

Telephone:
CARDIFF 8611.

Telegraphic Address:
CONTMAN, CARDIFF.



CONTINENTAL TRANSIT CO., LIMITED,
STEAMSHIP OWNERS.

(In Voluntary Liquidation)

Directors:
D. P. BARNETT,
L. De. ORTUZAR, BASQUE (SPAIN)
C. H. MORGAN.

COLUM BUILDINGS,
MOUNT-STUART-SQUARE,
CARDIFF.

28, Lewes Rd., Friern Barnet, N.12.

M. Irujo Esq.,
c/o. Basque Delegation,
14, Eccleston Square,
S.W.1.

FHB/DF

4th March 1942.

Dear Sir,

As a matter of courtesy, I enclose herewith copy Notice of Meeting which I am sending to the Members of this Company.

Although I am sending you a copy of this Notice, I cannot admit that under the Articles of Association of the Company or otherwise, I am under any obligation to give you notice of, or that you are entitled to attend, the Meeting.

Without prejudice however, to the position above indicated, no exception will be taken by me as Liquidator to your attending the Meeting.

Yours faithfully,

Liquidator.

Continental

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CONTINENTAL TRANSIT COMPANY LIMITED (In Voluntary Liquidation)

TAKE NOTICE that a Meeting of the Members of the above Company will be held, pursuant to Section 235 of the Companies Act, 1929 at Ground Floor, Algeria House, 33/4, Bury Street, London, E.C.3. on Tuesday the 17th day of March 1942 at 10.30 o'clock in the forenoon for the purpose of receiving an account of the acts and dealings of the Liquidator and of the conduct of the winding up during the year ending the 17th day of February 1942.

DATED this 4th day of March 1942.

J. W. Bennett

LIQUIDATOR.

PRESIDENT JOSE AGUIRRE
Basque Delegation,
30 Fifth Avenue,
NEW YORK.

AFFAIR SETTLED FAVOURABLY stop PLEASE SEND URGENT
INSTRUCTIONS KOLDO UTILISATION FUNDS

Elias Etxebarria.

2nd September, 1943.

Continental
4

Redhill 17 de junio de 1.943

Sr. Dn. Ignacio de Lizaso.
London.


Amigo Ignacio:

Acabo de recibir carta del abogado del Sr. Ortuzar, dandome cuenta del resultado de la gestion que acaban de realizar ante el Custodian of Enemy Property. Dice la carta:

" We have heard from the Trading with the Enemy Department (Board of Trade), that on receipt of this money by the Custodian, the Board of Trade will direct the Custodian to pay this sum, less the Custodian's Statutory fee and any legal costs incurred by him, to you as representing the Comité Basque de secours aux Refugies in this Country, which will enable you to give effect to the agreement you entered into with M. Ortuzar."

Me parece, la noticia suficientemente buena para que me apresure a comunicartela. Es de suponer que en muy pocos días estaremos en situacion de disponer de este dichoso dinero que tantos disgustos ha ocasionado.

¿Puedes disponer de diez libras? Si te es posible enviame las por correo lo antes posible.

L. ay 

Continental

5

Londres, 18 de Junio de 1943

Sr. Dn. Eli de Etxebeñia
Redhill

Amigo Eli:

He recibido la tuya del 17. Lo que en ella me dices exige aun una previa gestión. Como la liquidación de la Continental y de la Management forma parte del mismo asunto llevado ante el Registrar, es necesario hacer con la Management lo mismo que se ha hecho con la Continental. El abogado nos ha llamado para decirnos que el próximo miércoles se firmará este Acta referente a la Management con el fin de dejar ultimado el expediente judicial. Una vez todo esto en regla, que sea verdad y realidad práctica y "tocante", la promesa contenida en la carta de los abogados del Sr. Ortuzar que transcribes en la tuya. Te remito adjuntas las libras que me pides. Dios quiera que terminen pronto estas estrecheces y podamos empezar a tapar tanto agujero. Mandame por favor el recibo adjunto, firmado. Qué tal sigues? Ya sabes que estoy a tu disposición si quieres visitar de nuevo al Dr. McRae. Estos días precisamente he tenido bastante enferma a Mirentxu y nos ha visitado con frecuencia. Le

hablé del resultado de tus "cosas". Ya me diras, pues
el día que quieras acudir a su consulta. Un abrazo,

Manuel Loryo

Loryo Manuel. Jemay estab
o el abogado. Meand y abusand de
la confianza que me he depositad,
jemay abusad el abogado contate el supu
dado dando la conformidad a su
nombre.

J

3 Mayo 1943

Elia. Steberin

Cheloveria 29 de Abril de 1943

Amigo Elías,

Incluyo a Ud. la carta que, con fecha de ayer, me dirigen los abogados de la Continental Transit, acompañando el proyecto de liquidación.

El 22 de Septiembre, hace siete meses y siete días, recibí el anterior proyecto de liquidación. Aparte unos cientos de libras en que nuestro caudal ha decrecido, las diferencias entre aquel plan y el actual, son las siguientes:

Primera. En el proyecto de Septiembre, concurrimos en el acto Ortuzar, el liquidador, el custodio, Ud. y yo. En este, Ud. ha sido eliminado.

Segunda. En el de Septiembre se afirma que los fondos son, nominalmente de Ziaurritz, realmente del Comité que es el beneficiario, representado por Ud. En este último, se dice que los fondos son de Ziaurritz, de jure y de facto.

Tercera. En la primera solución, quedaba cubierta discretamente la situación de Ziaurritz. En la segunda se otorga al mismo, con la firma de su apoderado, la categoría legal de enemigo, por su situación; lo cual, trae aparejado, de modo automático, el congelamiento de todos sus fondos, que deberán pasar por expresa y terminante prescripción de la ley a poder del custodio de bienes enemigos, permaneciendo en tal situación - así reza el texto legal - hasta que la guerra termine.

Cuarta. En aquella solución, el Comité cobraba por derecho propio los fondos que a él pertenecen. En esta, queda al arbitrio, a la gracia del custodio, el que, obediendo a las normas de quien pueda dictárselas y mediante cariñosa y elástica interpretación de los preceptos vigentes, declare al referido Comité beneficiario de los fondos y se los entregue a Ud.

En cambio existe una conformidad, de difícil explicación. Hace siete meses y siete días, el que negó su asentimiento a la fórmula de liquidación, que hubiera puesto en manos de Ud. el caudal líquido de Continental que nos pertenece, fué Ortuzar. Según manifestación hecha a Ud., Ortuzar se negó a aceptar una fórmula en la cual, figuráramos emparejados él y yo. Le ofendía firmar junto a mí. Fueron aceptadas sus "razones" por quien pudo hacerlo, y yo fui eliminado. Pero, se da el caso de que, en el actual documento, seguimos Ortuzar y yo emparejados, debiendo suscribir el acta ambos, para que esta tenga validez y eficacia.

En estas condiciones, resulta poco explicable la demora de los meses transcurridos y menos explicable aun la ventaja (?) que con esta demora hayamos obtenido. Pero, yo no existo. Me limito a dar a Ud. esta nota, en la que repito algo de lo que de palabra he manifestado a Ud. obediendo a imperativos de responsabilidad. Ud. me dirá qué debo contestar al abogado.

Muy suyo.

29 de Abril de 1943.

8

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Manuel de Irujo.

29 de Abril de 1943.

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29 de Abril de 1943.

10

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11

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Muy suyo.

Manuel de Irujo.

Continued



12

13th October, 1942.

Dear Senor Irujo,

Pray forgive me for not having replied to your letter of 15th September ere now; I have been unwell. Your letter to President Aguirre was duly despatched.

Yours sincerely,

D. M. M. M.

Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
London, S.W.1.

13

7th October, 1942.

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S.W.1.

Dear Mr. Ottley,

On the 15th September, I wrote to you asking if you would be kind enough to pass on to President Aguirre a letter of the same date, enclosing various documents.

I should be grateful if you would be so good as to let me know whether you received my letter and were able to forward the one addressed to the President.

