No. 5-5/65 I | NAME KABETSU, EIKICHI

RINE DRIVE
VER, B.C.
58-9

5-5-/65 vol I

vol I 5-5/65

Bristen & Burge

BARRISTERS AND SOLICITORS
NOTARY PUBLIC

Donald E. Bristen, LL.B.
C. William McK. Burge, LL.B.

CORONATION BUILDING
17TH STREET AND MARINE DRIVE
WEST VANCOUVER, B.C.
WALNUT 2-6158-9

August 20th, 1957.

The Custodians Office,
Department of Secretary of State,
Victoria Building,
7 o'Connor St.,
Ottawa, Ontario.

Dear Sir:-

Re: Your file No. 55165-III

In accordance with your request in your letter of the 13th instant, we herewith enclose copy of Vacating Certificate with registration number duly endorsed thereon and being No. 72492.

Yours truly,

BRISTER & BURGE,

Per

DEB.C.
Enc;.

55165-1

OFFICE OF THE CUSTODIAN
RECEIVED
AUG 22 1957
PASS TO.....
FILE ✓

Filed in Land Registry Vancouver BC under No. 72492 15th Aug 1957

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No.....

LAND REGISTRY VANCOUVER, B.C.

1957 AUG 15 PM 3:02

VACATING CERTIFICATE

The undersigned being duly authorized by the Secretary of State of Canada acting in his capacity as Custodian under or by virtue of The Trading with the Enemy (Transitional Powers) Act, hereby vacates the Certificate of Vesting dated the 29th of December, 1942, registered in the Land Titles Office, Municipality of West Vancouver, District of New Westminster, British Columbia, as No. 35600, and certifying that the interest of Eikichi Kagetsu in:-

1. Municipality of West Vancouver
   Lots 8 and 9, Block 1, D.L. 772, Group 1,
   Plan 5431, District of New Westminster

2. Municipality of West Vancouver
   Parcel "A" (Reference Plan 2098) of Lot 10,
   Block 1, D.L. 772, Group 1, Plan 5431,
   District of New Westminster,

is vested in the Custodian and hereby relinquishes and releases any right or interest which he, the said Custodian, may have in the said property by virtue of the vesting in him of the interest of the said Eikichi Kagetsu.

Dated at the City of Ottawa, in the Province of Ontario, this 12th day of August, 1957.

E. Arpin,
Vice Chairman of the
Administration Board
and Comptroller.

OJC/ad

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.
August 13th, 1957.

55165 III

Dear Sirs:

Re: 5825 Marine Drive,
West Vancouver, B.C.
Lot 10, Block 1. D.L. 772

I acknowledge receipt of your letter of the 6th instant, with further reference to the above property, and I enclose herewith Vacating Certificate, in duplicate, covering this property.

When the document has been registered, will you kindly return the duplicate with a memo of the registration endorsed therein.

Yours very truly,

O.J. Geappy,
Administrative Officer.

Messrs. Brister & Burge,
Barristers and Solicitors,
Coronation Building,
17th Street and Marine Drive,
West Vancouver, B.C.

REGISTERED

VACATING CERTIFICATE

The undersigned being duly authorized by the Secretary of State of Canada acting in his capacity as Custodian under or by virtue of The Trading with the Enemy (Transitional Powers) Act, hereby vacates the Certificate of Vesting dated the 29th of December, 1942, registered in the Land Titles Office, Municipality of West Vancouver, District of New Westminster, British Columbia, as No. 35600, and certifying that the interest of Eikichi Kagetsu in:-

1. Municipality of West Vancouver
   Lots 8 and 9, Block 1, D.L. 772, Group 1,
   Plan 5431, District of New Westminster

2. Municipality of West Vancouver
   Parcel "A" (Reference Plan 2098) of Lot 10,
   Block 1, D.L. 772, Group 1, Plan 5431,
   District of New Westminster,

is vested in the Custodian and hereby relinquishes and releases any right or interest which he, the said Custodian, may have in the said property by virtue of the vesting in him of the interest of the said Eikichi Kagetsu.

Dated at the City of Ottawa, in the Province of Ontario, this 12th day of August, 1957.

E. Arpin,
Vice Chairman of the
Administration Board
and Comptroller.

DEPARTMENT OF THE SECRETARY OF STATE

SECRÉTARIAT D'ÉTAT

MEMORANDUM

FILE NO. / No DE DOSSIER 55165 Vol. III

DATE August 9th, 1957.

FROM / DE Mr. O. J. Ceappy TO / À Mr. E. Arpin

RE: Eikichi Kagetsu,
5825 Marine Drive, West Vancouver, B.C.

Our Vancouver Office filed a Vesting Certificate on the above property and did not file a Vacating Certificate when Mr. Kagetsu's assets were released some years ago.

We have now received from a firm of solicitors in Vancouver a letter requesting us to remove our Vesting Certificate in order that they may complete a transfer to their client.

Would you, therefore, sign the attached Vacating Certificate, in triplicate, which has been drawn in the approved form.

O. J. Ceappy,
Administrative Officer.

Bristen & Burge

BARRISTERS AND SOLICITORS
NOTARY PUBLIC

Donald E. Brister, LL.B.
C. William McK. Burge, LL.B.

CORONATION BUILDING
17TH STREET AND MARINE DRIVE
WEST VANCOUVER, B.C.
WALNUT 2-6158-9

Aug. 6, 1957.

Custodian's Office,
Department of the Secretary of State,
Victoria Bldg.,
7 6'Connor Street,
Ottawa 4, Ont.

Dear Sir: Re your File 55165 Vol. III
5825 Marine Drive.
West Vancouver, B.C.
Lot 10, Block 1. D.L. 772

With reference to your letter of July 31, 1957, I am enclosing herewith a Photostatic copy of a Certificate of Vesting, bearing number 35600.

If you would be so kind as to forward us a duplicate of the Vesting Certificate for Land Registry purposes, we would be very grateful.

