholas Roerich, Helena Roerich, Maurice M. Lichtmann, Sina Lichtmann and Frances R. Grant, permission to inspect the books, records and papers of the above corporation; we ask you, at your earliest convenience, to advise us when and where this inspection may be had.

Very truly yours,

HP:s

On November 19, 1936, at 4:30 P. M., I went to the office of Greenbaum, Wolff & Ernst, at which time and place, Mr. Kline of that office, exhibited to me the stock book, the stock register book and the minute book of Nicholas Roerich Painting & Art Collection, Inc.

My inspection of the stock book showed the following:

There were stubs for the following stock certificates although there were no stock certificates except blank certificates in the book.

The stubs showed as follows:

Certificate #1, dated April 21, 1928, one share to Nicholas Roerich, 5¢ U. S. Documentary Stamp cancelled.

Certificate #2, dated April 21, 1928, one share to Helena Roerich, 5¢ U. S. Documentary Stamp cancelled.

Certificate #3, dated April 21, 1928, one share to Sina Lichtmann, 5¢ U. S. Documentary Stamp cancelled.

Certificate #4, dated April 21, 1928, one share to Maurice Meru Lichtmann, 5¢ U. S. Documentary Stamp cancelled. Notation on stub - Cancelled December 28, 1928.

Certificate #5, dated April 21, 1928, one share to Frances R. Grant, 5¢ U. S. Documentary Stamp cancelled.

Certificate #6, dated April 21, 1928, one share to Nettie S. Horch, 5¢ U. S. Documentary Stamp cancelled.

Certificate #7, dated April 21, 1928, one share to Louis L. Horch, 5¢ U. S. Documentary Stamp cancelled. Notation on stub - Cancelled December 28, 1928.

Certificate #8, dated December 28, 1928, one share to Nettie Horch, no stamp. Notation on stub - transferred from Louis L. Horch. Original Certificate #7. Number of shares transferred - one. Number of original shares - one. Received and cancelled Certificate #7 for one share this 28th day of December, 1928.--Nettie S. Horch, Secretary.

Certificate #9, dated December 28, 1928, for one share to Sina Lichtmann. No stamp. Notation on stub - transferred from Maurice M. Lichtmann. Number of original certificate - #4. Number of original shares - one. Number of shares transferred - one. Received and cancelled Certificate #4 for one share this 28th day of December, 1928.--Nettie S. Horch, Secretary.

The stock ledger book showed the following entries:

Lichtmann, Sina, 311 Riverside Drive, April 21, 1928, Certificate #3, one share original issue.

Lichtmann, Maurice M., 311 Riverside Drive, April 21, 1928, Certificate #4, one share original issue. Transferred December 28, 1928 to Sina Lichtmann. Certificate #4 surrendered for one share. Balance - none.

Lichtmann, Sina, 313 West 105th Street, December 28, 1928, Certificate #9. One share transferred from Maurice M. Lichtmann, December 28, 1928.

Grant, Frances R., 310 Riverside Drive, April 21, 1928, Certificate #5, for one share.

Horch, Nettie S., 905 West End Avenue, April 21, 1928, Certificate #6, for one share original issue.

Horch, Louis L., 905 West End Avenue, April 21, 1928, Certificate #7, for one share original issue. Transferred December 28, 1928

to Nettie Horch. Certificate surrendered #7 for one share. Balance - none.

Horch, Nettie, 905 West End Avenue, December 28, 1928, Certificate #8 for one share. Transferred from Louis L. Horch, December 28, 1928.

Roerich, Nicholas, 310 Riverside Drive, April 21, 1928, Certificate #1 for one share.

Roerich, Helena, 310 Riverside Drive, April 21, 1928, Certificate #2, for one share.

By - Laws of the Corporation

Stocholders Meetings

Annual meetings should be held on the first Tuesday in January of each year after 1928 at 3 P. M. Plurality vote to decide special meetings of stockholders. Meetings may be called by the President and shall be called by either the President or the Secretary at request in writing of the majority of the Board of Directors or at the request in writing of the majority of amount of entire capital stock of the corporation. The request shall state the purpose or purposes of the proposed meeting.

Written notice of all meetings stating time, place and purpose shall be mailed at least ten days before to each stockholder entitled to vote thereat at such address as appears on the books of the corporation. If further business other than that specified in the notice of the meeting is to be transferred at the meeting, the notice shall have these words "and such other business as may properly come before the

said meeting".

Proxy shall be in writing. They are to be filed with the Secretary at or previous to the time of the meeting. A majority in person or by proxy is to constitute a quorum.

Directors need not be stockholders. They are to be elected at the annual meeting and each director shall serve until his successor shall be elected and qualify.

A majority of directors shall constitute a quorum. Vacancies are to be filled by remaining directors. Directors are to meet on the first Tuesday of every month. Special meetings may be called by the President on three days notice either in person, mail, or telegram. Special Meetings shall be called by President or Secretary in like manner and on like notice on written request of two directors and before the election of, or in case of, vacancy in office of President or Secretary.

Meetings of the board may be called by any director on three days notice.

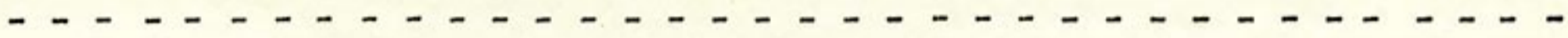
If any business other than that set forth in the notice is to be transferred at the meeting these words shall be included in the notice "and such other business as may properly come before the said meeting".

The officers of the corporation shall be the President, the Vice-President, Secretary, and Executive Director, and Treasurer.

5.

One director may hold more than one office. The officers are to be chosen from among the members of the Board of Directors.

Written notice may be given in writing, by mail by depositing in a P. O. or a letter box in a post-paid wrapper addressed to such stockholder at such address as appears on the books of the corporation and such notice shall be deemed to be given at the time when same shall be thus mailed.



First Meeting of Incorporators

Meeting held at 310 Riverside Drive, March 2nd, 1928, at 2 P. M.,

Present: Louis L. Horch, Maurice M. Lichtmann, Frances R. Grant.

First Meeting of Directors

In the books appears a notice for the first meeting of Directors for March 2nd, 1928, at 2:15 P. M., at 310 Riverside Drive. The minutes of the first meeting show that it was held at 310 Riverside Drive.

Present: Sina Lidtmann, Maurice M. Lichtmann, Frances R. Grant, Nettie S. Horch, Louis L. Horch.

Louis L. Horch acted as Chairman and Frances R. Grant, as Secretary of the meeting.

The following officers were elected for the remainder of the

corporation or until the election of the successors.