With kind regards,

Yours very sincerely,

Ottley
~~Ottley~~

Muchas gracias por sus buenos servicios. Ruegole el envío de la adjunta carta al Presidente Aguirre.

Le saluda afectuosamente

FONDOM'EMT

114

IT'ECRE OM SOUVRE

ESBDE DETEVALION



BASQUE DELEGATION,

14, ECCLESTON SQUARE,

LONDON, S.W.1.

TEL: VICTORIA 0926.

to arrive at the same time

to be in the same way as the other

1944

15

15th September, 1942.

Bruce Ottley, Esq.
The Foreign Office,
Downing Street,
S. W. 1.

Dear Mr. Ottley,

Very many thanks for your good offices. I should be most grateful if you would be kind enough to forward the enclosed letter to President Aguirre.

With kind regards,

Yours very sincerely,



16

31st August, 1942.

Dear Senor Irujo,

Thank you for your letter of 24th August; the enclosure for President Aguirre has been forwarded to New York.

Yours sincerely,

Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON, S.W.1.

Continental
F

17

24th August, 1942.

Bruce Ottley, Esq.
The Foreign Office,
Downing Street,
S. W. 1.

Dear Mr. Ottley,

I have to trouble you once again, in order to ask you if you would be kind enough to send on to President Aguirre, in New York, the enclosed letter, with its attachments, all relating to the Continental Transit case.

If, in addition to sending the letter, you would keep an eye on the matter to hurry it along, I should be most grateful.

Thanking you in anticipation,

Yours very sincerely,

Manuel de Irujo.

Ottley

Muelvo a importunarle con el ruego de que haga llegar al Sr. Presidente Aguirre, a New York, la carta que le incluyo, con sus anejos, todos ellos relativos al tema de la liquidacion pendiente de Continental Transit.

Si además de enviar la carta, pudiera Vd echarle una mano al asunto, para acelerarlo, se lo agradeceré.

Gracias anticipadas y un cordial saludo

Continental F

COPY

Foreign Office.

19

23rd July, 1942.

Dear Senor Irujo,

Thank you for your letter of 20th July.
Your enclosure for President Aguirre has today been
forwarded to New York.

Yours sincerely,

(Sgd) BRUCE OTTLEY.

Senor Manuel de Irujo
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON, S.W.1.

Continued 20

F. O.



23rd July, 1942.

Dear Senor Irujo,

Thank you for your letter
of 20th July. Your enclosure
for President Aguirre has today
been forwarded to New York.

Yours sincerely,

B. M. Kelly

Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON, S.W.1.

21

20th July, 1942.

Bruce Ottley, Esq.
The Foreign Office,
Downing Street,
S.W.1.

Dear Mr. Ottley,

I thank you for your letter of the 15th July, enclosing my original letter of the 15th May, and two others from President Aguirre. I note that Mr. Alexander J. Halpern was not able to see us. I am handing on to Canon Onaindia the letter addressed to him.

Taking advantage of your kind offer, I am now enclosing a letter addressed to President Aguirre, with various enclosures, all referring to the case of the Continental Transit Company, the only matter dealt with therein. I should be grateful if you would seal it and forward it to the President as soon as possible. If it would not be asking too much, I should very much like to know when the letter leaves for New York.

Yours sincerely,

Manuel de Irujo

Ottley

22

Muchas gracias por su carta del 15 cts. Con ella recibo la
mia original del 15 de Mayo mas otras dos del Presidente Aguirre.
Tomo nota de que Mr. Alexander J. Halpern no ha podido vernos. Daré
traslado ~~minha~~ ^{Canon} al ~~minn~~ ^{carta} Onaindia de la/dirigida a él.

Haciendo uso de sus amables ofrecimientos, me permito in-
cluirle adjunta carta que dirijo al Presidente Aguirre, con varios
adjuntos, todos ellos referentes al expediente de la Continental
Transit, tema único del que la misma se ocupa. Le agradeceré la cie-
rre y la haga llegar al Señor Presidente a la posible brevedad. Si
no es demasiada molestia para Vd. estimaría saber cuando ^{la carta} sale para
New York.

S yo etc.

CONFIDENTIAL.



Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON. S.W.1.



15th July, 1942.

23

CONFIDENTIAL.

Dear Senor Irujo,

I must apologise for my failure so far to reply to your two letters, but it does not mean that I have not been endeavouring to arrange matters. Mr. Aubrey Herbert Smith has been tireless and will, I think, withing a few days be able to report to us definite progress.

In the meantime I enclose a letter that came to me by the hand of Mr. Halpern who, unfortunately, was not here long enough to enable him to call upon you. Would you be kind enough also to pass the enclosed letter to Canon Onaindia to whom the above information should also be imparted. The President sent a similar letter to Mr. Ortuzar which has been sent to him at the Dorchester Hotel.

Finally, I return herewith the letter you were kind enough to lend me of which I have taken a copy to complete my files.

Yours sincerely,

Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON, S.W.1.

Copy

15th. July, 1942

2^d

CONFIDENTIAL

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Bruce Ottley

Señor Manuel de Irujo,
Basque Delegation,
7/8, Hobart Place,
Eaton Square,
London, S.W.1

COPY

6th July, 1942.

Bruce Ottley, Esq.
The Foreign Office
Downing Street,
S. W. 1.

Dear Mr. Ottley,

I hope you will forgive me for troubling you again.

On the 3rd June you called on me and informed me of the situation regarding the liquidation of the Continental Transit Co. On the 15th June, I wrote to you asking whether you had any further news. On the 18th June, we learned that a meeting called for that day had been cancelled because the Custodian was very busy, and that it had been put off until an early date. On the 26th June, you advised Mr. Lizaso by telephone that the Custodian's report on the matter had just arrived.

I have no doubt that there is some good reason for the lack of further news, but I should very much appreciate it if you could let me have any further particulars.

Yours sincerely,

Manuel de Irujo

Continental.

26

6th July, 1942.

Bruce Ottley, Esq.
The Foreign Office,
Downing Street,
S.W.1.

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I hope you will forgive me for troubling you again.

On the 3rd June you called on me and informed me of the situation regarding the liquidation of the Continental Transit Co. On the 15th June, I wrote to you asking whether you had any further news. On the 18th June, we learned that a meeting called for that day had been cancelled because the Custodian was very busy, and that it had been put off until an early date. On the 26th June, you advised Mr. Lizaso by telephone that the Custodian's report on the matter had just arrived.

I have no doubt that there is some good reason for the lack of further news, but I should very much appreciate it if you could let me have any further particulars.

Yours sincerely,

Manuel de Irujo

Otely

Perdoneme que ocupe su atencion, siquiera lo sea en cortas lineas.

~~Otely~~

27

En 3 Junio recibí su visita. En ella me dió el estado de la gestion seguida sobre la liquidacion de Continental Transit. (seguido)

En 15 Junio ^{por carta} me dirigi/a Vd, rogandole noticias. (seguido)

En 18 Junio supimos que habia sido suspendida una reunion convocada para aquel día, ~~en la cual debí asistir yo, aunque no llegué a ser informado.~~ ^{por estar muy ocupado el custodio, quedando aplazada hasta fecha proxima.} (seguido)

En 26 Junio manifestó Vd al Sr. Lizaso por teléfono, que ~~habian ocurrido~~ ^{momentos antes habia llegado un raport del custodio} sobre el tema.

No dudo de que Vd. tendrá buenas razones para amoldar a ellas su conducta, pero, en cualquier caso, yo ~~quien si yo creo tener derecho a recibir~~ ^{espero} sus noticias, ~~mas que nada para poder dar cuenta a mi familia~~ ^{espero} de Vd. tenga la bondad de facilitarme las noticias que pueda darme sobre el particular.

Suyo...

COPY

28

15th June, 1942.

SECRET

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S. W. 1.

Dear Mr. Ottley,

On the 3rd June, I had the pleasure of seeing you, when I handed you the original of your letter of the 15th May. You told me then that at the end of the week a French lawyer - whose first impression it seems was known to be favourable - would give his opinion in writing, stating the statutory powers of the Secretary General of the Comité Basque de Secours to receive the funds belonging to the Association. That week and the following one have now ended and we have entered upon the third, without receiving any news.