Trusting that you will find this enclosure in order.

Yours truly,
Brister & Burge.
per

DEB/BA.
Encl.

55165-1

OFFICE OF THE CUSTODIAN
RECEIVED
AUG 8 1957
PASS TO Mr. Scarfe
FILE

12787
1. C.of T.70823-L
2. C.of T. 3806-L

CANADA

35600

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN
JAPANESE EVACUATION SECTION

CERTIFICATE OF VESTING

I, the undersigned, being duly authorized by the Custodian, hereby certify that the interest of Eikichi KAGETSU

Police Registration No. 00014 *in the property described hereafter is vested in the Custodian.*

Description of Property

1. Municipality of West Vancouver.

Lots 8 and 9, Block 1, D.L.772, Group 1, Plan 5431, District of New Westminster.

1048
70823 L

2. Municipality of West Vancouver.

Parcel "A" (Reference Plan 2098) of Lot 10, Block 1, D.L.772, Group 1, Plan 5431, District of New Westminster.

750
3806 L

Together with the interest of any other person of the Japanese race in the property above described.

Dated December 29th, 1942.

F G Shears
(F. G. SHEARS)
Authorized Deputy of the Secretary of State and/or Custodian.

Authorized Deputy of the Custodian.

OJC/rf

55165 Vol. III

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.
July 31st, 1957.

Messrs. Brister & Burge,
Barristers, etc.,
Coronation Building,
17th St. and Marine Drive,
West Vancouver, B.C.

Dear Sirs:-

Re: 5825 Marine Drive,
West Vancouver, B.C.
Lot 10, Block 1, D.L. 772

I am in receipt of your letter of the 25th of July, 1957, with further reference to the mortgage on the above property.

Unfortunately, we do not have a copy of the Custodian's Vesting Certificate and in order that I may forward a duplicate Vacating Certificate, I would appreciate it if you would kindly let me know the date our Vesting Certificate was registered and the registration number on this Certificate.

Yours very truly,

O. J. Ceappy,
Administrative Officer.

Bristen & Burge

BARRISTERS AND SOLICITORS
NOTARY PUBLIC

Donald E. Brister, LL.B.
C. William McK. Burge, LL.B.

CORONATION BUILDING
17TH STREET AND MARINE DRIVE
WEST VANCOUVER, B.C.
WALNUT 2-6158-9

July 25th, 1957.

Administrative Officer,
Custodians Office,
Department of the Secretary of State,
Victoria Building,
7 o'Connor Street,
Ottawa, Ont.

Dear Sir:-

Re Your File No. 55165 - Vol. III
5825 Marine Drive,
West Vancouver, B.C.
Lot 10, Block 1, D.L. 772

Your letter of the 8th instant addressed to Eikichi Kagetsu has been forwarded to us for our attention. We have contacted Mr. Carl M. Stewart re the contents of your letter and he advises us that he is not in possession of the vacating certificate. So it would appear that this document has been lost or mislaid and we would ask you to be so kind as to furnish us with a duplicate thereof for the Land Registry Office in order that we may proceed to have this mortgage discharged.

Yours truly,

BRISTER & BURGE,

Per

DEB.C.

OFFICE OF THE CUSTODIAN
RECEIVED
JUL 29 1957
PASS TO 91C
FILE

55165 vol. I

OJC/g

55165 Vol. III

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.

July 8th, 1957.

Eikichi Kagetsu,Esq.,
8 Mountview Ave.,
Toronto 9, Ontario.

Dear Sir:

Re: 5825 Marine Drive,
West Vancouver, B.C.
Lot 10, Block 1, D.L. 772.

I am in receipt of your letter of 24th ultimo with reference to the mortgage signed by Ida Free Stewart on the property known as 5825 Marine Drive, West Vancouver, British Columbia.

As you know, the Custodian released his interest in your assets some years ago, and the above property was released when your solicitor, Mr. Carl M. Stewart, advised the Custodian that he had completed a sale of this property.

Under the circumstances the mortgage is still registered in your name and you will be the proper person to give a discharge of this mortgage.

Yours very truly,

O. J. Ceappy,
Administrative Officer.

8 Mountview Ave.,
Toronto 9, Ont.,
June 24, 1957.

Office of the Custodian,
Japanese Evacuation Section,
Ottawa, Ont.

Dear Sirs,

Re 5825 Marine Drive,
West Vancouver, B.C.
Lot 10, Block 1, D.L.772.

This is to request that the title to the first Mortgage on the above property be transferred to the name of the undersigned, Eikichi Kagetsu, retired business executive, now residing at 8 Mountview Ave., Toronto, Ontario.

Yours very truly,

E. Kagetsu

Eikichi Kagetsu.

OFFICE OF THE CUSTODIAN
RECEIVED
JUN 28 1957
PASS TO Mr. Keapy
FILE

53165

OJC/ad

Victoria Building,
7 O'Connor Street,
Ottawa 4, Ontario.
June 19th, 1957.

55165 Vol. III

Dear Sirs:

Re: Mortgage No. 37066-M,
Ida Free Stewart to Eikichi Kagetsu.

I am in receipt of your letter of the 15th ultimo which was received in this office on the 14th instant, in connection with Mortgage No. 37066-M on the following property:-

" Lots 8 and 9, Block 1, District Lot 772, and Parcel "A" (reference plan 2096) of Lot 10, Block 1, District Lot 772, all of group 1, New Westminster District, Plan 5431, in the Municipality of West Vancouver, Province of British Columbia."

The Custodian released his interest in the assets of Eikichi Kagetsu some years ago and I would think that the proper person to give you a discharge of your mortgage would be Mr. Eikichi Kagetsu. In 1952 we were advised that Mr. Kagetsu was residing at 8 Mountview Avenue, Toronto 9, Ontario.

Yours very truly,

O.J. Ceappy,
Administrative Officer.