President	-	Louis L. Horch
Vice-President	-	Maurice M. Lichtmann
Secretary	-	Nettie S. Horch
Treasurer	-	Louis L. Horch
Executive Direc.	-	Frances R. Grant

Minutes of meeting of Directors held on February 12th, 1933,
at 310 Riverside Drive, Nettie S. Horch acted as chairman. Other Directors
present were:

Maurice M. Lichtmann
Louis L. Horch
Esther J. Lichtmann
Sina Lichtmann
Frances R. Grant

Esther J. Lichtmann acted as Secretary of the meeting. There
were elections, and the following officers were elected:

President	-	Nettie Horch
Vice-President	-	Maurice M. Lichtmann
Vice-President	-	Frances R. Grant
Vice-President	-	Sina Lichtmann
Secretary	-	Esther J. Lichtmann

Nettie S. Horch reported that she had paid the franchise tax
for 1932 amounting to \$25.00.

Esther J. Lichtmann rendered a list of paintings sent to the
following museums and centers:

13 to European Center of Roerich Museum, Paris.
7 to Latvian Roerich Society.
18 to Fondaton Roerich "propace, arte et scientae".
9 to Urusvati Himalayan Institute, Naggar.

30 to National Museum, Belgrade.
 12 to Museum of Indian Art, Benares.
 2 to Archaeological Institute of America.

Esther J. Lichtmann announced that she had signed receipts which were filed with all the other records of the corporation.

Maurice M. Lichtmann announced 23 new paintings had been received by Nicholas Roerich from Naggar which are to be added to collection of this corporation.



136/29

GREENBAUM, WOLFF & ERNST
285 MADISON AVENUE
NEW YORK

ARTHUR S. TOMPKINS
JEROME N. FRANK
NEWMAN LEVY
COUNSEL

LAWRENCE S. GREENBAUM
EDWARD S. GREENBAUM
HERBERT A. WOLFF
MORRIS L. ERNST
JONAS J. SHAPIRO
WALLACE D. JENNINGS
SAMUEL J. SCHUR
ALEXANDER LINDEY

TELEPHONE CALEDONIA 5-1582

JEROME HANDLER
IRVING MINTZ
DAVID H. MOSES
LOUIS ZINGESSER
THEODORE S. JAFFIN
BENJAMIN KAPLAN
JUSTIN N. REINHARDT
LEO ROSEN
PHILLIP F. SEIGENFELD
CALLMAN GOTTESMAN
EUGENE M. KLINE
JOSEPH M. GOLDBERG

December 22, 1936.

Plaut & Davis, Esqs.,
76 Beaver Street,
New York, N.Y.

Att: Mr. Plaut

Dear Mr. Plaut:

I am enclosing herewith excerpts from the
by-laws of Nicholas Roerich Paintings and Art Collections,
Inc.

Yours very truly,

GREENBAUM, WOLFF & ERNST

BY: *Eugene M. Kline*

EMK:AS
Encl.

ARTICLE I.

MEETING OF STOCKHOLDERS.

1. An annual meeting of stockholders shall be held on the first Tuesday of January in each year after 1928, if not a legal holiday, and if a legal holiday, then on the next secular day following at three o'clock P. M., when they shall elect by a plurality vote, by ballot, a board of directors, and transact such other business as may properly be brought before the meeting.

2. Special meetings of the stockholders, for any purpose, or purposes, unless otherwise prescribed by statute, may be called by the president, and shall be called by the president or secretary at the request in writing of a majority of the board of directors, or at the request in writing of stockholders owning a majority in amount of the entire capital stock of the corporation issued and outstanding, and entitled to vote. Such request shall state the purpose or purposes of the proposed meeting.

3. Written notice of all the meetings of stockholders, stating the time and place and object thereof shall be mailed, postage prepaid, at least ten days before such meeting, to each stockholder entitled to vote thereat at such address as appears on the books of the corporation.

4. No business other than that specified in the call for the meeting shall be transacted at any special meeting of the stockholders, unless there shall be inserted in the said notice the words "and such other

business as may properly come before the said meeting."

5. Special meetings of the stockholders may be held at any time and place without notice by the unanimous written consent of all the stockholders of record, and at any meeting so held without notice, any business may be transacted which might have been transacted if the meeting had been duly called, and any resolution in writing, signed by all the stockholders of record and recorded by the secretary in the same book with the records of stockholders' meetings, shall have the same force and effect as if unanimously adopted at a meeting of the stockholders regularly called and constituted.

6. Voting. At all meetings of stockholders and at all elections of directors or officers, each stockholder shall be entitled to cast one vote for each share of stock standing in his or her name on the transfer books of the corporation at least ten days preceding the meeting. All proxies shall be in writing and shall be filed with the secretary at or previous to the time of meeting.

7. The holders of a majority of the stock issued and outstanding, and entitled to vote thereat, present in person, or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by law, by the certificate of incorporation or by these by-laws. If, however, such majority shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person, or by proxy, shall have power to adjourn the

meeting from time to time, without notice other than announcement at the meeting, until the requisite amount of voting stock shall be present. At such adjourned meeting at which the requisite amount of voting stock shall be represented, any business may be transacted which might have been transacted at the meeting as originally notified.

ARTICLE II.

DIRECTORS

1. The property and business of this corporation shall be managed by its board of directors. Directors need not be stockholders. They shall be elected at the annual meeting of the stockholders, and each director shall serve until his successor shall be elected and shall qualify.

2. At all meetings of the board a majority of the directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum, shall be the act of the board of directors, except as may be otherwise specifically provided by statute or by the certificate of incorporation, or by these by-laws.

3. In case of a vacancy in the board of directors, such vacancy shall be filled by the remaining directors.

4. The board of directors shall meet on the first Tuesday of every month and whenever called together by the president.

5. Special meetings of the board may be called by the president on three days notice to each director, either personally or by mail or by telegram; special meetings shall be called by the president or secretary in like manner and on like notice on the written request of two directors, and before the election of, or in case of, a vacancy in the office of the president or secretary, meetings of the board of directors may be called by any director on three days notice.

6. In case of special meetings, such notice shall specify the business to be brought before the meeting and no business other than that specified in such notice shall be transacted at any special meeting, unless there shall be inserted in the said notice the words "and such other business as may properly come before the said meeting."

7. Special meetings of the board of directors may be held at any time and place without notice by unanimous written consent of all the members, and at any meeting at which every member of the board of directors shall be present, though held without notice, any business may be transacted which might have been transacted if the meeting had been duly called.

8. A resolution in writing duly signed by all the directors and recorded by the secretary in the same book with the records of directors' meetings shall have the same force and effect as if unanimously adopted at a meeting of the directors regularly called and constituted.

9. In addition to the powers and authorities by these by-

laws expressly conferred upon them, the board may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute or by the certificate of incorporation, or by these by-laws directed or required to be exercised or done by the stockholders.

ARTICLE X.

NOTICES.