I shall look forward to having further information so that I may be able to advise my President, taking advantage of the kind offer which you were good enough to make me.

Yours sincerely,

M. de Irujo

Secret

F.O.

32

El día 3 ~~cti~~ me el gusto de saludar a
Vd con ocasión de facilitar el original
de su ~~propia~~ carta de 15 Mayo. Me
anunció Vd que al final de semana
un abogado <sup>de cuya primera intención ~~favorece~~ ^{parece} ~~para~~ ^{conocida} -
me ~~dictamen~~ ^{afirmando} ~~las facultades~~ ^{estatutarias} de
Secretario General del Comité Parque
de Secours para la percepción de ^{los} fondos
de pertenecientes a la asociación. Terminó
aquella semana el 5 ~~cti~~ y la siguiente
el 13. Hemos entrado en la tercera ⁴ y
terminó sin noticias.</sup>

Celebraré recibirlas para poder informar
al Sr. Pte, utilizando así el usual
procedimiento acostumbrado que Vd. me
se gentileza de hacerme.

26 de Junio 1942

A las 12 del mediodía he hablado con Mr. Bruce Otley en el Foreign Office; me dice que está faltando con el Sr. Long, por no haber contestado a su carta del día 11 de junio, pero es que no tenía nada nuevo que comunicar.

Pero precisamente esta mañana ha recibido en el Foreign Office una comunicación del "Trading with the Enemy". No ha tenido tiempo para estudiarlo y digerirlo; por otra parte no sabe aún lo que estará autorizado a comunicarnos. Pero puede decirme que han surgido nuevos inconvenientes o al menos subsisten los de antes ya que el "Trading with the Enemy" estima que el "Comité de Secours" es una Asociación francesa y por lo tanto técnicamente enemiga en el concepto del "Trading". Sin embargo, continúa Mr. Otley -- yo no he perdido la esperanza. Ayuda Mr. Otley que en cuanto haya estudiado el documento se pondrá en relación con el abogado Smith.

Yo le digo que sea cualquiera la suspensión ofluencia o feruista del asunto en el momento actual nosotros deseáramos que nos lo dijera con toda franqueza ya que

el Sr. Luján tiene interés en tener
informado al Sr. Aguirre de la
situación actual de las gestiones.
Sería conveniente a nuestro juicio
una entrevista.

Me conteste que en cuanto
sea posible seremos llamados a
ella -

CONFIDENTIAL

18th May, 1942.

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S.W.1.

30

Dear Mr. Ottley,

I am in receipt of your letter of the 15th May, and thank you for the move you have made to obtain the payment of the sum resulting from the liquidation of the Continental Transit.

In regard to the Trust Deed, dated 17th February 1939, to which you refer in your last paragraph, an ordinary copy of this was attached to the affidavit presented to the Court by the Liquidator of the Company, Mr. Frank Harold Bennett, on 20th June, 1941. The fifth item of the said affidavit reads as follows: "The said Doroteo de Ziaurriz (hereinafter referred to as "the principal shareholder") executed a Trust Deed dated the 17th February 1939 and expressed to be made between himself on the one part and the Comite Basque de Secours aux Refugies of 33 Avenue Pierre _____ de Seine Paris (therein called "the Beneficiary") of the other part, and thereby declared that he held the said 50,000 shares upon trust for the Beneficiary and his successors in title. I saw the original Trust Deed in Paris shortly after it was executed, and was supplied with a copy of it, but I do not know where the original Trust Deed now is. Page 1 of the bundle of documents and correspondence now produced and shown to me and marked "A.2" is the said copy". A copy of the affidavit, including the said paragraph, was handed to you with my report of the 2nd April.

I have heard more than once from Sr. Ortuzar that the original of the Trust Deed, granted in Paris, had been handed to him in his capacity as Director of the Continental Transit, and that he personally brought it to this country, producing it in a case which came before the English Treasury for the purpose of verifying that the funds referred to, although standing in the name of Sr. Ziaurriz, were really the property of the Comite Basque, a charitable Association. Consequently, exemption of income tax was granted in respect of the income deriving from the said shares.

I have no doubt therefore that Sr. Ortuzar has the original of the Trust Deed in his files, or in any case will know where it is!

I hope you will be kind enough to let me hear further, in order that I may keep President Aguirre advised on the position from day to day.

Yours sincerely,

MANUEL DE IRUJO.

CONFIDENTIAL

35
18th May, 1942.

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S.W.1.

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Yours sincerely,

Manuel de Irujo.

15th May, 1942.

CONFIDENTIAL

36

Dear Senor Irujo,

Pray forgive me for not having answered your letter before, but it is only today that I have any development to report. Mr. Aubrey Herbert Smith has had a talk with your solicitors who expressed themselves as in accord with the line he proposed to adopt.

Mr. Herbert Smith and I saw yesterday the Trading with the Enemy Department and also the Public Trustee. We are not unhopeful that, with the influence I was able to bring to bear on these two gentlemen, we may be able to bring the matter to a successful issue. A very important document that will have to be produced in this connection is the original of the Trust Deed, of which we have only so far seen a copy. Do you know by any chance where this original can be found?

With kind regards,

Yours sincerely,

BRUCE OTTLEY.

Senor Manuel de Irujo
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON, S.W.1.

CONFIDENTIAL



Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON,
S.W.1.

F



15th May, 1942.

37

CONFIDENTIAL.

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With kind regards,

Yours sincerely,

Bruce Ottley

Bruce Ottley.

Senor Manuel de Irujo,
Basque Delegation,
7/8 Hobart Place,
Eaton Square,
LONDON, S.W.1.

COPY

8th May, 1942.

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S. W. 1.

38

Dear Mr. Ottley,

I have received a communication from President Aguirre inquiring about the actual state of the matter discussed in our previous conferences.

I should like to be able to report back as soon as possible, and I should be very grateful if you would be kind enough to let me know the present position of the explorations to which reference was made in the cable sent by you direct to him, regarding the several formulas presented by me for the distribution of the Continental Transit funds.

With kind regards,

Yours very sincerely,

Manuel de Irujo.

39

Bruce Ottley

Tengo a la vista su muy atta del 25 cts que agradezco. Le incluyo el texto del cable contraseñado segun sus deseos.

He instruido al Sr. Levinson para que pueda recibir y tratar las sugerencias que quiera hacerle el Sr. Smith, ~~mandandole~~ con el fin de acordar la formula concreta en cuya virtud pueda ser puesto a disposicion del Presidente Aguirre el importe de la participacion registrada a nombre del Sr. Ziaueritz en la Continental Transit.

Aprovecho el momento para enviarle mi saludo

27th April, 1942.

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S.W.1.

Dear Mr. Ottley,

I am in receipt of your kind letter of the 25th April, for which I thank you. I now enclose a copy of the cable duly initialled as you request.

I have been in touch with Mr. Levinson, advising him that he may expect to hear from Mr. Aubrey Herbert Smith, with a view to agreeing upon a definite formula by which the amount of the shares registered in the name of Sr. Zisurritz in the Continental Transit Co. may be handed over to President Aguirre.

Believe me,

Yours sincerely,

Manuel de Irujo

Foreign Office,
Downing Street,
S.W.1.



CONFIDENTIAL.

41

25th April, 1942.

Dear Senor Irujo,

Thank you for your letter of 24th April. I send you herewith two copies of the cable as despatched. For good order's sake, I would ask you to be so good as to initial one copy and return it to me.

I note your suggestion regarding Messrs. Phoenix Levinson Walters and Shane which I have submitted to Mr. Aubrey Herbert Smith, and with which I have no doubt he will concur.

Believe me,

Yours sincerely,

BRUCE OTTLEY.

Senor Manuel de Irujo,
7/8 Hobart Place,
Eaton Square, S.W.1.

COPY OF CABLE AS DESPATCHED TO AMERICA 25.4.42. TO BE
COMMUNICATED TO PRESIDENT AGUIRRE.