Messrs. Brister & Burge,
Barristers and Solicitors,
Coronation Building,
17th Street and Marine Drive,
West Vancouver, B.C.

Bristor & Burge

BARRISTERS AND SOLICITORS
NOTARY PUBLIC

Donald E. Bristor, LL.B.
C. William McK. Burge, LL.B.

CORONATION BUILDING
17TH STREET AND MARINE DRIVE
WEST VANCOUVER, B.C.
WALNUT 2-6158-9

May 15th, 1957.

OFFICE OF THE CUSTODIAN
RECEIVED
JUN 14 1957
PASS TO ....
FILE

Department of the Secretary of State,
Office of the Custodian,
Japanese Evacuation Section,
Parliament Buildings,
Ottawa, Ontario.

Dear Sir:-

Re: Mortgage No. 37066-M,
Ida Free Stewart to Eikichi Kagetsu.

Please be advised that my client, Rachel Giese, has purchased certain property more particularly known and described as:-

Lots 8 and 9, Block 1, District Lot 772, and Parcel "A" (reference plan 2096) of Lot 10, Block 1, District Lot 772, all of Group 1, New Westminster District, Plan 5431, in the Municipality of West Vancouver, Province of British Columbia.

This piece of property being subject to the above described mortgage.

Apparently the mortgagee was a Japanese who was interned during the war and a vacating certificate was issued. We are now endeavouring to discharge the said mortgage and would ask for instructions on the required procedure.

The Registrar of Land Titles in Vancouver has advised us to write to you and has suggested that the said mortgage may re-vest in the original mortgagee, namely Mr. Kagetsu. If you would be so kind as to give us your instructions in this matter, we would be most grateful.

Yours truly,

BRISTER & BURGE,

Per

DEB.C.

File No. 16700 Vol. 1B

Ottawa July 19th, 1954.

MEMORANDUM FOR FILE

Re: Deep Bay Logging Company Limited
E. Kagetsu.

The following is an excerpt from the Minutes of Meeting of the Administration Board Moday, July 19th, 1954.

Reference was made to the approval of the requisitions for cheques covering the release of the award made to E. Kagetsu by Mr. Justice Bird. Cheques for $51,440.00 and $483.75 were forwarded to Mr. Kagetsu on July 14th, 1954.

The Chairman presented a letter from Mr. John Osborne of Gowling, Mactavish, Osborne & Henderson together with copy of letter from Colonel Norris.

The Board approved the requisition for cheque for $2,587.50 covering expenses of presentation of the Kagetsu case to the Bird Commission. This cheque was forwarded to Mr. Kagetsu on July 16th, 1954.

Mr. Kagetsu has acknowledged receipt of all three cheques."

K. W. Wright.

KWW/G

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS
A. J. P. CAMERON, K.C., M.P. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM
REID SCOTT J. T. SKELLS

CABLE "RUERMAS" TORONTO
TELEPHONE EMPIRE 3-4391

STERLING TOWER
TORONTO 1, CANADA

July 14th, 1952.

OFFICE OF THE CUSTODIAN
RECEIVED
JUL 21 1952
PASS TO DJ
FILE

RE: File # Van Ev 12787-2
Legal Section
DJ/EA

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
OTTAWA 4, Canada.

re: Eikichi Kagetsu

Dear Sirs:

This will acknowledge receipt of your letter of July 10, enclosing cheque in the amount of $3,471.74, payable to Mr. Kagetsu, by Custodian's cheque #27404. Cheque has been forwarded to Mr. Kagetsu.

You also requested Mr.Kagetsu's address it is as follows:

Mr. Eikichi Kagetsu,
8 Mountview Avenue,
TORONTO 9, Ontario.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F. A. Brewin, per DJ

j.

55165

Van Ev 12787-2

Legal Section
DJS/EA

Victoria Building,
7 O'Connor Street,
Ottawa 4, Canada.

July 10, 1952

Messrs. Cameron, Brewin & McCallum,
Barristers & solicitors,
Sterling Tower,
Toronto 1, Ontario.

Attention : Mr. Brewin

Dear Sir:

Re: Eikichi Kagetsu

In reviewing the combined files, and checking them with the ledger accounts, it was noted that a balance remained in one of the personal accounts of Mr. Kagetsu. As we do not appear to have his present address, I am enclosing the Custodian's cheque #27404 in favour of Mr. Kagetsu for $3,471.74 the amount of the said balance.

When acknowledging receipt of these funds for Mr. Kagetsu, would you be good enough to let us have his present address for our records.

Yours very truly,

D. J. Sinclair,
Solicitor.

DEPARTMENT OF SECRETARY OF STATE
OFFICE OF THE CUSTODIAN

REQUISITION FOR CHEQUE

OTTAWA, July 7, 1952

FILE NO. Van Ev 12787-2

SECTION Legal Section

CHEQUE PAYABLE TO Eikichi Kagetsu

RE Personal Account

ADDRESS

CHEQUE TO BE FORWARDED TO Cameron, Brewin & McCallum, Barristers & solicitors
(Name)
Sterling Tower, Toronto 1, Ontario
(Address)

IN THE AMOUNT OF
CAN. $3,471.74 cash Bank acct
U.S. $
£

PARTICULARS The above requisition cheque covers the balance of Eikichi Kagetsu's personal account resulting from the liquidation of miscellaneous assets pursuant to Orders in Council PC-7355.

CHARGE TO Eikichi Kagetsu's personal account
Japanese Evacuee

(Requisitioned by)

BALANCE OF ACCOUNT AS AT
CAN. $3,471.74 Bank Account.
U.S. $
£

CERTIFIED CORRECT:

DATE JUL 8 1952

M. M. Bruder
(Accountant in Charge)
for Mr. Lymburner

APPROVED FOR PAYMENT:

DATE

(Assistant Deputy Custodian)
for

CASHIER'S MEMO.