1. Whenever under the provisions of these by-laws notice is required to be given to any director, officer or stockholder, it shall not be construed to mean personal notice, but such notice may be given in writing by mail, by depositing the same in the post-office or letter box, in a post-paid sealed wrapper, addressed to such stockholder, officer or director at such address as appears on the books of the corporation, and such notice shall be deemed to be given at the time when the same shall be thus mailed.

ARTICLE XI.

AMENDMENTS.

1. The board of directors shall have power to make, amend and repeal the by-laws of the corporation by a vote of the majority of all the directors at any regular or special meeting of the board, provided that notice of intention to make, amend or repeal the by-laws in

whole or in part at such meeting shall have been previously given to each member of the board, or without any such notice by a vote of two-thirds of all the directors.

2. All by-laws shall be subject to amendment, alteration and repeal by the stockholders at any annual meeting and at any special meeting called for that purpose.

Post Office Department

OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 321300

INSURED PARCEL

No. _____

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300



POSTMARK OF DELIVERING OFFICE

1936
AND DATE OF DELIVERY

Return to Plaint Harris

(NAME OF SENDER)

Street and Number, } 76 Beaver St
or Post Office Box, }

NEW YORK,

NEW YORK.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

(Signature or name of addressee)

(Signature of addressee's agent)

Date of delivery May 2, 1936

Form 3811

U. S. GOVERNMENT PRINTING OFFICE

5-6116

December 7, 1936.

Mr. Louis L. Horch
310 Riverside Drive
New York, N. Y.

Dear Mr. Horch:

On April 17, 1936, we wrote to your attorneys, Messrs. Greenbaum, Wolff & Ernst, to the effect that in going over the papers which they sent to us of Prof. Roerich, we found that none of the books, papers and records of Nicholas Roerich Paintings and Art Collection, Inc. was turned over to us and we asked Messrs. Greenbaum, Wolff & Ernst to advise us when we might expect to receive them.

We received a letter from Messrs. Greenbaum, Wolff & Ernst, dated April 24, 1936, written in answer to our letter of April 17, in which said attorneys stated that there was nothing in our letter of April 17 to show any reason why the books of the corporation should not be kept by the President and Secretary of it.

On November 13, 1936, we, on behalf of our clients, Nicholas Roerich, Helena Roerich, Maurice M. Lichtmann, Sina Lichtmann, and Frances R. Grant, wrote again to Messrs. Greenbaum, Wolff & Ernst, in which we reviewed the above correspondence and requested permission to inspect the books, papers and records of this corporation.

On November 17, 1936, Mr. Kline, of Greenbaum, Wolff & Ernst, telephoned this office and said we might look at the books, papers and records which he had, and consequently, on November 19, 1936, we went to the office of Greenbaum, Wolff & Ernst and inspected the books which were in their possession.

Very little only was shown to us of these books, records and papers. The minute book is obviously incomplete. No books of account of any nature were shown to us; none of the records of the corporation, including instruments of title to paintings or receipts for paintings on exhibition elsewhere, were shown to us.

On behalf of our clients, we now make demand upon you to permit them, us as their attorneys, and their accountants, to examine all the books, papers and records of the corporation.

Very truly yours,

HP:s
Reg. Mail
RRR

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

REGISTERED ARTICLE

No. 321513

INSURED PARCEL

No. _____



POSTMARK OF DELIVERING OFFICE

1936 AND DATE OF DELIVERY

Return to

Plant & Sons

(NAME OF SENDER)

Street and Number, or Post Office Box,

76 Beaver St

NEW YORK,

NEW YORK.

136/38

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Noted to Parcel
(Signature or name of addressee)

per Dan L. Howell
(Signature of addressee's agent)

Date of delivery

12/9, 1936

Form 3811

U. S. GOVERNMENT PRINTING OFFICE

5-6116

December 7, 1936.

Nicholas Roerich Paintings and Art Collection, Inc.
c/o Mrs. Nettie S. Horch
310 Riverside Drive
New York, N. Y.

Gentlemen:

On April 17, 1936, we wrote to your attorneys, Messrs. Greenbaum, Wolff & Ernst, to the effect that in going over the papers which they sent to us of Prof. Roerich, we found that none of the books, papers and records of Nicholas Roerich Paintings and Art Collection, Inc. was turned over to us and we asked Messrs. Greenbaum, Wolff & Ernst to advise us when we might expect to receive them.

We received a letter from Messrs. Greenbaum, Wolff & Ernst, dated April 24, 1936, written in answer to our letter of April 17, in which said attorneys stated that there was nothing in our letter of April 17 to show any reason why the books of the corporation should not be kept by the President and Secretary of it.

On November 13, 1936, we, on behalf of our clients, Nicholas Roerich, Helena Roerich, Maurice M. Lichtmann, Sina Lichtmann, and Frances R. Grant, wrote again to Messrs. Greenbaum, Wolff & Ernst, in which we reviewed the above correspondence and requested permission to inspect the books, papers and records of this corporation.

On November 17, 1936, Mr. Kline, of Greenbaum, Wolff & Ernst, telephoned this office and said we might look at the books, papers and records which he had, and consequently, on November 19, 1936, we went to the office of Greenbaum, Wolff & Ernst and inspected the books which were in their possession.

Very little only was shown to us of these books, records and papers. The minute book is obviously incomplete. No books of account of any nature were shown to us; none of the records of the corporation, including instruments of title to paintings or receipts for paintings on exhibition elsewhere, were shown to us.

On behalf of our clients, we now make demand upon you to permit them, us as their attorneys, and their accountants, to examine all the books, papers and records of the corporation.

Very truly yours,

HP:s
Reg. Mail
RRR

Post Office Department

OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 321571

INSURED PARCEL

No. _____

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$200



POSTMARK OF DELIVERING OFFICE

AND DATE OF DELIVERY

Return to _____

Plant & Parts

(NAME OF SENDER)

Street and Number,
or Post Office Box, }

76 Beane St

NEW YORK,

NEW YORK.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

E. J. Lichtman

(Signature or name of addressee)

(Signature of addressee's agent)

Date of delivery _____

12/9, 1936

Form 3811

December 7, 1936.

Miss Esther J. Lichtmann
310 Riverside Drive
New York, N. Y.

Dear Miss Lichtmann:

On April 17, 1936, we wrote to your attorneys, Messrs. Greenbaum, Wolff & Ernst, to the effect that in going over the papers which they sent to us of Prof. Roerich, we found that none of the books, papers and records of Nicholas Roerich Paintings and Art Collection, Inc. was turned over to us and we asked Messrs. Greenbaum, Wolff & Ernst to advise us when we might expect to receive them.

We received a letter from Messrs. Greenbaum, Wolff & Ernst, dated April 24, 1936, written in answer to our letter of April 17, in which said attorneys stated that there was nothing in our letter of April 17 to show any reason why the books of the corporation should not be kept by the President and Secretary of it.