42

After full discussion with Senor IRUJO, we are authorised to inform you that he, IRUJO, is convinced that Mr. ORTUZAR has not got the power to procure the distribution of the funds represented by the shares in the name of Dr. ZIAURRIZ in the CONTINENTAL TRANSIT COMPANY nor to procure the completion of the liquidation of that Company; the persons who have had such power since the liquidation are the Liquidator and the Custodian of Enemy Property. Mr. IRUJO has presented a report containing several formulas to realise the funds, which are being explored. Mr. IRUJO is in agreement with any demarches required to procure the payment of these funds and the handing over of same to President AGUIRRE. Mr. ORTUZAR is also in agreement with the encashment and payment over of such funds to President AGUIRRE if and when it can be arranged. Mr. IRUJO believes preferable presence President AGUIRRE in London.

25th April, 1942.

COPY.

Foreign Office,
Downing Street,
S. W. 1.

CONFIDENTIAL

25th April, 1942.

43

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Believe me,

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Senor Manuel de Irujo,
7/8 Hobart Place,
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25th April, 1942.

24th April, 1942.

Bruce Ottley, Esq.
Foreign Office,
Downing Street,
S.W.1.

45

Dear Mr. Ottley,

I am in receipt of your letter of the 24th April, delivered by hand, with draft of the suggested cable, and I do not see any objection to the modification in line 6, nor to the addition of the new sentence proposed.

I should, however, like to point out that this addition does not reflect exactly the situation as it is to-day nor the difficulties inherent in it. The fundamental obstacle does not seem to concern the Liquidator, who has finished his functions, but the Custodian of Enemy Property, who is the party who is preventing the distribution of the funds and their handing over to the attorney of the shareholder who is supposed to be in enemy territory. Therefore, it occurs to me that it would be more correct to state that the distribution depends not only upon the Liquidator, but also upon the Custodian. To omit this detail might give our President an inaccurate and incomplete information. It should not be forgotten that the Custodian is a British Government official, to whom the British Government can make any indications they may consider necessary to facilitate the effective distribution of these funds. I would therefore suggest that the addition proposed by you should be as follows: "The persons who have such power since the liquidation are the Liquidator and the Custodian of Enemy Property."

With regard to the possible solution of the matter, which we discussed at our last meeting, and to which reference is made in the report handed to you on the 22nd April, I have been in touch with the firm of lawyers, Messrs. Phoenix Levinson Walters and Shane, and they tell me that there is a possibility of settling the matter rapidly, if agreement is reached by all parties in the case. They have furthermore stated that they would be quite willing to deal with you and Mr. Aubrey Smith and offer you their suggestion.

Believe me, Yours sincerely,

Manuel de Irujo



Foreign Office,
Downing Street, 116
S.W.1.

24th April, 1942.

Dear Senor Irujo,

Attached you will find a draft of a cable which, immediately on receipt of your agreement, we will telegraph to America. You will observe there are two small alterations; in line six of the draft the word "of" instead of "for", and the sentence "the only person who has such power since the date of liquidation is the liquidator", which Mr. Aubrey Smith thinks desirable to insert so as to complete the story.

Perhaps you would be so good as to return one copy of the cable by the bearer, duly initialled by you?

Believe me,

Yours sincerely,

BRUCE OTTLEY.

Senor Manuel de Irujo,
7/8 Hobart Place,
Eaton Square, S.W.1.



67

DRAFT.

After full discussion with Senor Irujo, we are authorised to inform you that he, Mr. Irujo, is convinced that Mr. Ortuzar has not got the power to procure the distribution of the funds represented by the shares in the name of Dr. Ziaurriz in the Continental Transit Company nor to procure the completion of the liquidation of that Company; the only person who has such power since the liquidation is the liquidator. Mr. Irujo has presented a report containing several formulas to realise the funds, which are being explored. Mr. Irujo is in agreement with any demarches required to procure the payment of these funds and the handing over of same to President Aguirre. Mr. Ortuzar is also in agreement with the encashment and payment over of such funds to the President Aguirre if and when it can be arranged. Mr. Irujo believes preferable presence President Aguirre in London.

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DRAFT.

68

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24th April, 1942.

COPY

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M. J. A. G.
22.4.42

After full discussion with Senor Irujo we are authorised to inform you that ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ he is in agreement with us that since the date of the placing of the Continental Transit Company in liquidation Mr. Ortuzar ~~has done all in his power to expedite~~ one desire has been to expedite the liquidation of the Company and has in no way attempted to hinder that liquidation. We are also agreed that it is not within Mr. Ortuzar's power to insist or procure the completion of such liquidation. Please inform President accordingly.

Irujo cree que ~~Ortuzar~~ Ortuzar carece de facultades para cobrar la participacion de Zianiz en la Continental Transit. Ha presentado un rapport con varias formulas para

After full discussion with Geny Iujo we are authorized to inform you that xxxxxxxxxxxxxxxxxxxxxxxxxx he is in agreement with us that since the date of the signing of the Continental Transit Company in liquidation xxxxxxxxxxxxxxxxxx one desire has been to expedite the liquidation of the Company, and has in no way attempted to hinder that liquidation. We are also agreed that it is not within Mr. Ortuero's power to insist or secure the completion of such

~~ten~~ cobrar los fondos. Esta dispuesto a toda la gestiones necital para realizar ese cobro con entrega de los fondos al Presidente. Opina que seria preferible la presencia del Presidente en Londres.

1. The Continental Transit is a British shipping company, the capital of which is £80,000.
2. £50,000 shares are registered in the name of Don Doroteo Ziaurritz. This registration appears in the books of the Company and in the Official Register of the State: (Document No. 1.)
3. One of the directors of the Company is Don Luis Ortuzar.
4. Don Doroteo Ziaurritz is President of the "Comité de Secours aux Réfugiés Basques", a French charitable association, whose Executive Committee came to England, where it continued in existence, and where the majority of its members, among them the General Secretary, who exercises the functions of Director, with full powers granted by the Articles (Documents No. 2 and 3) The £50,000 shares of the Continental Transit officially registered in the name of Don Doroteo Ziaurritz, are the property of the said Comité. According to the articles, these funds are intended for the assistance of Basque democrats emigrated to free countries as a result of the civil war in Spain. The distribution of these funds among the Basques has always been approved by the Basque Government, presided over by Don José Antonio de Aguirre, now living in New York.
5. Sr. Ziaurritz, by agreement with the Comité de Secours and with the Basque Government, instructed the Director of the Continental Transit, Sr. Ortuzar, to liquidate and turn into cash the £50,000 shares of the Continental Transit. To facilitate the operation,

and on the request of Sr. Ortuzar, Sr. Ziaurritz/^{handed him}the security of the registration of the shares, signing on the back, supposing that this would be sufficient, as it is according to the commercial legislation and customs of the Continent.

6. Sr. Ziaurritz, on learning that the handing over of the endorsed security was insufficient in this country to dispose of the shares, gave a Power of Attorney on the 11th September 1939 in favour of Don Manuel de Irujo, empowering him to take part in the liquidation of the company and to receive the amount of the shares in question, for the purpose of handing this amount to the Basque Government (Document No. 4).

7. On the Power of Attorney being accepted by the Continental Transit, confirmed by their letter of the 9th July 1940 (Document No. 5), Sr. Irujo attended the General Meeting, held on the 7th May 1940, and on the 10th May 1940 (Document No. 6) received £7,000 on account of the capital registered in the name of Sr. Ziaurritz.

8. On the fall of France, Sr. Ziaurritz was unable to leave that country, where he still is, changing his domicile frequently in order to elude the authorities, so that it is not known exactly where he is at this moment. The Chilean Government has demanded, and has made efforts to obtain his evacuation, but without success up to the present.

9. Sr. Ortuzar, Director of the Continental Transit, after the capitulation of France, denied the validity of the Power of Attorney

of Sr. Irujo, alleging that the grantor, Sr. Ziaurritz was in France, a country regarded by the British laws as enemy territory. Using this pretext as a basis, he prevented Sr. Irujo from taking part in the General Meeting held in Cardiff on the 18th February 1941, to pass the dissolution and liquidation of the Company and the appointment of the liquidator. These resolutions were adopted without the £50,000 of capital registered in the name of Sr. Ziaurritz being represented in the discussions.

