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LAW OFFICES  
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SUITE 510-512

STERLING 3-5764

30 April 1956

Mr. Lawrence F. Miwa  
362 Riverside Drive  
Apartment 7C  
New York 25, New York

MAY 3 1956

Dear Mr. Miwa:

I have just had a long informal conversation with the official of the Office of Alien Property who is handling your claim, and I should like to report thereon.

First, as regards the insurance. I am advised that Vesting Order 13491 vested as your father's property the proceeds of the insurance. Thus the only way to get this money is for you to prevail upon your claim.

The theory of the Government is that your father's policy was a paid up twenty-five year endowment policy, under the terms of which the insurance company agreed to pay \$5,000.00 to your father if he were living on 21 March 1949, but if he died before that date, then to pay to your father's estate or to his duly designated beneficiary. In other words, the appointment of your sister as beneficiary related only to the contingency that your father die before March 21, 1949. Since he survived that date, the amounts payable under the policy were his property, and as his property were vested by the Government together with all his other assets here.

I have examined the documents, including the insurance policy, and feel that the Government's position in this respect is well taken. However, I shall keep this material for our next personal conference when we can go over the matter together.

Secondly, on the Nakata claim. In sum, it appears likely that the Government will deny Nakata's present claim on the basis of information already in its files, and it will not become necessary for you to give testimony on this issue. The story on this seems to be that after the original vesting of stock of your father's company there were thirty-three or thirty-four additional shares under consideration for vesting, and the matter was taken up with Nakata in about 1945. Of these shares one had been given to Nakata by your father in 1938. That one share originally had been issued to an uncle who had died. The remaining shares were carried on the books of the company in Nakata's name. Apparently what happened here was that your father had advanced some money to Nakata, who

purchased these shares with that money plus an additional \$800.00 of Nakata's own money. This was in October or November of 1941. Thus, the Government vested only twenty-four of the shares which were bought with your father's own money and let Nakata keep the rest of the shares for which he had advanced \$800.00 to the company. On this theory the Government is likely to deny that Nakata has any interest of his own in these shares which he now claims.

Finally, I have been given some insight into the main factual basis which the Government will present in opposition to your own claim. You will remember that my theory is that your father's presence in Japan during the war should not be held against him because at the time of returning to Japan he was under an order of deportation, and that this deportation of your father should be regarded as duress upon him, thus making him not responsible for the legal results thereof. On the other hand, the Government will contend that your father moved his main abode from Hawaii to Japan as early as 1936, prior to which date your father had been in Hawaii under the status of a treaty merchant. He came back in 1938 and then returned to Japan. The Government seems willing to accept your father's contention that on his last trip to Hawaii he came as a visitor because of the long drawn out difficulties in his way to acquiring a new treaty merchant's visa at that time. However, it is alleged that he maintained no home in Hawaii (leaving there only a bed, chair, table and stove, which presumably occupied one room in his company), but that his wife and family at that time were in Japan and Japan was his real place of residence. Thus, in fact, he was really a visitor here on the occasion of his last trip; he came here on a visitor's permit which would not have legally let him acquire residence here, and all that he did when he accepted repatriation was to return to his residence in Japan. Therefore, no duress.

I shall, of course, review the files further with respect to the foregoing contentions. However, in the meantime, I should appreciate having whatever comments you may care to make. I am enclosing a duplicate copy of this letter for your convenience in case you wish to check any points back with your family.

With all best wishes.

Sincerely yours,

*O. E. Stone*

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