On November 13, 1936, we, on behalf of our clients, Nicholas Roerich, Helena Roerich, Maurice M. Lichtmann, Sina Lichtmann, and Frances R. Grant, wrote again to Messrs. Greenbaum, Wolff & Ernst, in which we reviewed the above correspondence and requested permission to inspect the books, papers and records of this corporation.

On November 17, 1936, Mr. Kline, of Greenbaum, Wolff & Ernst, telephoned this office and said we might look at the books, papers and records which he had, and consequently, on November 19, 1936, we went to the office of Greenbaum, Wolff & Ernst and inspected the books which were in their possession.

Very little only was shown to us of these books, records and papers. The minute book is obviously incomplete. No books of account of any nature were shown to us; none of the records of the corporation, including instruments of title to paintings or receipts for paintings on exhibition elsewhere, were shown to us.

On behalf of our clients, we now make demand upon you to permit them, us as their attorneys, and their accountants, to examine all the books, papers and records of the corporation.

Very truly yours,

HP:S
Reg. Mail
RRR

Post Office Department

OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 371512

INSURED PARCEL

No. _____

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300



Return to

Plant & Davis

(NAME OF SENDER)

Street and Number,
or Post Office Box,

76 Beaver St

NEW YORK,

NEW YORK.

RETURN RECEIPT

136/42

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Walter S. Hawk

(Signature or name of addressee)

J. P. Hawk

(Signature of addressee's agent)

Date of delivery 12/9, 19

Form 3811

December 7, 1936.

Mrs. Nettie S. Horch
310 Riverside Drive
New York, N. Y.

Dear Mrs. Horch:

On April 17, 1936, we wrote to your attorneys, Messrs. Greenbaum, Wolff & Ernst, to the effect that in going over the papers which they sent to us of Prof. Roerich, we found that none of the books, papers and records of Nicholas Roerich Paintings and Art Collection, Inc. was turned over to us and we asked Messrs. Greenbaum, Wolff & Ernst to advise us when we might expect to receive them.

We received a letter from Messrs. Greenbaum, Wolff & Ernst, dated April 24, 1936, written in answer to our letter of April 17, in which said attorneys stated that there was nothing in our letter of April 17 to show any reason why the books of the corporation should not be kept by the President and Secretary of it.

On November 13, 1936, we, on behalf of our clients, Nicholas Roerich, Helena Roerich, Maurice M. Lichtmann, Sina Lichtmann, and Frances R. Grant, wrote again to Messrs. Greenbaum, Wolff & Ernst, in which we reviewed the above correspondence and requested permission to inspect the books, papers and records of this corporation.

On November 17, 1936, Mr. Kline, of Greenbaum, Wolff & Ernst, telephoned this office and said we might look at the books, papers and records which he had, and consequently, on November 19, 1936, we went to the office of Greenbaum, Wolff & Ernst and inspected the books which were in their possession.

Very little only was shown to us of these books, records and papers. The minute book is obviously incomplete. No books of account of any nature were shown to us; none of the records of the corporation, including instruments of title to paintings or receipts for paintings on exhibition elsewhere, were shown to us.

On behalf of our clients, we now make demand upon you to permit them, us as their attorneys, and their accountants, to examine all the books, papers and records of the corporation.

Very truly yours,

HP:s
Reg. Mail
RRR

December 23, 1936.

Dr. Georges de Roerich
Naggar, Kulu,
Punjab, British India.

Dear Dr. de Roerich:

I am happy to inform you that the Internal Revenue Service of the Treasury Department has recommended a return to you of the money paid as income tax for the year 1934, amounting to \$80.75. This is the result of proceedings taken by us on the theory that the income received by you was not taxable.

I am enclosing herewith two documents for your signature as follows:

- (1) Form 873, to be signed by you.
- (2) Mimeographed form of receipt to be signed by you.

Kindly return both of these to us at your earliest convenience so that we can procure draft for you for that amount.

Very truly yours,

HP:s
Enc.

February 3, 1937.

Messrs. Greenbaum, Wolff & Ernst
285 Madison Avenue
New York, N. Y.

Re: Nicholas Roerich Paintings & Art Collection, Inc.

Attention Mr. Kline

Gentlemen:

Although we have written many letters concern-
ing the books, records and papers of this corporation, we
have not been shown anything but a meagre and incomplete
minute book.

On December 7, 1936, we sent registered letters
to Mr. and Mrs. Horch, Miss Lichtmann, and the corporation
(which letters undoubtedly were brought to your attention),
in which we stated:

"Very little only was shown to us of these
books, records and papers. The minute book is
obviously incomplete. No books of account of
any nature were shown to us; none of the records
of the corporation, including instruments of
title to paintings or receipts for paintings on
exhibition elsewhere, were shown to us."

Subsequent to the time these letters were sent,
Mr. Kline questioned the writer as to what original docu-
ments we had in mind. We pointed out to him, in the pres-
ence of Mr. Horch, that in Mr. Horch's diary of 1932 he
stated he had a document, executed September 10, 1928, by
Prof. Roerich, bearing the official seal and signature of
the American Consul, by which 734 paintings were deeded
over to the corporation. Mr. Kline said that a search
would be made for this document. This is cited as an
example of the documents that must be in existence. However,
we have heard nothing from you whatsoever.

We now repeat our demand for a full disclosure
of all the books, records and papers of the corporation.

Very truly yours,

HP:s

PLAUT & DAVIS
76 BEAVER STREET
NEW YORK

July 2, 1937.

Messrs. Greenbaum, Wolff & Ernst
285 Madison Avenue
New York, N. Y.

Re: Nicholas Roerich Paintings & Art Collection, Inc.

Gentlemen:

Due to the great demands upon our time which the litigations between our offices made, we were required to allow this matter to wait until the pressure of the litigations should lighten. Now that the briefs have been submitted to the Referee, we invite you to give this matter your attention.

We have particular reference to the letter of February 3, written by us to your firm, to the attention of Mr. Kline. You will recall that on December 7, 1936, we wrote registered letters to Mr. and Mrs. Horch, Miss Lichtmann, and the corporation concerning the books and records of the corporation, and that subsequent to the sending of that letter Mr. Kline and the writer of this letter had a conversation in which he asked the writer of this letter what original documents we had in mind. At that time we pointed out to Mr. Kline, in the presence of Mr. Horch, that in Mr. Horch's diary of 1932 he stated that he had a document executed on September 10, 1928, by Prof. Roerich, bearing the official seal and signature of the American Consul, by which 734 paintings were deeded over to the corporation. Mr. Kline said that a search would be made for this document. This document was cited by us as an example of the documents that must be in existence.

Will you therefore let us know at your very earliest convenience whether or not the full records and documents of the corporation will be exhibited to us?

Very truly yours,

HP:s

August 31, 1937.

Mr. Harold H. Stern
c/o Greenbaum, Wolff & Ernst
285 Madison Avenue
New York, N. Y.