10. On the liquidation of the Continental Transit being carried out, an amount of £34,115 is due to Sr. Ziaurritz. (Document No. 7.)

11. On the matter being taken by the liquidator to the Custodian of enemy property, the latter did not adopt a definite decision. On the liquidator taking it to the Registrar, the latter, on the 14th October 1941, decreed that the said liquidator should keep the funds in a special account, without handing them over to the Custodian to be frozen, in view of their charitable nature, and until it could be seen whether the demarches made by the Chilean Government to obtain the evacuation of Sr. Ziaurritz would be successful.

Sr. Ziaurritz's interests were represented, before the Custodian and the Court, by Mr. Levinson, of Phoenix Levinson Walters and Shane, Thornton House, Finsbury Square, E.C. KEL 1802. Copies of the three affidavits presented to the Registrar, by the liquidator, Sr. Ortuzar and Sr. Irujo are included (Documents Nos. 8, 9, and 10).

12. Up to date Sr. Ziaurritz has not been able to leave France, but

on the other hand, the President of the Basque Government, Don José Antonio de Aguirre, has escaped and has established his residence, and the seat of his Government, in New York. In his capacity as President, Sr. Aguirre has already approached Sres. Ortuzar and Irujo in order that they should facilitate the liquidation and transfer of the funds held, so that they may be available for the purpose for which they were intended. Sr. Irujo, in agreement with the Comité de Secours, has put himself at the disposition of the President, unreservedly. Sr. Ortuzar has explained to the President that, in order to make the detained capital available, Sr. Irujo should state that he withdraws from the proceedings, upon which Sr. Ortuzar would be able to make the capital available, using the endorsement of Sr. Ziaurritz which he has. The Basque President has accepted the proposal of Sr. Ortuzar, ordering Sr. Irujo to withdraw from the proceedings. Sr. Irujo has done this. The liquidator, however, has refused to hand Sr. Ortuzar the funds of Sr. Ziaurritz.

Possible solutions

First That the funds should be handed to Sr. Ortuzar, this being regarded as valid and effective by virtue of the endorsement made by Sr. Ziaurritz on the security for the shares, in accordance with Continental legislation and customs.

Second That the funds should be handed to Sr. Irujo, as the holder of Sr. Ziaurritz's Power of Attorney, recognised as valid and

effective by the Continental Transit. The interpretation of the law which orders the freezing of funds belonging to holders in enemy territory, should not apply to this case. The beneficiaries of these funds are the Basque democrats who reside in free countries. The Basque Government which represents them and which would be in charge of the funds, resides in New York.

Third. That the funds should be handed over to the Comité de Secours aux Réfugiées Basques which resides in Great Britain, and whose General Secretary, Don Elias de Etxebarria, with adequate statutory powers, is also in this country.

Fourth That the funds should be put at the disposal of President Aguirre, with the signed agreement of Sres. Ortuzar, Etxebarria and Irujo.

22nd. April, 1942

Nota: Por falta de copias no se acompañan a esta nota los anexos. documentos nos 2, 3 y 4, que se adjuntaron a la original.

COPY

CONTINENTAL TRANSIT CO. LTD.

Colum Buildings,
Mount Stuart Square,
CARDIFF

May 14th. 1940

We hereby certify that Dr. Ziaurriz, is a
Shareholder of this Company, since the formation
of the Company, on March 17th. 1938.

He holds 50.000 shares of £1 each.

For & on behalf of
The Continental Transit Co. Ltd.

David Roberts

Secretary

337987

COPY

C.R. Fee 5/-
24.6.40
Registered
22 Jun 1940

COMPANIES REGISTRATION OFFICE

4d. stamp.

Extract from the Annual Return of CONTINENTAL TRANSIT COMPANY LIMITED, made up to the twenty-first day of May 1940, shewing the Names, Addresses and occupations of the Shareholders also the number of shares held by each.

<u>Surname</u>	<u>Christian Name</u>	<u>Address</u>	<u>Occupation</u>	<u>No. of shares</u>
Barnett	David Percival	Park West, Edgware Road, London, W.2	Director Management & Shipping Co. Ltd.	1
Management & Shipping Co. Ltd.		Colum Buildings Mount Stuart Square, Cardiff	Limited Company	19998
Mitchell	George Ernest	Wavertree Canterbury Road, Whitestable, Kent	Company Secretary	1
Botuzar	Luis de	Priory Close, 31, Westcliff Rd., Bournemouth	Director Management & Shipping Co. Ltd.	10000
Ziaurriz	Doroteo de	63, Rue des Galons, Meudon, Seine et Oise, France	Doctor	50000

True extract

C.I. Chinn

1 s. stamp.

For Registrar of Companies

COPY

CONTINENTAL TRANSIT CO. LTD.

Colum Buildings,
Mount Stuart Square,
CARDIFF

July 9th. 1940

DLR/JL.

M. de Irujo, Esq.,
The Basque Delegation,
7/8, Hobart Place,
Eaton Square,
London, S.W.1

Dear Sir,

We thank you for your favour of yesterday,
with regard to the Power of Attorney which you sent us in
connection with Sr. Ziaurriz.

We have now secured the return of this document
from our Solicitors, who state that it appears to be
in order, and whilst they have no immediate use for the
Power of Attorney, it may be necessary for you to produce
it at a later date.

Meantime, we are returning the Power of Attorney
herewith, and we shall be glad if you will acknowledge
receipt.

Yours faithfully,

For & on behalf of
The Continental Transit Co. Limited.

David Roberts

D.L. Roberts

COPY

CONTINENTAL TRANSIT CO. LTD.
Colum Buildings,
Mount Stuart Square,
CARDIFF

May 10th. 1940

DLR/JL.

Manuel de Irujo, Esq.,
The Basque Delegation,
14, Eccleston Square,
London, S.W.1

Dear Sir,

We thank you for your letter of the 9th. inst., enclosing a copy of the Power of Attorney authorising you to act for Mr. Doroteo de Ziaurriz, with regard to his shareholding in this Company.

We have been in communication with our Directors regarding your request for a loan of £7,000, pending the reduction of the capital of this Company, and they are agreeable to make this loan under the circumstances.

We therefore have pleasure in enclosing herewith, cheque for £7,000 receipt of which we shall be glad if you will acknowledge.

Yours faithfully,

For & on behalf of
The Continental Transit Co. Ltd.

David Roberts.

D.L. Roberts.
Secretary

COPY

Phoenix Levinson Walters and Shane,
Thornton House,
Finsbury Square,
London, E.C.2

8th. September 1941
Monday

Dear Sir,

Continental Transit Co. Ltd.,

We enclose a copy of a letter we have received from the London Solicitors to the Liquidator.

If you will refer to the Affidavit of the Liquidator you will note that the amounts alleged to have been paid to or on account of Dr. Ziaurriz are as follows:

14th. July 1931	£3.000
16th. Aug. 1939	25.000
9th. Feb. 1940	5.000 paid to Evans & Reid Ltd.
21st. Feb. 1940	300 paid to J.I. de Lizaso
20th. Feb. 1940	300 paid to Mr. Bennett
10th. May 1940	7.000 paid to Señor Irujo
31st. May 1940	285.14.3 to Señor Ortuzar.

£40.885.14.3

It is not clear to us why amounts paid to Evans & Reid Ltd. and to Señor Ortuzar should be charged against Dr. Ziaurriz and perhaps you will be able to explain this to us.

The balance now due assuming the above figures to be correct will be as follows:

Amount approximately due on the Shares	75.000
Less paid as above	<u>40.885</u>
Balance	<u>£34.115.</u>

Señor Manuel de Irujo,
7/8, Hobart Place,
Eaton Square,
S.W.1

Yours faithfully,

Signed

COPY

No. 00209 of 1941

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION COMPANIES COURT

MR. JUSTICE UTHWATT

IN THE MATTER OF CONTINENTAL TRANSIT COMPANY LIMITED
(IN VOLUNTARY LIQUIDATION)

- and -

IN THE MATTER of the COMPANIES ACT 1929.