CHEQUE NO. 27404

DATE JUL 10 1952

BANK Royal Bank of Canada.
ACCOUNT #10051

(Cashier's Initials)

21-40M-11-45 REV.

Van Ev 12787-2

Legal Section
DJS/EA

Victoria Building,
7 O'Connor Street,
Ottawa 4, Canada.

July 7, 1952

Mr. F. G. Shears,
4615 West 9th Street,
Vancouver, British Columbia,
CANADA.

Dear Mr. Shears:

Re: Eikichi Kagetsu

Your letter of June 23, 1952, to Mr. Wright, has come to me for action, and while the files do not disclose anything bearing to Mr. Kagetsu's balance, the #2 personal ledger account shows a balance in his favour of $3,471.74 for which I am requisitioning a cheque today which shall be sent to his solicitors in Toronto, Cameron, Brewin & McCallum, who are the only solicitors on record in his file. Mr. Norris has been active in the Deep Bay Logging case, but he does not appear to have been representing Mr. Kagetsu in his other and more personal affairs. Mr. Brewin his frequently in Ottawa handling the Yokohama Specia Bank affair, and I have no doubt that it will be in order to clear out this personal account through his agency.

Yours very truly,

D. J. Sinclair,
Solicitor.

July 7, 1952

Van Ev 12787-2

Legal Section

Eikichi Kagetsu

Personal Account

Cameron, Brewin & McCallum, Barristers & solicitors

Sterling Tower, Toronto 1, Ontario

3,471.74

The above requisition cheque covers the balance of Eikichi Kagetsu's personal account resulting from the liquidation of miscellaneous assets pursuant to Orders in Council PC-7355.

Eikichi Kagetsu's personal account

EA

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

PHONE PACIFIC 6131
PLEASE REFER TO
FILE NO._____

JAPANESE EVACUATION SECTION

506 ROYAL BANK BLDG.
HASTINGS AND GRANVILLE
VANCOUVER, B. C.

OFFICE OF THE CUSTODIAN
RECEIVED
JUN 25 1952
PASS TO Mr Sinclair
FILE ✓

4615 West 9th Avenue
Vancouver B.C.
June 23rd. 1952

K.W.Wright Esq. Q.C.
Chief Counsel
Office of the Custodian
Ottawa.

Dear Mr Wright,

I suppose that there have been no final developments in regard to Deep Bay Expenses and Jinnouch and Yamanaka or I would have heard from you. Are the matters still on the tapis?

I met T.C.Norris on the street the other day and I asked him how matters were progreesing. He said that they were being handled for him by his representative at Ottawa. However he said that he could not understand why Kagetsu could not be paid the amount to his credit.

As a matter of fact there are some funds which as far as I can see could be paid quite apart either from the award or the question of legal fees. There is over $3000 in Kagetsu account File No 12787. Is there anything I could do at this stage?

Kind regards,

Yours very truly

F.G.Shears

F.G. Shears

Phoph to me re this
25.6.52

55165

Victoria Building,
7 O'Connor Street,
Ottawa, 4, Ontario.

December 4th, 1951.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Building,
Vancouver, 2, B.C.

Dear Mr. Shears:

Re: Japanese Claims Commission
Deep Bay Logging & E. Kagetsu Claims

I have for acknowledgment your communication of the 30th ultimo, enclosing copy of Mr. Justice Bird's Report No. 1388 re the above case.

Please accept our thanks for your co-operation herein.

Yours very truly,

K. W. Wright,
Chief Counsel.

KWW/G

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. .....

506 Royal Bank Bldg.,
Vancouver 2, B.C.,
November 30, 1951.



K. W. Wright, Esq., K.C.,
Chief Counsel,
Office of the Custodian,
Victoria Building,
7 O'Connor St.,
Ottawa 4, Ontario.

Dear Mr. Wright:

Re: Japanese Property Claims Commission
Deep Bay Logging Co. & E. Kagetsu Claims.

I have for acknowledgment your letter of November 26th in which you ask for a copy of Mr. Justice Bird's report No. 1388 re the above case.

I am pleased to enclose copy herein.

Yours very truly,

F. G. Shears

F. G. Shears,
Director.

FGS/GN
Encl.

55165

CLAIM NO.1388 - DEEP BAY LOGGING COMPANY LIMITED, and EIKICHI KAGETSU

This claim is made in respect of two tracts of timber land situate on Vancouver Island, British Columbia, as well as in respect of the buildings, logging equipment, foreshore rights, booming grounds, log dump landing, coal dock and other structures erected by the claimants on one such area, used in connection with logging operations conducted thereon by the claimants prior to March 1942.

The claimants allege:

1. That one tract, i.e. Block 195, Cowichan Lake District, had a fair market value of $247,500.00 at the date when it was sold by the Custodian for the sum of $93,000.00.

2. That the other tract, comprising 11 blocks of land described in the claim form, certain felled, bucked and cold-decked timber and a stand of immature timber, as well as the said plant and equipment of the logging operation situate in the Newcastle District, all of which is hereafter described as "the Deep Bay property" had a fair market value of $292,039.00 and was sold by the Custodian for $40,000.00.

3. That a logging railway situate on the Deep Bay property had a fair market value of $28,260.00 when the same was sold, together with the property described in No.2 for the consideration mentioned therein.

4. That certain logging equipment enumerated in items 3, 4, 5, and 8 of the claim, having an aggregate fair market value of $62,368.55, was sold by the Custodian for $34,604.53.

5. That the claimant Kagetsu's dwelling situate at 5286 McKenzie St., Vancouver, had a fair market value of $5500.00 at the time when the same was sold by the Custodian for the sum of $4300.00.

6. That a Plymouth 1942 model Sedan motor car had a market value of $1396.00 when it was sold by the Custodian for the sum of $1025.00.

The claimants claim, in respect of the difference between the alleged fair market value of the property mentioned in paragraphs numbered 1 to 6 hereof and the sum realized on the sale thereof by the Custodian, the sum of $464,134.02.