Re: Agni Yoga Publications
Nicholas Roerich Painting & Art
Collection, Inc.

Dear Mr. Stern:

Before you left on your vacation
you requested that I postpone action on these
matters until your return.

Now that you are back in New York,
I would appreciate it very much if you would take
up these matters and let me have definite responses.

Very truly yours,

HP:s

engaged in the foreign exchange business and was residing with his wife, the defendant Nettie S. Horch, in New York and in California, where they had been travelling. The Horches had for some years (Mrs. Horch for a much longer time than her husband), known Frances R. Grant, one of the Plaintiffs. Miss Grant was then engaged as a critic and a writer for a musical publication at a salary of \$50. a week.

Miss Grant in turn knew and was friendly with the plaintiffs, Maurice M. Lichtmann, and his wife Sina Lichtmann, Nicholas Roerich and his wife Helena Roerich. Nicholas Roerich is a painter and had been awarded the title of Professor by an institution in Russia. The Lichtmanns had for some time prior to 1921 been engaged professionally as teachers of the piano. The Roerichs and the Lichtmanns had been interested in organizing a school in which all the arts would be taught in one place. Therefore the Lichtmanns did their teaching, or at least most of it, in their home in Washington Heights. After they had become associated with the Roerichs, a school in which all the arts were to be taught was organized and a room was rented for that purpose in a building on 54th Street near 9th Avenue, New York City.

The school was on the third floor of said building and consisted of a large room without partitions; the walls were whitewashed and there were no rugs on the floor; it contained a long table, some chairs, two rented pianos and some pictures on the wall. At best, the equipment was not elaborate. The cash balance standing to the credit of the school at or about that time was approximately \$200. After this school was organized the Lichtmanns continued their teaching at the 54th Street address and

also at their home.

In 1922 the Horches were introduced to the Lichtmanns and the Roerichs by Miss Grant, and almost immediately the Lichtmanns and the Roerichs endeavored to have Horch become interested in the school. At that time the school was far from prosperous and Horch was told that unless he became interested in the school it probably could not go on. Professor Roerich personally was also in need of funds and was much concerned regarding an indebtedness to the Fifth Avenue Bank of this city for money loaned, which loan was secured by a pledge of some of the Roerich paintings. Roerich was eager to have the pictures in friendly hands and requested Horch to take up the loan.

Horch said that he would think the matter over and after some further talks, some of which took place on the occasion of a visit by the Horches and Miss Grant to the Lichtmanns and Roerichs who were then in Maine, informed the plaintiffs that, as substantial sums of money would be required, he would become interested in the school only on condition that it was incorporated and that he would be in control thereof. The plaintiffs readily agreed and were perfectly willing to meet any and all terms imposed by Horch so long as he became financially interested in the enterprise. Accordingly, Horch requested his attorney, a Mr. Bloomberg, to proceed with the organization of the corporation to be formed. At about the same time, to wit: on September 14, 1922 Horch also took over Roerich's indebtedness to the bank, paying^{to} the bank \$8,353.19.

A charter was applied for to the state

Education Department and the enterprise was incorporated under the Education Law of the State of New York as "Master Institute of United Arts, Inc." The charter (which had been prepared by Horch's attorney) was granted on September 28, 1922. There were seven incorporators, the five plaintiffs and Mr. and Mrs. Horch. Miss Grant immediately gave up her position with the musical publication and joined the enterprise as one of the original incorporators in the capacity of executive director at the same salary that she had been receiving, namely \$50. a week.

Seven shares of stock were issued, one in the name of each of the incorporators, who also were designated as trustees in the charter. Horch claims that one share of stock was issued in the name of each of these plaintiffs because he understood that trustees had to be shareholders, and that they were regarded and understood to be merely dummy stockholders for the purpose of qualifying as trustees.

Even prior to the actual organization of the corporation, and on August 11, 1922, Horch advanced the sum of \$8,000 for the purposes of the enterprise, \$7,500 of which was to be capital for which the stock was issued and \$500. of which was to be applied toward the payment of debts of the school. In addition to the moneys thus advanced, as well as the \$8353.19 advanced for Roerich in connection with his indebtedness to the Fifth Avenue Bank, Horch also expended about \$1200. for the purchase of necessary equipment and advanced other moneys in more appropriately fitting and furnishing the 54th Street premises as a school.

Horch stated that he realized that considerable additional sums of money would be required and

according to his ideas it was necessary to procure a group of competent teachers, to attract many students, to make the school known and to procure adequate quarters and equipment.

Throughout the years prior to the commencement of this litigation no meetings were held for the purpose of electing trustees or officers of the corporation. Names were used at Horch's direction whenever he deemed it convenient to do so, with the knowledge of the plaintiffs and without any objection on their part. Thus when the Roerichs were absent names of other persons were substituted, all proceedings regarding corporate affairs having been largely informal, and anything was done as was requested or directed by Horch.

When the corporation was first organized the charter permitted the shareholders to participate in the profits, but in March of 1926 the charter was amended so that no profits or dividends would ever be declared or paid to the shareholders.

At the organization meeting held in November 1922, each certificate of stock issued in the name of one of the plaintiffs was endorsed in blank by such plaintiff and delivered by such plaintiff to Horch. Horch says that this was done because he was the real owner of all the shares and the only real stockholder of the corporation. Plaintiffs claim that although they never paid any money for the shares of stock they, nevertheless, were each the owner of one share. They do not claim that the stock was given to them by Horch as a gift. Concededly, substantially all the money for the enterprise came from Horch and the amount that he ultimately had in the enterprise was

in excess of one million dollars.

This vast sum was used in large part in connection with the purchase by Horch (except for one small parcel) of properties and the ultimate erection thereof of a large building at 103rd Street and Riverside Drive, New York City. He began to assemble a plot for this purpose early in 1923, when he purchased the premises 310 Riverside Drive for \$195,000, paying \$95,000 in cash and the balance by way of mortgage. He took title in Mr. Lichtmanns name. Lichtmann testified that this was done for sentimental reasons but Horch contends that he did so solely because he did not want it known that a large plot was being assembled and points to the fact that title to various parcels was taken in different names. A number of properties were acquired, the buildings located thereon demolished, and a new 24 story structure erected, the lower three and one half stories of which were to be used for cultural and educational purposes and the upper floors of which were dwelling apartments. In the course of construction the American Bond and Mortgage Company, which had agreed to make a building loan for the erection of the structure, became financially embarrassed, and in addition to the very large sums of money theretofore paid out by Horch, he was required to add an additional \$169,000 in cash in order to make possible the completion of the building. Title to the new building was held in the name of Roerich Museum, a corporation.

