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July 20, 1954

Mr. Lawrence Kunio Miwa
2400 South High Street
Denver, Colorado

Re: Estate of Seigo Miwa

Dear Lawrence:

Your sister, Mrs. Sato, was in to see me the other day in connection with the steps to be taken to secure the return of your father's property which had been vested by the Alien Property Custodian. Your sister left with me the letter which you wrote to her so that I could communicate with you directly and let you know my opinion in the matter.

The Will of your father written in Japanese is a little different from the English version although the intent seems to be the same. I believe it will be more advantageous to probate the Will written in English. The other seems to have been executed in accordance with the Japanese law, requiring a notary public to record the desires of the Testator and certify to the correctness thereof under his official seal and attested to by two witnesses.

In connection with your request to have me give you my opinion and to give you an estimate of costs, etc., involved, I would like to state that under law relating to return of vested property, no one is permitted to charge more than 10 per cent of the value of the property returned. In your father's case, it will be necessary to have probate proceedings instituted so that your father's Will could be admitted and recognized and in order that you may qualify as the devisee and legatee under the Will. If there was no Will, I believe the estate would be shared by all of the children.

I understand that your father did file a claim with the Alien Property Custodian. However, under the law at the present time, your father's claim would not have been allowed inasmuch as he was a resident of Japan and that he did not have his domicile in Hawaii. Even if he had made a claim and the claim as filed might not have been allowable, still I believe it is perfectly proper that you, as the devisee and legatee under the Will, take all necessary steps to perfect your right to the property in question. This you could do by having the Will probated and recognized so that you would succeed to the rights of your father. It may be necessary to have the Administrator with the Will Annexed file a new claim after

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probate of the Will. In such event, it would be necessary to make reference to the fact that your father had already filed a prior claim during his lifetime.

It is true that the deadline for the filing of claims is February, 1955, and that your sister is right in advising you about this fact.

With reference to the proposed legislation in Congress relative to the return of all property to aliens regardless of their residence in the United States, I would like to state that such a legislation has been proposed and ~~a~~ ^{prohibition} has already been introduced in Congress. However, there is no assurance that such law will be passed and even if the law eventually is passed, there is no doubt that considerable time will elapse before then. Therefore, the wiser course is to probate the Will and claim should be filed for return of property under existing laws. Moreover, the proposed legislation for return of property to enemy nationals in foreign countries is likely to be limited in amount to \$25,000, according to press dispatches.

Of course, there are some costs and expenses involved in the probate of the estate. The cost may be somewhat larger than the usual one because of the fact that the witnesses to the Will are all alien Japanese residing in Japan and it probably will be necessary to have their testimony taken in Japan and in one of the district courts of Japan. In this connection, I might say that the American Consul has, in a similar case, refused to take the deposition of such witnesses because of recent directives from the State Department. For this reason, I am not able to give you the exact cost in connection with the probate of your father's Will. In the usual probate cases, the costs and publication expenses usually run around \$100, excluding executor's commission and attorney's fee. As previously indicated, insofar as attorney's fee is concerned, the same will be limited by law relating to the return of vested property. Charges for legal services for and on behalf of the estate relating to other assets other than vested property are set by law on a percentage of the assets. In the matter of probating your father's Will, the main objective will be to have the vested property returned to you as the devisee and legatee under the Will. Therefore, if there is no return of the vested property, in the final analysis there will not be too much of a legal fee against you. In the event of return of such property, the fee will be limited to 10 per cent of the value of the property returned, as already indicated. The only additional expense which you have to consider in this case is the matter of taking care of the costs and expenses of the administration of the estate which may run between \$100 to perhaps \$150 or \$200, depending entirely upon the costs, fees and expenses in connection with the taking of testimony of the witnesses to the Will in the Japanese courts in Japan.

Mr. L. K. Miwa

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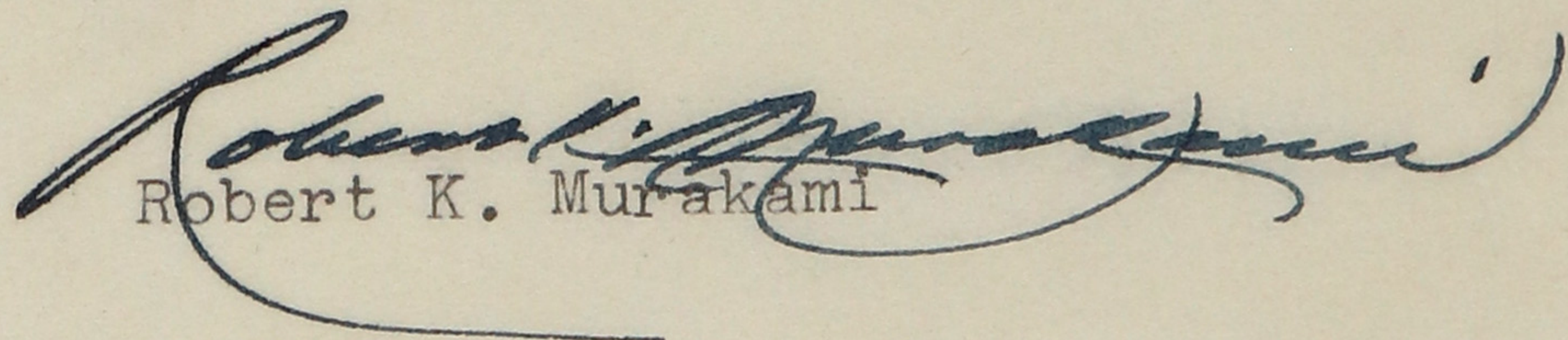
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It is somewhat unfortunate that at least one of the witnesses to the Will could not have been an American citizen residing in Hawaii but traveling in Japan at the time. However, we cannot do anything about this matter at this time and it would seem that it is to your interest to see that the Will is probated and a proper claim filed with the Office of Alien Property, Department of Justice. The Attorney General of the United States became Successor to the Alien Property Custodian and, as such, he is the official with whom the claim would have to be filed. The claim will be filed not against the property itself because the same has already been sold and the claim, when allowed, will result in the return of the proceeds from the sale of the property.

If there are other points not clear to you, will you write to me and I shall be happy to try to clear up any further points. I am assuming that it is better to write to you in English rather than in Japanese. But if you feel that you can express the point in Japanese better than you can in English, you may do so by expressing your thoughts in Japanese with the English equivalent attached thereto. If you are not familiar with some of the terms I may use, please don't hesitate to inquire because claims against the Attorney General have some technical terms which have a meaning somewhat different from the ordinary layman's spoken language.

Please write and let me know what other information you desire and what you would like to have me do to perfect your title to the proceeds of the vested property formerly owned by your father and now held by the Attorney General of the United States as Successor to the Alien Property Custodian.

Yours very truly,


Robert K. Murakami

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