All of the property, the subject of this claim, was administered under the direction of the Custodian by P.S. Ross & Sons and their Vancouver agents, Frederick Field & Co. from the date of the evacuation in 1942 of the claimant Kagetsu, who was the major shareholder and Managing Director of the Deep Bay Logging Company Limited until the said property was sold in 1943 on instructions of the Custodian.

During the period of the Custodian's administration of the said property, efforts were made to sell the tracts of timber and the logging operation, by Carl Stewart, a Vancouver Solicitor who then held a general Power of Attorney from the claimant Kagetsu, which is described by Kagetsu in his J.P. Form (Exhibit 9) as giving full power to the Attorney to deal with his property, both real and personal. Stewart reported to P.S. Ross & Sons, by letter dated November 23rd, 1942, that he had been negotiating for sale of the Deep Bay property with five different firms, that the best offer he had received was $2.75 per M. for the timber (then estimated by him on instructions from Kagetsu to contain 17 to 18 million feet) including the use of the equipment. This offer was rejected by Kagetsu. On March 3rd 1943 Stewart reported to the Custodian (Exhibit 35) that he had received two offers for purchase of Block 195, i.e. $85,500. cash, and $100.00. on stumpage payments spread over 2½ years, that the

claimants had rejected both offers and fixed as the rock-bottom price $125,000.00 cash. It appears that Stewart was unable to effect a sale of any of the said property up to the date when the Custodian received instructions to offer the same for sale by public tender. Stewart further reported to the Custodian (vide Exhibit 32) that a tract of timber lying to the North West of the Deep Bay property, which the claimants had expected to acquire from the E. & N. Railway Company with a view to logging the same in conjunction with the Deep Bay operation, had been optioned by the E. & N. Railway Company to another logging operator. This factor in his opinion had made the Deep Bay property less attractive to prospective purchasers.

There is evidence, which I accept, that Frederick Field during this period in the interest of the claimants endeavoured unsuccessfully to persuade the E. & N. Railway Company to make the adjoining tract available to the claimants, so that the same might be sold with the Deep Bay timber.

These properties were advertised for sale by public tender by the Custodian, during the summer of 1943, in two separate parcels, i.e. Block 195 and the Deep Bay property. I think it is unnecessary to canvass in detail the steps taken to bring the properties to the notice of persons interested. Suffice it to say that in my opinion the advertising is shewn to have been adequate, and in fact attracted general interest among persons engaged in the logging industry.

The Custodian or his representatives, before considering the tenders received in response to these advertisements, caused both timber tracts to be cruised for volume and valued by Eustace Smith, Esquire, a timber cruiser and valuator of long experience in the timber industry of British Columbia, who then was and now is held in high regard both for his

competence and integrity, and the equipment and buildings to be appraised and valued by Eustace Smith and by George W. Skelding, a machinery appraiser representing the Universal Appraisal Company, Vancouver.

One tender was received for the purchase of Block 195,- that of H.R. MacMillan Export Co. Ltd., for the sum of $93,000. This offer was accepted by the Custodian, after consultation with and upon the advice of Eustace Smith, who expressed the opinion that the offer was fair and in excess of the value placed upon the timber by himself, i.e. $80,050.00. The effective date of thissale, I find, was June 15th 1943, when the Custodian notified the MacMillan Company of his acceptance of the offer.

One offer only was received for the Deep Bay property,- that of H.R. MacMillan Export Co. Ltd., who offered $40,000.00 for the standing and fallen timber, log dump, booming ground, fore-shore lease and right-of-way from timber to dump with rails removed. This offer, which also exceeded the appraisal, was ultimately accepted on the advice of Eustace Smith. Prior to acceptance, however, the MacMillan Company, at the request of the Custodian, made an offer for all of the Deep Bay property as advertised for sale, which included timber, equipment and other property enumerated in Exhibit 45, being the report on liquidation dated 15th March 1945. This offer of $75,000.00 was rejected by the claimant, Kagetsu, who at the same time expressed the opinion that $40,000.00 was a reasonable price for the timber. The Custodian consequently accepted the MacMillan offer of $40,000.00 and caused the other property advertised for sale to be sold by private sale under the circumstances later mentioned. The sale of this timber was not finally consummated until March 13th 1944, due to title difficulties, although tenders were closed on August 31st 1943. Since the offer was not accepted by the Custodian until the latter date,

I find the effective date of sale to have been March 13th, 1944.

Early in the course of the Inquiry, after extended argument from all Counsel concerned, I announced my conclusions as to the principles upon which I considered that fair market value should be determined under the terms of reference directed to me, vide General R eport. Now I have had the benefit of further argument from Counsel for these claimants, who I apprehend accept the conclusions then expressed, though Counsel submits that the principles subsequently adopted by the Supreme Court of Canada in Diggon-Hibben vs. Regem (1949) S.C.R. 712 should be followed. This decision, as I interpret the opinions of the several members of the Court, is designed toclarify and explain the decisions upon which my earlier conclusions were founded, and does not alter or vary the principles which I have held applicable to all claims under consideration on this Inquiry. I do not consider that the allowance of 10% for compulsory taking, applied by the majority of the Court in that case, can be applied to sales made by the Custodian.

The questions raised on the investigation of this claim as it relates to timber, which occupied 16 full day Sessions of the Inquiry, involved two principal issues, namely,- quantity and price. The volume of merchantable and accessible timber in any given area I think depends in large measure on market conditions in the logging industry at the time when the timber is cut and transported for manufacture. Chief Justice Sloan in his Report on the Forest Resources of British Columbia, made in December 1945, has defined the terms "merchantable" and "accessible" at pages 26 and 29 of the Report as follows:

> "The next gradation finds the forest an advanced "(so-called) second-growth forest composed of trees sufficient "in size to contain measurable amounts of usable material. "If normal growth continues, the forest reaches the rotation "age or continues on to the maturity of an old-growth forest. "Forests in the third and fourth stages of gradation (<u>those before mentioned</u>) (my italics) contain trees of a size and "quality which, under normal conditions can be profitably "marketed. These are the <u>merchantable</u> trees.