Prior to the actual demolition of the old buildings the Lichtmanns moved into the Riverside Drive premises, and from the time of the completion of

the new structure they, as well as other members of their family, occupied suites in the building, rent free. In fact, all of the plaintiffs are occupying or had occupied apartments in the building, rent free, and at the same time Miss Grant and the Lichtmanns have been receiving compensation for their services. Miss Grant received a salary as executive director, generally at the rate of \$50. per week; the Lichtmanns received 50% of the tuition fees collected from pupils taught by them; Roerichs received no salary but also had the use of quarters in the building.

Subsequently the mortgage on the building was foreclosed and as a result of a reorganization and settlement, title to the building was taken in the name of the Master Institute of United Arts, Inc., the corporation which had been organized by Horch's attorney in 1922.

The reasons given for thus taking the title is that that corporation was free from indebtedness, it had an educational charter which would enable the procurement of certain exemptions for taxes for portions of the buildings, and the trouble and expense of organizing a new corporation would be saved.

After the reorganization the enterprise was conducted essentially in the same manner as theretofore. Horch was apparently in charge; his wife acted as Secretary; Miss Grant was executive director; the Lichtmanns were teaching piano, and the Roerichs were spending a good deal of time in India where the Professor was supposed to be engaged in painting and in study and research.

In 1935 Horch had all of the shares of stock surrendered and a new certificate for seven shares issued to Mrs. Horch. Some time thereafter an election of trustees was held at which none of the plaintiffs other

than Maurice M. Lichtmann was elected a trustee or officer of the corporation.

Thereafter a summary proceeding was instituted in this court, the purpose of which was to reinstate plaintiffs as trustees of the corporation, which proceeding was referred to me to hear and report on the merits of the application, as well as to determine who are the shareholders of the corporation. A report will duly be made by me therein.

While that proceeding was pending the present action was instituted by the plaintiffs against the defendants to procure an adjudication that each of the plaintiffs is the owner of and the person entitled to vote one share of the capital stock of Master Institute of United Arts, Inc.

The answer to the complaint includes a general denial, a number of affirmative defenses to the effect that the plaintiffs have an adequate remedy at law and the defense that the claims of Professor and Mrs. Roerich are barred by the statute of limitations.

The defendant Horch interposed against the plaintiff Nicholas Roerich twenty counterclaims, each counterclaim predicated upon a promissory note executed and delivered by Professor Roerich to Horch. The notes aggregate \$113,328.29 with interest.

Roerich's reply to the counterclaims consists of a general denial and four separate defenses. The first defense is payment; the second, the six-year statute of limitations; the third, lack of consideration for the

notes; and the fourth, that the intention of the parties at the time the notes were given was that Professor Roerich should not be liable thereon.

At the trial of the action Professor Roerich's attorneys admitted that the notes had never been paid and also withdrew the defense of the statute of limitations. Ample consideration for the notes was shown, and the defense chiefly litigated was that the intention was not to consider the notes as legal obligations of Professor Roerich.

Each of the plaintiffs claims to be the owner of one share of stock in the corporation having subscribed therefor upon the incorporation of the corporate defendant. The Lichtmanns state that when the certificates of stock were issued they took the certificates with them. Horch, on the other hand, states that they, like the other plaintiffs, endorsed the certificates in blank and possession thereof was left with him. Miss Grant admits that she immediately endorsed the certificate issued in her name and left same with Horch, but claims that his possession was merely for the purpose of safekeeping and that it was her practice to deliver valuable papers to Horch for his care.

As evidence of their contention plaintiffs rely largely upon a written instrument dated April 23, 1923, signed shortly before Horch expended almost \$100,000 in connection with the purchase of the first parcel of the Riverside Drive plot. The instrument purports to be an agreement between the plaintiffs and the individual defendants. It recites that the parties thereto were the

founders of the corporation, that they desired that its affairs at all times be in the unified control of the parties hereto and that in the event of the death of any of them the survivors should be in a position to carry on the work. It was further provided that none of the parties would at any time sell or dispose of the shares of stock held by such party without first offering same to the others for \$10.00; that if the parties to whom such offer is made did not wish to acquire same then the offering party could dispose of the stock so offered, to any other person or persons whomsoever; that in the event of the death of any of the parties the remaining parties should have the right to acquire from the legal representatives of the deceased, shares of stock held by the deceased for \$10.00 upon giving notice to the legal representative of an intention so to do.

It also provided that all the certificates of stock were to be endorsed in blank and delivered to Horch as escrow agent, and that despite such delivery any dividends which might be declared upon said shares should be for the sole use and benefit of and payable to the depositor of the certificate. The value of the shares of stock was fixed at the sum of \$10. each regardless of the intrinsic or book value at the date of the instrument or at any time thereafter. The instrument also provided that the voting rights should remain with the depositor.

But one copy of this document was signed, it was not acknowledged, and there was never any delivery thereof to any of the parties thereto, the original remaining in the possession of Horch. At the time of the signing of said instrument in April 1923 Horch issued receipts to each of the plaintiffs in which it was recited

that he received the shares subject and pursuant to said agreement.

The agreement and receipts were prepared by Mr. Bloomberg, who had been instructed by Horch that he wished some kind of a legal paper to protect his control of the corporation, especially in the event of the death of any of the original incorporators. Bloomberg prepared the agreement as stated, and brought it to the school at 54th Street where it was signed and left with Horch and the receipts for the stock were delivered.

Approximately two years after this agreement was signed the charter of the corporation was amended revoking the power of the corporation to declare profits or dividends, and thereafter Horch claims that the entire agreement was cancelled by an appropriate agreement in writing to that effect.

The facts, togetherwith all the surrounding circumstances, support the contention of the defendant Louis L. Horch to the effect that he and the plaintiffs agreed in 1922 that a corporation was to be organized which he was to control, that pursuant to that understanding the defendant corporation was organized, that the sole consideration for the stock issued upon its organization was furnished by Horch, that the stock when issued was his property, that certificates of stock were written in the names of the plaintiffs solely as nominees of the defendant Louis L. Horch because of his and his attorney's belief that trustees of an educational corporation had to hold qualifying shares and that the stock certificates were at the time of issue endorsed in blank by the nominal holders and left with the defendant Louis L. Horch. It is true that the Lichtmanns were active teachers in the old school but they

also had a piano studio at their home on Washington Heights which they maintained for a time after the organization of the defendant corporation; and when they transferred their part time activities from the 54th Street school to the new corporation they continued to receive for their work, 50% of the fees collected and the use of an apartment free of rent. Likewise Miss Grant after the organization of the corporation received compensation for services which she was then rendering for the school. As to the Roerichs there is no evidence that they gave up anything of value although they had a nominal interest in the old school run by the Lichtmanns. Furthermore, Professor Roerich obtained the larger opportunity of having his ideas promoted and advanced in a new institution which gave promise of having almost unlimited funds at its disposal to advance the ideas which seemed so vital to him. He was also procuring a certain sense of financial security to himself as a result of his new association. Plaintiffs contend that they had in 1921 organized the old Master's School for United Arts which they were conducting at the West 54th Street premises and that they turned over this school to the corporation. Nowhere does it appear that the plaintiffs gave for their alleged subscriptions or what they offered to the corporation in exchange for the stock of which they claimed to have become owners in 1922. That alone would not be fatal to their claim because the transfer of property might be inferred from the circumstances without any formal writing. It should be pointed out, however, that the old school had no assets or good will of value and the school did not constitute the consideration for the issuance of the stock, the parties having agreed that the stock should be issued in exchange for that portion of the money furnished by Horch which was to become the capital of the corporation. As I have already

noted, all the circumstances point to the support of the contention of the defendants as to what happened in November, 1922.