A F F I D A V I T

- or -

FRANK HAROLD BENNETT in support
of originating Summons

SWORN 19th JUNE 1941

FILED 20th JUNE 1941

FILED on behalf of the Applicant
FRANK HAROLD BENNETT by:-

STIBBARD GIBSON & CO.,
21, Bury Street,
London, E.C.3.

Agents for:-
GIBBERT ROBERTSON & CO.,
Cardiff.

IN THE HIGH COURT OF JUSTICE

No. 00209 of 1941

CHANCERY DIVISION

COMPANIES COURT

MR. JUSTICE UTHWATT

IN THE MATTER OF CONTINENTAL TRANSIT COMPANY LIMITED
(In Voluntary Liquidation)

- and -

IN THE MATTER OF THE COMPANIES ACT, 1929

I, FRANK HAROLD BENNETT of 28 Lewes Road, Friern Barnet, London N.12., Chartered Accountant, make Oath and say as follows:-

1. I am the Liquidator of the above-named Company (hereinafter referred to as "the Company"), which is in voluntary liquidation by virtue of the resolution hereinafter mentioned. Prior to the commencement of the liquidation I acted as auditor for the Company.
2. The Company was incorporated on the 17th March 1938 with a share capital of £40,000 divided into 40,000 shares of £1 each. On or about the 25th November 1938 the share capital of the Company was increased to £80,000 by the creation of a further 40,000 shares of £1 each. A print of the Memorandum and Articles of Association of the Company is now produced and shewn to me and marked "A.1".
3. All the shares of the Company were issued, and were fully paid

in cash.

4. On the 17th February 1939 Doroteo de Ziaurriz, then of 63, Rue des Galons, Seine et Oise, Meudon, France, became the registered holder of the 50,000 shares of the Company numbered 1 to 30,000 (inclusive) and 40,001 to 60,000 (inclusive).

5. The said Doroteo de Ziaurriz (hereinafter referred to as "the principal shareholder") executed a Trust Deed dated the 17th February 1939 and expressed to be made between himself of the one part and Comite Basque de Secours aux Refugies of 35 Avenue Pierre _____ de Seine Paris (therein called "the Beneficiary") of the other part, and thereby declared that he held the said 50,000 shares upon trust for the Beneficiary and his successors in title. I saw the original Trust Deed in Paris shortly after it was executed, and was supplied with a copy of it, but I do not know where the original Trust Deed now is. Page 1 of the bundle of documents and correspondence now produced and shewn to me and marked "A.2." is the said copy.

6. The sums of money hereunder mentioned were on the dates hereunder specified paid out of the funds of the Company to the persons, and in the circumstances, hereunder named and stated, that is to say:-

(a) The sum of £3,000 was paid to the principal shareholder on the 14th July 1939 in pursuance of a resolution of the directors passed on the 11th July 1939, and recorded in the Minute Book of the Company in the following terms:-

"The Question of a loan to Dr. Ziaurriz against future dividends on shares registered in his name and against such shares themselves was raised. It was resolved that an immediate advance of £3,000 should be made to him the rate of interest to be decided later."

Page 2 of bundle A.2. is a letter from the principal shareholder acknowledging receipt of the said sum.

- (b) The sum of £25,000 was paid to the principal shareholder on or about the 16th August 1939. By a letter dated the 22nd August 1939 written by the principal shareholder to the Company in the Spanish language which is in the possession of the respondent Luis de Ortuzar and has been produced by him to me the principal shareholder acknowledged receipt of the cheque for the said sum, and stated that his shares in the Company would serve to guarantee the advance. Page 3, Bundle A.2. is I am informed and believe a correct translation of the said letter.
- (c) Sums of £2,000 and £3,000 were paid to Evans & Reid Coal Company Limited on or about the 9th February 1940 and the 20th February 1940. Pages 4 and 6 of Bundle A.2. are receipts for the said sums, and each receipt contains the words: "as per instructions of Dr. de Ziaurriz". I am informed by the respondent Luis de Ortuzar and believe that both payments were made by the direction of the principal shareholder, and that the principal share-holder signed receipts in the Spanish

language for the said sums. The last mentioned receipts are in the possession of the said Luis de Ortuzar, but I am informed and believe that pages 5 and 7 of Bundle A.2. are correct translations thereof.

- (d) The sum of £300 was paid to Jose Ignacio de Lizaso on or about the 21st February 1940. I am informed by the said Luis de Ortuzar and believe that the said sum was so paid by the direction of the principal shareholder, and that in a letter dated the 28th February 1940 written in the Spanish language by the principal shareholder to the said Luis de Ortuzar the principal shareholder stated:- "Lizaso has acknowledged receipt to me of the £300 which you handed him on the 21 February for my account". This letter is in the possession of the said Luis de Ortuzar, but I am informed and believe that Page 8 of Bundle A.2. is a correct translation thereof.
- (e) The sum of £300 was paid to me on the 20th February 1940 at the request of the principal shareholder in payment for services rendered by me on his behalf as a Chartered Accountant.
- (f) The sum of £7,000 was paid to the respondent Manuel de Irujo as Attorney for the principal shareholder on or about the 10th May 1940. I am informed by David Roberts, who was formerly Secretary of the Company, and believe that the said Manuel de Irujo purported to be acting under a Power of Attorney dated the 23rd April 1940 in the French language and executed by the

principal shareholder in Paris. Pages 9, 10, 11 and 12 of Bundle A.2. are, to the best of my knowledge information and belief, a correct translation of the said Power of Attorney. Pages 13, 14, and 15 of Bundle A.2. are respectively a letter dated the 9th May 1930 from the said Manuel de Irujo to the Company requesting payment of the said sum of £7,000, a copy of a letter dated the 10th May 1940 from the Company to the said Manuel de Irujo enclosing a cheque for £7,000 and a letter dated the 14th May 1940 from the said Manuel de Irujo to the Company acknowledging receipt thereof. It appears from the said letters that the said sum of £7,000 was intended to be a loan to the principal shareholder pending a reduction of the capital of the Company which was then in contemplation.

(g) The sum of £285.14.3d. was paid to the said Luis de Ortuzar on or about the 31st May, 1940.

I am informed by the said Luis de Ortuzar and believe that the said sum was so paid at the request of the principal shareholder.

7. I am informed by the said Luis de Orguzar and believe that sometime prior to the commencement of the liquidation of the Company the principal shareholder signed or endorsed with his name the share certificate relating to the said 50,000 shares and handed it to the said Luis de Ortuzar. The said Luis de Ortuzar has produced to me the same share certificate so signed or endorsed as aforesaid.

8. I am informed by Solicitors, who were at all material times

Solicitors for the Company, and believe that the Company received conflicting claims in relating to the said shares from the respondents Luis de Ortuzar and Manuel de Irujo, that the Company incurred substantial costs and expenses in investigating and dealing with such claims, and that on the 15th February 1941 the Company wrote a letter to the Custodian of Enemy Property informing him of the shareholding of the principal shareholder, and of the claim by the said Luis de Ortuzar and informing him also that a Meeting of the Company had been convened for the purpose of passing a winding-up Resolution. Page 16 of Bundle A.2. is to the best of my knowledge, information and belief a true copy of the last mentioned letter.

9. At an Extraordinary General Meeting of the members of the Company which was held at the Registered Office of the Company at Colum Buildings, Mount Stuart Square, Cardiff, on the 18th February 1941, a special resolution in the terms hereunder written was duly passed.

"That the Company be wound up voluntarily and that Frank

"Harold Bennett of 28, Lewes Road, Friern Barnet London, N.12.

"Chartered Accountant be and he is hereby appointed liquidator

"for the purposes of such winding-up".