"'Accessibility' is a term definitive of area. "An accessible area is one from which the forest crop may be "harvested at a profit. An inaccessible area is one in which "the cost of extraction does not leave a margin of profit. "The term is a variable one and its components are computed in terms of (inter alia) location, i.e. distance from "markets, terrain, logging methods, degree of utilization, "site, quality, and the market price for logs and for the "end product. Thus an area may be inaccessible today "and accessible tomorrow, depending upon the relation of "the cost of production to the realizable price of its crop. "The same factors also operate to render inaccessible areas "now classed as accessible. Areas of accessibility expand "or contract in direct relation to logging economics. "Location and difficulties of terrain are merely elements "to be considered as affecting production costs."

Here the testimony of many witnesses called on behalf of the claimants on the one hand and the Government on the other discloses a wide divergence of opinion on both of the principal issues. I am satisfied that the very marked difference of opinion between these groups of witnesses has arisen from the factors of merchantability and accessibility as defined by Chief Justice Sloan.

The bases for the Custodian's acceptance of the tenders made for both tracts of timber are the valuations per thousand feet board measure (MBM) and the volume estimates made by qualified persons in and immediately prior to 1943 founded upon economic conditions then existing in the logging industry, whereas in my opinion the bases for the claimants' claim in respect of these tracts rest upon like valuations and estimates which have been unwarrantably influenced by economic conditions in the logging industry existing at the date when the claim was presented in 1948. The claimants caused volume cruises to be made of both areas, one of which, i.e. on Block 195, was completed in November 1948, the other in December 1948. Both are expressed to relate to conditions pertaining to 1943, though in my judgment the appraiser has not successfully avoided the influences of the changed conditions which are shewn to have occurred subsequent to 1945. I am satisfied on the evidence, as well as from my knowledge of conditions in the timber industry of British Columbia in

the interval between 1943 and 1947, of which I consider I may take judicial notice, that a marked rise in the market value of standing timber and timber products occurred between those years, and further that a radical change in the degree of utilization of timber occurred in the same period, which resulted in classification as merchantable and accessible much standing timber of a quality and dimension that would not have been so classified in 1943. These factors in my opinion serve substantially to explain the divergence of opinion noted on both principal issues.

It is I think desirable to review, in what must necessarily be a very summary way, the evidence and argument on these issues taken in the course of this investigation, which extend to some 1200 pages of evidence and nearly 200 pages of argument.

The claimants now allege that Block 195 at the date of sale had a fair market value of $247,500.00 based upon a volume estimate of 55 million feet valued by them at $4.50 per thousand, although in the original claim they valued the same timber at $187,500.00, said by the claimant Kagetsu to have been based upon a volume of 50 million at $3.75 per M. This block of timber was bought by the claimants in 1937 for $75,000.00.

The volume estimate made by Mr. Schultz is based upon an examination of 4% of the entire area, in which is included all merchantable timber 12" diameter, breast high (DBH) and over. At the time the cruise was made the area had been logged to the extent of about 80% of the whole. The estimate on the logged portion was based on measurement for diameter and height of stumps remaining. The volume of standing timber tallied was compiled from volume tables. This estimate shows a net volume of approximately 22 million ft. of fir, 26 million ft. of hemlock and balsam, and approximately 8 million ft. of cedar and pine, a total of 55,474 M. ft.

The tender of the MacMillan Company for purchase of this tract of timber from the Custodian was based upon a cruise estimate made by Eustace Smith in 1923, which he had checked in 1940 and then had increased by 1 million ft. to 31 million ft., in which the timber under 12" DBH was not included. Smith again rechecked the former cruises on instructions from the Custodian in 1943, and at the same time considered a cruise made by P.F. Sheehan in about 1925 which showed approximately 50 million ft. A letter from Sheehan, identified by Smith, disclosed that the Sheehan cruise was made on the assumption that the timber removed would be manufactured by a mill on the ground. He therefore included as merchantable timber a grade and quality which he would not have considered merchantable if it was necessary to transport the timber any distance for manufacture. Smith then adopted his 1940 check cruise estimate and declared that his cruise was conservative. I do not attempt to reconcile the differences between these cruise estimates, since other evidence, now discussed, in my opinion provides more reliable evidence of the volume of timber considered to be merchantable and accessible under economic conditions prevailing subsequent to 1945.

In the period 1945 to 1948 the MacMillan company caused Block 195 and an adjoining tract (Block 403) to be logged together. Soon after its purchase of Block 195, that company negotiated by private treaty for and bought Block 403, the purchase being based as was that of Block 195 on a cruise made by Eustace Smith, employed for the purpose by vendor and purchaser. He estimated the timber on Block 403 at 22 million ft. Keith Shaw, a senior executive of the MacMillan company testified that the two areas contained timber of similar type and quality, and that the timber stands were approximately of equal density, which statements are substantially confirmed by William Byers, a witness called by theclaimant (vide p.264). He stated, and it appears from the scale records found in

Exhibit 23 that 58,752 M. ft. of merchantable timber had been removed by contractors for his company at September 1948; that he estimated as a result of frequent examinations of the standing timber that 12 million ft. of standing timber then remained on the two areas, i.e. a total of 70 million ft. or an over-run on the aggregate of the Smith cruises of approximately 17 million ft. In view of this evidence, I consider it reasonable to assume that there will have been an approximately equal over-run on each tract. Founded upon this assumption, I conclude that Block 195 is shewn to have contained 41 million ft. or 10 million ft. more than the volume content estimated by Eustace Smith, on which the Custodian's sale was based.