Plaintiffs realize the conflict arising from an issue based upon the oral testimony and they therefore rely largely upon the so-called stockholders agreement of April 23, 1923 and the receipts issued in connection therewith, the substance of both of which documents has already been referred to.

Before considering the significance and effect of the agreement it is necessary to dispose of a collateral question presented, namely that that agreement was cancelled by a written instrument dated July 9, 1928. The original of this writing was not produced, defendant claiming that it had been mislaid or lost, but three attorneys, two of them formerly associated with defendants' attorneys, testified that they had seen the signed original thereof. The attorneys could not, however, testify to the genuineness of the signatures on the original instrument of cancellation, which they had seen but which was not produced at the trial. Plaintiffs claim that the document as to which said attorneys testified did not bear the signature of the plaintiffs or their duly authorized agents.

There are certain surrounding circumstances which indicate the existence of such a document. At the time when the document is dated formal consents of stockholders of record were required in connection with the affairs of the company. As already shown, names were shifted when signatures of shareholders were required and the holders of record were away. The obvious solution when speed was essential to transfer the shares, especially out of the Roerichs who were absent a considerable portion of

the time, was to transfer the shares to names of persons who would be readily available for signing. The original stock certificates bore a notation that they were issued subject to the provisions of the agreement dated April 23, 1923 but when new shares were on July 9, 1928 transferred of record from the Roerichs to Sophie Shafran and Esther J. Lichtmann, that notation was not at the time they were issued placed upon the certificates issued to Sophie Shafran and Esther J. Lichtmann nor did they sign any agreement similar to that of April 23, 1923, and they each immediately endorsed the shares in blank and handed them to Horch. No receipts were then issued similar to those issued in April 1923.

The contents of the paper, too, bear upon the credibility of Mr. Horch as to the existence of the original. The agreement expressly reaffirms the statement in the preamble of the agreement of 1923 that the parties, who include the five plaintiffs, are 'the owners and holders of all the outstanding capital stock of Master Institute of United Arts, Inc.' The sole sum and substance of the cancellation agreement is that the agreement of 1923 is cancelled. The effect of the cancellation is merely to remove from the stock such incumbrance of non-transferability as may have been created by the 1923 agreement and to cancel such rights as said agreement created to purchase stock in the event of the desire of a party to sell or in the event of death. It does not nullify the alleged admission contained in the agreement of 1923 that the signers are the owners of the outstanding capital stock. Therefore, in the interpretation of the agreement of 1923 and the determination of ownership of stock the cancellation agreement is of no great value because it does not in itself restore the status of November 1922 as to the ownership

of stock by the defendant Louis L. Horch, if it is assumed that such status had been changed by the agreement of April 1923.

The so-called cancellation agreement has been considered because suggestions of forgery have been raised by plaintiffs. I believe that an agreement, of which the copy was submitted in evidence, signed in the manner it is purported to have been signed, was actually in existence. It is, however, unnecessary to pursue this phase of the subject any further because the cancellation agreement in itself does not destroy the effect, if any, of the April 1923 agreement on the question of the stock ownership. It is necessary therefore to consider that earlier agreement.

Horsch's explanation is that after the organization of the corporation he was troubled with the idea that notwithstanding the transfer of the stock to him in November 1922 by his nominees, a claim of ownership might be made by the families of some of them in the event of death of the record owner. There were indications of certain incipient conflicts at that time. Mr. Bloomberg called to testify as the draftsman of the agreement, could not remember precisely the underlying purpose thereof although he remembered something about its being for third party consumption. Because of the lapse of so many years he could not remember as much as might be desired and he was unable to refresh his memory because all his old records had been destroyed by the flooding of the premises in which they were stored. The initiative for the drawing of the agreement came not from the plaintiffs, as they suggest, but from Horch; plaintiffs' version that there were conferences back and forth, and changes in details of the agreement suggested by the plaintiffs, cannot under the circumstances

of the case be accepted. The corporation had just been organized and the plaintiffs were delighted with the opportunity which the corporation gave to them. They were not seeking protection of any property rights; nor is it credible to assume that Horch would deliberately give away a five-sevenths capital interest in the corporation in which he had put a considerable sum of money and the place for which called for the expenditure of substantial additional sums. Why, however, did the preamble drawn by Horch's lawyer specifically reaffirm that the parties are the owners and holders of all the issued and outstanding capital stock of Master Institute of United Arts, Inc.? And why with a nominal sum of \$10. should any party who had the option to acquire the stock refuse to do so, so that rejected shares would have to be offered to any other person whatsoever? There was no assessment liability upon the holder of any such stock. And why did Mr. Horch himself, or Mrs. Horch, not have themselves expressly exempted from the option which the non-pecunious members of the corporation would have in the event of the death of either of the Horches, to acquire their investment for a song? These questions suggest the answer and confirm the contention that the agreement did not purport to express the real relationship of the parties as between themselves but that it was meant for third party consumption and not as a serious escrow agreement. There is no reason seriously to doubt that the agreement of November 1922 left Horch in sole ownership of all the stock of the corporation as the only one who had contributed financially to it and the instrument of April 1923 does not transfer ownership out of him. Plaintiffs rely upon the instrument only as an admission of ownership in them. It may be such an admission but upon the evidence in the case

and in the absence of other satisfactory affirmative proof of ownership, such admission is not sufficient to sustain plaintiff's contention.

The recital that the stockholders are entitled to vote would seem to be an unnecessary provision in such an agreement as that of April 1923. Horch's explanation of its presence is that it was intended to show to outside interests that the subscribers to the agreement were all stockholders, his assumption being that it was necessary to show that the trustees of the corporation were also stockholders in order to qualify for their office.

Plaintiffs contend that Horch's explanations with reference to the agreement are weak, but their weakness does not in itself add strength to plaintiff's position. If Horch originally owned all the stock no declaration in the agreement without independent evidence of ownership by the plaintiffs can divest him of it. This is particularly true because the subsequent course of events and the conduct of the parties ran counter to the express terms of this agreement of 1923 and showed that the parties themselves regarded it as a dead letter and corroborated Horch's contention that from the start it was understood that he was the owner of all the stock.