10. The registered holders of the shares of the Company were at the date of the said Resolution, and still are:

<u>Name</u>	<u>Shares held</u>
The principal shareholder (that is to say the said Doroteo de Ziaurriz) whose registered address is 63 Rue des Galons, Seine et Oise, Meudon, France.	50,000 shares

The Respondent Luis de Ortuzar	10,001 shares
Management and Shipping Company Limited now of 28 Lewis Road, Friern Barnet, London N.12.	19,998 shares
David Percival Barnett of Baltic House, Cardiff	1 share

The book now produced and shewn to me and marked "A.3" contains the Register of Members of the Company.

11. The sums of money hereunder mentioned have also according to the books of the Company been paid out of its funds to the under-mentioned Shareholders:

The said Luis de Ortuzar	£5,000
The said Management and Shipping Company Limited	£10,000

12. At an Extraordinary General Meeting of Management and Shipping Company Limited which was held at Colum Buildings, Mount Stuart Square, Cardiff on the 18th February 1941, a Special Resolution in the terms hereunder written was passed -

"That the Company be wound up voluntarily and that Frank
"Harold Bennett of 25, Lewes Road, Friern Barnet, London,
"N.12, Chartered Accountant, be and he is hereby appointed
"liquidator for the purpose of such winding-up".

The share capital of Management and Shipping Company Limited is £10,000 divided into 10,000 shares of £1 each all of which have been issued and are fully paid. The respondent Luis de Ortuzar

holds 7,500 of such Shares. The book now produced and shewn to me and marked "A.4." contains the Register of Members of Management and Shipping Company Ltd.

13. On or about the 19th February 1941 I received from the said Luis de Ortuzar a letter dated the 18th February 1941 in which he claimed the 50,000 shares registered in the name of the principal shareholder or the proceeds thereof, and gave formal notice that he required me to pay to him all money representing the shares or the proceeds thereof. Page 17 of Bundle A.2. is the said letter.

14. On or about the 22nd February 1941 I received from Messrs. Phoenix, Levinson Walters & Shane of Thornton House, Finsbury Square E.C.2., Solicitors acting for the respondent Manuel de Irujo a letter dated the 21st February 1941 in which they gave me notice that their client claimed to be entitled as the attorney of the principal shareholder to the said 50,000 shares. Page 18 of Bundle A.2. is the said letter.

15. I am informed by the said David Roberts, who was formerly secretary of the Company, that on or about the 27th February 1941 he received from the Custodian of Enemy Property a letter dated the 26th February 1941 addressed to the Company in which the Custodian acknowledged the said letter of the 15th February, and contended that it would be the duty of the liquidator of the Company to establish whether the said shares were enemy property. Page 19 of Bundle A.2. is the said letter. On the 10th March 1941 I wrote a letter to the Custodian of Enemy Property

enclosing copies of the said letters dated the 18th and 21st February (pages 17 and 18 of Bundle A.2.), and asked the Custodian whether he also claimed the said shares. Page 20 of Bundle A.2. is a true copy of the letter. On or about the 21st March 1941 I received from the Custodian a letter dated the 20th March in which he stated that I must treat the holding registered in the name of the principal shareholder as enemy property pending production to the Custodian by the said Luis de Ortuzar of satisfactory evidence in support of his claim. Page 21 of Bundle A.2. is the said letter.

16. On the 6th June 1941 my Solicitors on my instructions wrote letters to the Custodian of Enemy Property, the said Luis de Ortuzar, and Messrs. Phoenix, Levinson Walters and Shane informing them respectively of my intention to make this application. Pages 22, 23 and 24 of Bundle A.2. are true copies of the said letters.

17. The said Luis de Ortuzar and Phoenix, Levinson, Walters & Shane have not stated in reply to the said letters of the 6th June 1941 whether or not the Comité Basque de Secours aux Réfugiés has any office or representative in England and I have been unable to obtain this information from any other source.

18. Owing to the difficulties caused by the adverse claims in respect of the said shares my work as liquidator will be greatly increased, and I propose in due course to ask the

Company in general meeting to sanction additional remuneration in respect of the increased work.

19. I respectfully submit that my means of knowledge sufficiently appear.

SWORN by the said Frank Harold)
Bennett at 115 Leadenhall Street)
in the City of London this 19th)
day of June 1941.)

F. H. BENNETT

Before me,

S. G. WOOD

A Commissioner for Oaths

This Affidavit is filed on behalf of the Applicant.

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
MR. JUSTICE UTHWATT

IN THE MATTER OF Continental Transit Company Limited

and

IN THE MATTER OF The Companies Act 1929

2/6d.
Stamp.

I, MANUEL DE IRUJO of 7/8, Hobart Place, Eaton Square, in the County of London, President of the Basque National Council make Oath and say as follows:

1. I have the Affidavit of Frank Harold Bennett sworn in this matter on the 19th. June 1941.
2. The statements made in paragraph 1 to 4 inclusive thereof are correct to the best of my knowledge and belief.
3. I did not know that De Ziaurriz had executed the Trust Deed alleged in paragraph 5 of the said Affidavit but I have no doubt that he did. I am aware that he used moneys which came to him from the Company to help the Basques and their organisations and that the Comite Basque de Secours was the organisation through which such help was given in France. This Comite is a French association. Its Constitution is now produced and shewn to me with a translation thereof and are marked "M.D.I. 1" It is domiciled not in Paris but in Villa Endara, Anglet, Basses Pyrenees and registered in the Official Bulletin of the 7th. September 1937, page 10360. Its President is de Ziaurriz, its Vice President is Don Luis de Arredondo. Its Secretary General is Don Elias de Etxeberia, Members are Don Antonio de Gamarra, Don Pedro de Ormaechea, Don Jose Maria de Garate and Don José Maria de Izaurieta. Arredondo, Etxebaria, Gamarra and Ormaechea live in Redhill in the Country of Surrey. Garate lives in America and Izaurieta in Mexico.
4. I have no reason to suppose that paragraph 6 of the said Affidavit is not correct. The sum of £7,000 referred to under head (f) was handed to me on account of the capital of de Ziaurriz in the Company after a General Meeting of the Company held in London on the 7th. May 1940, after a Resolution to reduce the capital of the Company had been passed. On the advice of Mr. Bennett it was for book-keeping purposes transferred in the form of a loan as he stated that certain formalities were necessary to

enable a reduction of capital to take place.

5. With regard to paragraph 7 of the Affidavit, Ziaurriz in 1939 told Mr. Ortuzar that the Company should be liquidated and Mr. Ortuzar asked him to hand him the Share Certificate signed on the back in order that he should take the necessary steps to effect the liquidation. When he, Ziaurriz, found that this signature would not secure the liquidation of the Company and the return to Ziaurriz of his capital herein, de Ziaurriz gave me the Power of Attorney referred to in Mr. Bennet's Affidavit.

6. I was refused admission to the meeting referred to in paragraph 9 of Mr. Bennett's Affidavit. I believe that Mr. Ortuzar the registered holder of 10001 Shares in the Company and having a 75 per cent interest in the Management and Shipping Co. Ltd. secured the passing of the Resolution.

7. I have no reason to suppose that any of the statements contained in paragraphs 10 to 16 inclusive of the said Affidavit are incorrect.

8. As regards paragraphs 17 and 19 of Mr. Bennett's Affidavit Mr. Bennett has at his disposal all available information regarding the Comité Basque de Secours, and I respectfully submit that his means of knowledge do not appear in his Affidavit.

9. As regards paragraph 18 of the said Affidavit, Mr. Bennett knew what the position was when he became Liquidator.

10. I respectfully submit that de Ziaurriz is the registered holder of 50000 Shares of the Company and that he is entitled to be treated as such. It is my duty under his Power of Attorney to protect his interests.

11. I do not know the present whereabouts of de Ziaurriz. I think that it is quite probable that he is in France, if he has not started for Chile to which Country I believe that he is seeking to go.

SWORN by the Said MANUEL DE IRUJO)
at 17, Finsbury Square, in the)
County of London this 22nd. day)
of July 1941.)

M. de Irujo

Before me,

Henry W. Patey,

A Commissioner for Oaths.