I am satisfied on all of the evidence that the degree of utilization in most B.C. logging operations was substantially greater in the period 1945 to 1948 when this timber was logged than would have applied in 1943 when this tract was cruised by Smith. The evidence of the various witnesses on the subject of comparative utilization does not permit an accurate estimate of the difference in volume. In these circumstances, however, I consider that it is reasonable to estimate that 10% greater volume of then merchantable timber will have been removed in 1947 than a competent cruiser would have estimated to be merchantable in 1943, which brings me to the conclusion that the volume of merchantable and accessible timber on Block 195 as at the date of sale was 37 million ft. or 6 million ft. in excess of the cruise on which the sale by the Custodian was based.

On the subject of market value of this timber, Keith Shaw said that his company bought Block 403 by private treaty soon after its purchase of Block 195, and at a slightly lower price than was paid to the Custodian; further that his company had also bought a comparable tract of timber in the same area at about the same time at a price equivalent to the $3.00 per M. paid for Block 195. I accept his evidence as establishing the fact that the fair market value of standing timber on Block 195

at the date of sale by the Custodian was $3.00 per M. However, in view of my conclusion that Block 195 contained 37 million feet of merchantable and accessible timber, I find, that the fair market value at the date of sale by the Custodian was not less than $111,000.00, or $18,000.00 more than was realized on the sale.

Deep Bay Property

Turning now to consideration of the Deep Bay property. This tract of timber is shewn on the evidence to have been a remnant of an area which had been logged for 20 years by the claimants. The claimants had bought from the E. & N. Railway Company blocks of this area from time to time between 1923 and 1941 at prices varying from $1.10 per M. to $2.00 per M., the last purchase made in 1941 (that of Block 617) being at $1.10 per M. All such purchases were based on cruise estimates made by the Railway company discussed later. The claimants now allege that at the date of sale by the Custodian thearea contained in excess of 56 million feet, based on a 5% to 10% cruise made by Mr. Schultz in 1948, having a fair market value of $4.00 per M. The claimant, Kagetsu, acknowledged that the most accessible timber had been removed prior to 1942. Eustace Smith confirmed this statement. He said that the heart had been cut out of the stand, and described the logging of it as a salvage operation.

In 1942 Kagetsu's Attorney, Stewart, endeavoured to sell this timber to various purchasers, and then reported to the Custodian that Kagetsu estimated the tract to contain 17 million to 18 million ft. of merchantable and accessible standing timber and 2½ million ft. of felled and bucked timber. Confirmation of Kagetsu's estimate is found in a minute of a meeting held in April 1942 attended by Kagetsu, vide Ex.30.

Eustace Smith's cruise estimate of this area, founded upon the same E. & N. cruises upon which the claimant bought this timber, and upon a check cruise made by himself in 1942, shows approximately 14 million feet of standing timber in

addition to an undetermined quantity of felled timber then lying on the ground.

There is evidence that the entire area of 11 blocks when acquired by the claimants from the E. & N. Railway Company was estimated to contain approximately 88 million feet. All testimony introduced on the subject shows that E. & N. cruises were extremely conservative, confirmation whereof is found in a record of the Deep Bay Company's cut from the area to March 1942 showing that more than 112 million feet had been removed by the claimants, that is to say,- the cut exceeded the cruise estimates by 27%.

It was shewn that the contractors for the MacMillan Company subsequent to purchase from the Custodian had cut and removed from the area up to September 1948 approximately 16 million feet; further, that additional timber remained of which no estimate was furnished on the Inquiry.

The foregoing testimony does not permit of any satisfactory conclusion as tothe quantity of standing timber on this area at the date of sale. The estimate by Schultz shows half as much timber on three blocks, two of which were partly logged, as the entire area of eleven blocks was estimated to contain when bought by the claimants. Conservative as the E. & N. cruises are shewn to have been, it is not conceivable that the total area contained 100% more timber than was estimated by E. & N. Railway Company cruises, which must have been the case if the Schultz estimate is accepted. On the other hand, Smith's cruise, which is founded substantially on E. & N. cruises, is shewn to err in the other direction, but to a substantially less degree. In view of the claimants' estimate of 17 to 18 million feet, and the fact that the cut made by the MacMillan contractors exceeded 16 million feet, leaving an undetermined quantity of standing timber, the best estimate which I find it possible to make is that the volume of merchantable and accessible timber standing on the area, determined under conditions existing in

1943, exclusive of felled and bucked timber, did not exceed 17 million feet or an excess of 3 million feet over the Smith cruise on which the selling price was based.

Stumpage value of Deep Bay timber.

Keith Shaw has said that the tender of the MacMillan company was based on the Smith cruise and upon his own estimate of value at $2.50 per M., the latter figure being applied because of the fact that the available standing timber was widely scattered and that a truck road was required to be constructed of approximately 8 miles to remove the timber. I find nothing in the evidence to support a conclusion that the standing timber was then of greater value than $2.50 per M.

It is true that the going price of timber of comparable quality at the date of sale is shewn to have been about $3.00 per M. However, the scattered nature of the stand in my opinion operated to reduce the market value of this timber below that figure.

It is, I think significant that none of the five logging operators with whom Stewart had conducted negotiations were sufficiently interested to tender for purchase of this timber when the same was offered for sale by the Custodian. The best offer received by Stewart was $2.75 per M., and that offer included the use of all of the claimants' equipment.

Since I find that the quantity estimate on which this sale was based shewed 3 million feet less than the tract contained, I therefore estimate tha fair market value of the standing timber at the date of sale to have exceeded the price realized therefor by the Custodian by the sum of $7,500.00.

I therefore find the fair market value of the timber and the various structures sold with it was $47,000.00.

Felled, bucked and cold-decked timber.