Upon the whole case I find that the plaintiffs have failed to meet the burden cast upon them by law, of proving by a fair preponderance of the credible evidence the essential allegations of their complaint, and that it would be contrary to the facts and inequitable to pronounce plaintiffs, respectively, the owners of the shares of stock of Master Institute of United Arts, Inc. originally issued in their names; on the contrary I find that the defendant Horch was the owner of all of the said shares.

Consequently the relief sought by the plaintiffs must be denied.

Passing now to the counterclaims of the defendant Louis L. Horch against the plaintiff Nicholas Roerich, as already indicated, the sole issue to be determined is as to whether it was intended by the parties when Roerich executed and delivered the notes to Horch that they were, what they purport on their face to be, legally binding obligations to pay the sums of money which Roerich therein promised to pay.

The record establishes beyond any question that Roerich actually received full consideration for each of the notes, Horch having advanced to or for him the amounts set forth in the respective notes.

Roerich urges that the monies alleged to be the consideration for the notes were gifts and that there was no promise to repay the same and, furthermore, that the notes in question were delivered to Horch at the latter's request with no intention on the part of either to have any of the notes represent a real obligation. Various contentions are urged by Roerich in support of his position. He points out that for a long period of years no payment of principal or interest was ever demanded, the first time that such a demand was made being after this litigation was instituted; that during this period of years Roerich maintained bank account in the City of New York upon which Horch could draw under power of attorney and upon which attachment could be levied, but that Horch never resorted thereto for collection; and that in 1926 and 1927 Horch claims to have bought paintings from Roerich involving large sums of money and paid in cash therefor without settling off against such purchases the indebtedness represented by the notes. Two documents in further support of Roerich's

contention are also presented. The first is a letter dated September 30, 1923 written by Horch to Roerich wherein he enclosed a note and requested that it be signed; the letter stated also that Roerich owed Horch nothing whereas Horch owed Roerich a great deal and that the only reason that Roerich was requested to sign was that Horch would save \$6000 in taxes; that within one year "those notes will be destroyed". The other document is a memorandum dated December 8, 1924 and is to the effect that it gave Horch great pleasure to certify that all loans between Roerich and himself "have been completely liquidated."

The evidence in this case makes abundantly clear the extraordinary relationship that until recent years existed between Professor Roerich and Horch. Horch not only had a large measure of admiration and respect but almost a sacred reverence for him. Under the circumstances of such a relationship it is natural, especially considering Horch's means at the time, that he did not demand payment of either the principal of the notes or interest thereon and that he did not attach funds in bank (which in large measure came from Horch) and that he paid Roerich cash for paintings. Roerich was well aware how Horch regarded him and considered himself in friendly hands. It should also be noted that large sums of money were given or loaned to Roerich by Horch for which no notes were ever demanded or received and for which no claim is made by Horch. Complaint is made on behalf of Roerich that the monies represented by the notes in suit ought to be treated in the same manner that Horch treated these other monies. When Horch was pressed for an explanation as to why he discriminated in the manner that he did he explained that the monies given or loaned to Roerich for which no notes were ever demanded, or if received were subsequently destroyed, that he

regarded these monies in the nature of personal expenditures; and that he did not consider the monies represented by the notes in suit as being in the same category. Horch was certainly free to decide what advances he chose to make as gifts, whatever his reasons therefor may have been. The sole question is, as stated, as to whether the notes sued upon were the obligations they purport to be. Although the letter of September 30, 1923 states that the particular note referred to therein was requested for purposes of tax saving, it does not appear that it was used or capable of use by Horch for such a purpose, nor does it appear how Horch would at the time the letter was written have believed that it was possible so to use it, nor does it appear that the note enclosed in said letter was one of the notes which are the subjects of the counterclaim. The statement contained in said letter that within one year certain notes would be destroyed is a purely voluntary promise, unsupported by consideration, in so far as it refers to any notes then already in existence. The statement that Roerich owed Horch nothing but that on the contrary Horch owed Roerich a great deal is a statement often repeated in the communications sent by Horch to Roerich and has reference not to money obligations but to obligations of a spiritual and intangible nature arising out of the extraordinary relationship which existed between the parties.

Horch had no recollections whatsoever with reference to the document of December 8, 1924. Assuming the validity of any of the notes, and in view of the fact that no payment was made of any of them, the certificate of complete liquidation of all loans is insufficient to discharge Roerich from his liability on those

notes. It was sought to ^{be} shown in Roerich's behalf that all of the notes in suit as well as others were signed and delivered by Roerich simultaneously with the delivery by Horch to him of the memorandum dated December 8, 1924. That version cannot be accepted. It was satisfactorily shown that all of the notes which are the subject of the counterclaims were executed and delivered prior to December 8, 1924 and that the execution and delivery of the said notes was not induced by the document of December 8, 1924 in which it is stated that all loans had been liquidated.

It thus appears that the documents mentioned are insufficient to discharge Roerich from his obligation on the notes; Roerich places reliance on them, however, as some evidence of the intention of the parties. It is manifest that the loans mentioned in the memorandum of December 8, 1924 had prior to that date been regarded as obligations, for otherwise there would have been no necessity to certify that all loans, which according to Roerich were non-existent, had been liquidated. Far from indicating that the intention was that now claimed by Roerich, the instrument points to the contrary intention, namely, that at least some notes or loans constituted Roerich's legal obligations. As already demonstrated there is nothing in the documents of September 30, 1923 which contains an admission that the notes in suit were not intended to be obligations. Furthermore certain notes were destroyed by Horch. In this connection it may be noted that throughout the entire period when these monies were advanced to Roerich and the two documents referred to delivered to him the unusual relationship between the parties existed, and continued to exist for many years thereafter, which fact tends to confirm Horch's statement that he carried out the promise contained in said letter and destroyed the notes intended to be destroyed.

Roerich, being absent abroad, did not appear or testify at the trial of this case. A stipulation was submitted in lieu of his deposition and it is to be observed that the only reference in this stipulation to the subject of the counterclaims or the defenses thereto is a denial by Roerich that in the spring or summer of 1922 he received from Horch the sum of \$8,000 on cash or in installments of \$5000 and \$3000 or in any other form. This sum of \$8000 is the consideration claimed by Horch for one of the notes in suit.

I am satisfied that when the monies (for which the notes in suit were issued) were given to Roerich or expended for his account, Horch expected to be repaid by Roerich and Roerich intended to repay Horch at some time thereafter.

The defendant Louis L. Horch is accordingly entitled to judgment on his counterclaims against the plaintiff Nicholas Roerich in the sum demanded in said counterclaims, and the defendants are entitled to judgment in their favor dismissing the complaint upon the merits, with costs.

Let the prevailing party submit on notice findings of fact and conclusions of law and proposed judgment in accordance with this opinion, on or before September 30, 1937. Plaintiffs may within the same period serve and submit their requests to find.

George Frankenthaler
Referee