

Feb. 20, 1954

Mr. Syoso Miwa,
Boston Trading Co.,
c/o International Trading Assn.,
16 5-chome Koraihashi,
Higashi-ku, Osaka, Japan.

Re: Alien Property Matter
of J. S. Miwa

Dear Mr. Miwa:

At the request of your brother, Lawrence Miwa, who is now in Denver, Colo., I am writing to you concerning the claim of your father, J. S. Miwa, against the Office of Alien Property, involving properties taken over by the U. S. government during World War II in Hawaii.

As I understand, during 1947, your father executed and delivered a deed of gift to your sister, Katherine Miwa, who is now married and is now Mrs. K. Sato of Hawaii.

As I further understand, now your father desires to transfer all of his right, title and interest in his claim to Lawrence Miwa.

It occurs to me as an attorney that as long as a Deed of Gift exist, in favor of your sister, Mrs. K. Sato, it is questionable whether J. S. Miwa can now transfer any interest to Lawrence Miwa.

Therefore, we are suggesting that Mrs. K. Sato cancel and return the original Deed of Gift to J. S. Miwa. Thereafter, if J. S. Miwa desires to convey his interest to Lawrence Miwa, we would recommend that an assignment of interest, or a deed of gift, be executed, and possibly re-enforced by a will naming Lawrence Miwa as a legatee, and giving this claim to Lawrence Miwa.

Altho I have not made a detailed study concerning this matter, it appears to me that considerable problems exist in regard to this claim. In the first instance, the immediate question arises as to whether the claim itself is a good and valid claim. As I understand, after the vesting of the property, your father returned to Japan, as a Japanese national. Under such circumstances, it seems to me that under the Laws of the United States, that the claim by an enemy alien who was during hostilities in enemy territory would not be recognized.

A further point occurs to me: As I understand, the treaty of peace between the U.S. and Japan specifically provided that a resident and national of Japan would not be able to claim against the U.S. government.

By the above I do not mean to say that the claim of your father is not good, but I do wish to point out that considerable complications may be encountered.

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Further, I note that a general power of attorney has been executed to a Mr. Nakata in Hawaii. As I understand, Mr. Nakata was formerly a manager of the J. S. Miwa Co.

So far as executing further Powers of Attorneys, to either your sister or brother, I hold no opinion. If the matters are being handled in Hawaii, I would certainly recommend that the advice of lawyers in Hawaii be followed.

As far as executing a will is concerned, as I understand your father is gravely and extremely ill. It seems to me that if the matter of the Deed of Gift can be clarified, that certainly provision should be made in a will, while your father is still living, giving and granting the rights and interests in the claim to children who are American citizens. Whether the Office of Alien Property would recognize such will is another question.

As to re-valuation of the property that was taken over by the U.S. government, we have several decisions from the Dept. of Justice to the effect that the values of 1942 will prevail, or the date of the actual sale and auction of the property. We are inclined to believe, on the basis of the very sketchy information which we have, that an attempt to have the properties re-valued, at this time, would be unsuccessful.

7 In my opinion, even if new Powers of Attorney be executed, or if a will is drawn, no further claim need be made with the Office of Alien Property. However, notification of such changes should certainly be reported to OAP.

We note too that J. S. Miwa, your father, has thought to returning to the U.S. or Hawaii as an international trader. It is my opinion that even should he be successful in doing so, it would not change the legal status of his claim. The claim would be decided, in my opinion, on the basis of the legal situation existing at the time of the vesting of the property, and the events which thereafter followed.

I do comment, however, that if your father should be able to re-enter the U.S. as a permanent resident, that would make a considerable legal difference. In such an event, it would be my opinion that your father would have a substantial claim with the Office of Alien Property, and that certainly some value should be realized from his claim. Failing this, however, it seems to me that the possibilities are exceedingly poor.

I am somewhat confused as to the transactions involving your sister in Hawaii. As I understand, she has had Powers of Attorney and a Will drawn for your father's signature. If your father wishes to have the claim go to Lawrence Miwa, certainly he should not sign such documents. If he wishes to have Lawrence Miwa obtain the benefits of this claim, he should, as I suggest, draw an assignment of interest, together with a Will to Lawrence Miwa, specifically mentioning the claim involved.

I am detailing some of the things which occur to us, but would appreciate further information, if we are to help Lawrence Miwa and your father in regard to this matter.

Please let us know concerning this matter, with particular reference to the 1947 Deed of Gift to K. (Miwa) Sato.

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To make sure that there are no misunderstandings, I wish to outline the following:

1. If a valid deed of gift was delivered to Katherine Miwa in 1947, involving the subject matter of this claim, and if J. S. Miwa wishes now to transfer to Lawrence Miwa, then in that event, it is my suggestion that Katherine Miwa Sato now cancel and revoke said Gift Deed of 1947, and return same to J. S. Miwa.
2. That if J. S. Miwa wishes to transfer his interest to Lawrence Miwa, then, in that event, J. S. Miwa should now, immediately, in Japanese, executed an Assignment of Interest (or Deed Gift), together with a Will in favor of Lawrence Miwa.

We can thereafter proceed to have English translations or duplicate documents drawn up for J. S. Miwa's signature.

3. That certainly the claim against the Office of Alien Property should be pursued to the fullest, and a final determination obtained whether said claim is valid, and whether the property or proceeds can be returned to J. S. Miwa, his assignees, or persons claiming under J. S. Miwa.

Please let us have your reactions to the above matters.

Very truly yours,

Minoru Yasui

Approved by : _____