IN THE HIGH COURT OF JUSTICE

No. 00209 of 1941

CHANCERY DIVISION

COMPANIES COURT

MR. JUSTICE UTHWATT

IN THE MATTER of CONTINENTAL TRANSIT CO. LTD.

(in Voluntary liquidation)

and

IN THE MATTER of THE COMPANIES ACT, 1929.

I, LUIS DE ORTUZAR of 10, Bicclescombe Park Road, Ilfracombe in the County of Devon make oath and say as follows:-

1. I am a Director and Shareholder of Continental Transit Co. Ltd., (hereinafter referred to as "the Company") and I have read what purports to be a copy of an Affidavit of Frank Harold Bennett the Liquidator of the Company filed on the 20th of June 1941 in support of the Originating Summons in this matter.

2. The Basque Government, which had taken refuge in France during the Spanish Civil War, was utilising its funds for the assistance and maintenance of Basque Refugees and I suggested to Eliodoro de la Torre, the Finance Minister of the Basque Government, that he should invest part of the funds available in the purchase of ships, which I was satisfied could be run at profit and could show the Basque Government a satisfactory return on its investment.

3. The said Eliodoro de la Torre handed to me cash for £50,000 to enable me to form a Company for the purpose of acquiring the vessels and also another Company called Management & Shipping Ltd., which was to manage the vessels.

4. I was requested to have the Shares in respect of the £50,000 registered in my name but as I intended investing part of my own money in the new Company I preferred that the Shares should be held in the name of some independent person and the

Shares were, in fact, registered in the name of David Percival Barnett. Later the said David Percival Barnett became seriously ill and the Shares were transferred to Doroteo Ziaurriz in whose name the Shares now stand.

5. On the 17th of February 1939 the said Doroteo de Ziaurriz executed the Trust Deed referred to in paragraph 5 of and exhibited to the Affidavit of the said Frank Harold Bennett.

6. The Company was requested, from time to time, to make advances to the said Doroteo de Ziaurriz or to other persons upon his instructions upon the security of his Shares such sums being required for the maintenance of the Basque Refugees. As large sums were required for this purpose it was essential that the Basque Government or the Committee formed for the purpose of looking after the Refugees should have liquid funds available and for this purpose I was instructed by the Finance Minister to sell certain of the vessels owned by the Company and with the outbreak of War in September 1939 and the powers of requisition of ships of the British Government it was obvious that the Company could not continue to function or continue to have available funds to meet the demands of the Refugees' Committee. It was therefore decided to sell the remainder of the ships and the whole of the Company's fleet had been disposed of by early February 1940.

7. Notwithstanding that the Shares were registered in the name of Doroteo de Ziaurriz I had always regarded the Shares as belonging to the Basque Government under the control of the said Eliodoro de la Torre, the Finance Minister, and there are now produced and shown to me in a bundle marked "A" a carbon copy of my letter in the Spanish language with a translation thereof to the said Eliodoro de la Torre dated the 4th February 1940 and an original letter in the Spanish language and a translated copy thereof from the said Eliodoro de la Torre to me dated the 9th February 1940 as establishing that the affairs of the Company were substantially controlled by the said Finance Minister I was aware that the said Doroteo de Ziaurriz was working in close co-operation with him.

8. A meeting was called for the 15th of February 1940 to pass the previous year's Accounts and to consider the future of the Company, but as Accounts could not be got ready intime for that meeting it was never held but was postponed. By April of 1940 it was apparent that there was little purpose in keeping the Company alive and I intended calling a meeting with a view to passing a Resolution to wind up the Company and for this purpose I was anxious that Mr. Doroteo de Ziaurriz should come to London to attend. There is now produced and shewn to me in the said bundle marked "L de O" an original letter with a translated copy thereof dated 28th February 1940 addressed to me as Director of the Company by the said Doroteo de Ziaurriz

and an original letter with a translated copy thereof dated 17th April 1940 addressed to me in Paris by the said Eliodoro de la Torre which established my desire that these Gentlemen should be present at any meeting held and each of the letters refers to an Authority held by me from Dr. de Ziaurriz. The said Authority to which reference is made is an Authority issued in Paris and dated the 21st of November 1938, the original of which with a translated copy thereof is now produced and shewn to me and is contained in the bundle marked "L de O" and is an Authority signed by the said Doroteo de Ziaurriz, who was President of the Supreme Council of the Basque Nationalist Party, granting me authority to manage affairs of a political nature in France and England.

9. Apart from the fact that I was aware that the Authority was not sufficient for me to represent the Shareholders at a General Meeting of the Members of the Company, I was desirous, seeing that I was a Shareholder myself, that some independent person should represent them at the Meeting and accordingly the said Doroteo de Ziaurriz issued a Power of Attorney to Manuel de Irujo being the power of Attorney on Pages 9, 10 and 11 of Bundle "A.2". exhibited to the Affidavit of the said Frank Harold Bennett.

10. I was unable to hold the Meeting in April as contemplated as the price to be paid for one of the vessels which had been acquired by the British Government had not then been agreed and as the Finance Minister was anxious to obtain further funds as rapidly as possible I flew to Paris on the 22nd. of May 1940 where I met the said Eliodoro de la Torre and Doroteo de Ziaurriz when the whole position was fully discussed and I offered to purchase the said 50,000 Shares on the basis of the sum which I anticipated would be paid by the British Government for the vessel referred to in this paragraph. This proposal was agreed to and the said Doroteo de Ziaurriz endorsed the Certificate for the said 50,000 Shares in my favour, which was the method of assigning rights in Shares in use in Spain.

11. Shortly after my return to England I ascertained from the British Government that they were willing to pay for the said vessel a sum in excess of that which I had anticipated and I therefore felt it necessary to communicate this to the said Doroteo de Ziaurriz but before this could be done France had collapsed and I was no longer able to communicate with him.

12. I respectfully submit that I am the person entitled to the Shares at present registered in the name of Doroteo de Ziaurriz by reason of the facts set out above and the endorsement on the Certificate for the said Shares to which I have referred in Paragraph 10 above and which is referred to in Paragraph 7 of the Affidavit of the said Frank Harold Bennett and I FURTHER RESPECTFULLY

SUBMIT that the said Manuel de Irujo has no title or right to the said Shares.

13. With regard to the sums referred to in Paragraph 6 of the Affidavit of the said Frank Harold Bennett all these sums were advances by the Company at the request of the said Doroteo de Ziaurriz and were advances made by the Company on the security of the said 50.000 Shares although a number of the requests were addressed to me as Director of the Company and receipts were given in a similar form. There is now produced and shewn to me in the bundle marked "L de O" the originals and translated copies of ~~xxx~~ letters dated 20th, 23rd and 26th August 1939 from the said Doroteo de Ziaurriz to the Company all of which relate to the item referred to in sub-paragraph (b) of paragraph 6 of the said Affidavit, an original and translated copy of a receipt dated 13th of February 1940 in favour of myself as Director of the Company, a letter dated 22nd of February 1940 addressed by Joseph Lasry & Fils to me c/o the Company, a receipt dated 28th of February 1940 signed by the said Doroteo de Ziaurriz and a letter dated 29th February 1940 from Joseph Lasry & Fils to me all of which relate to the two items dealt with in sub-paragraph (c) of Paragraph 6 of the said Affidavit; a letter dated 13th February 1940 signed by the said Eliodoro de la Torre addressed to me and a letter signed by the said Doroteo de Ziaurriz addressed to me as Director of the Continental Transit Co. dated 28 February 1940, which refer to the item dealt with in sub-paragraph (d) of Paragraph 6 of the said Affidavit.

14. I respectfully submit that all the sums referred to in Paragraph 6 of the said Affidavit of the said Frank Harold Bennett were loans made by the Company on the instructions of the said Doroteo de Ziaurriz and should be set off against any sums due in respect of the Shares registered in his name.

SWORN by the said LUIS DE ORTUZAR)
at Ilfracombe in the County of Devon) LUIS DE ORTUZAR
this 11th day of October 1941)

Before me,

EVAN R. WOOD,

A Commission for Oaths.