It was shewn that approximately 2,500 M. feet of felled, bucked and cold-decked timber cut by the claimants prior to March 1942 was lying on the area and was included in the sale made by the Custodian. The claimants allege that this felled timber had a value of $29,000.00 calculated on a basis of approximately $11.00 per M. It may be inferred that this fallen timber had suffered some deterioration due to the fact that it lay on the ground for not less than 18 months prior to the date of sale. No satisfactory evidence was introduced before me on the investigation of this claim as to the value of such timber. However, a similar claim for felled and bucked timber was made by another claimant (Claim No.1381). On that investigation it was shewn that approximately 2½ million feet of felled and bucked timber which had lain on the ground for an equivalent time had been sold in September 1943 by the purchaser from the Custodian at the sum of $6.50 per M. In that claim I estimated the value of the felled and bucked timber at $13,750.00 based upon an estimated market value of $5.50 per M.

The stumpage value of the timber under consideration in Claim No.1381 was found to be $3.00 per M. compared with $2.50 value of this timber.

Applying the information furnished in Claim No.1381 and taking into account the difference in stumpage value,- i.e. 50 cents per M., I estimate the fair market value of the claimants' felled and bucked timber at $5.00 per M. i.e. an aggregate sum of $12,500.00.

However, since this felled and bucked timber was appraised by Eustace Smith at $4500.00 (vide Exhibit 45, schedule 3) upon which the Custodian in part based his acceptance of the MacMillan tender - consequently an allowance of $4500.00 for felled and bucked timber having

been included in the sale price - that sum must be deducted from the estimate of fair market value of felled and bucked timber now made. I THEREFORE RECOMMEND payment to the claimants on this head of the claim the sum of $8000;00.

Logged off lands.

The claimants present a further claim of $43,225.00 for stands of so-called immature timber on logged-off areas, being part of the claimants' lands. This claim is supported by the Schultz report (Exhibit 61 page 20) from which it appears that approximately 5500 acres of logged-off land contained immature timber said to be of from 5 to 65 years of age. No value for such timber was taken into account on the sale made by the Custodian.

There is not before me any satisfactory evidence that such areas were considered as having particular value at or prior to the period of 1944 when this timber was sold, though it does appear that since 1945 logging operators have considered as of real value for reforestation purposes areas which have been logged off in earlier years. The claimants held these lands in fee, and had continued to pay taxes thereon up to the date of sale by the Custodian. In these circumstances, notwithstanding that the change in practice of logging operators did not occur until two years after the sale, I consider that the claimants have been shewn to have placed a value on such areas, though the extent thereof is not readily determined. In the circumstances I estimate the value of thelogged off lands to have been $8,250.00 at the date of sale, i.e. $1.50 per acre.

40 Buildings

A further claim is made for 40 buildings, formerly used by the claimants for housing of its logging crews. Various witnesses have testified that the buildings were not suitable for occupation by Occidental crews, and therefore were esteemed valueless from the point of view of an Occidental purchaser. However, since value to the owner (vide Di gon-Hibben v. Regem,supra) at the date of sale is the criterion to be

adopted in circumstances such as are found here, I consider there is evidence to show that the buildings were of value to the owners, which I estimate at $1000.00.

Logging railway

The claimants had constructed and in operation at the date of evacuation a logging railway which comprised 8½ miles of main line, upon which steel was laid. It was shewn that the railway was in poor condition. Kagetsu stated that if he had continued in operation he would have converted to truck hauling.

A claim is made in respect of the railway for value of the railway in use, for $28,260.00. This claim I take it is based on the assumption that the claimants would acquire the tract containing 25 million ft. before mentioned, lying behind the Deep Bay tract, and would have used the railway for the hauling of logs to salt water. It is shewn that this latter tract had been alienated to Alaska Pine Company by the E. & N. Railway Company, and consequently was not available to the claimants. The purchasers from the Custodian scrapped the railway and converted to truck hauling, using approximately 4 miles of the railway bed in the construction of the truck road; from which information I infer that these 4 miles of railway bed had some value to the purchaser and will not have had less value to the owner. In the absence of any evidence as to the value calculated on this basis, I estimate the same to have been $1000.00.

Logging Equipment.

The claim for this equipment is set out in items 3, 4, 5, and 8 of the claim form. The claimants allege that this property had a fair market value of $62,368.55 when sold by the Liquidator on instructions of the Custodian for $34,604.53. They therefore claim in respect thereof the difference, being $27,764.02. During the investigation of the claim, Counsel for the claimants and the Government asked me to consider a proposal for settlement of this part of the claim which had been the subject of discussion between Counsel. Evidence had not then been introduced

on this subject other than certain appraisals of such property which had been obtained by the Custodian.

I required Counsel to file memoranda outlining the basis on which the proposal for settlement had been calculated. These memoranda, signed by Counsel, together with a letter of the claimant, Kagetsu, confirming the proposed settlement, are filed as Exhibit 64 on this Inquiry.

I am satisfied after thorough examination of the material filed that the proposalisfair and reasonable, as between the parties, and that the figure of $8000.00 proposed for payment to the claimant, added to the sum realized on the sale, is equivalent to its fair market value at the time of sale, that is to say the fair market value then was $48,434.80.

5286 McKenzie St. Vancouver and 1942 model Pontiac Sedan motor car.

Claim made in items 6 and 7 of the claim form arising out of the sale by the Custodian of the marginally noted dwelling and car will be disposed of by agreement between Counsel, on the basis of the over-all recommendation made by me in respect to property of the samenature.

I THEREFORE RECOMMEND payment to the claimants of the sum of $51,750.00, being the aggregate of the excess of the estimates here made of fair market value over the sale price, summarized as follows:

Block 195	- $18,000.00
Deep Bay	- 7,500.00
Deep Bay felled and bucked	- 8,000.00
5500 acres immature timber	- 8,250.00
40 buildings Deep Bay	- 1,000.00
Railway	- 1,000.00
Logging equipment	- 8,000.00

to which will be added the aggregate of the over-all recommendations in respect of the dwelling and motor car.

March 24th 1950.

(sgd.) H.I. BIRD
Commissioner.

56537
copy for 55165

Victoria Building,
7 O'Connor Street,
Ottawa, 4, Ontario.

October 25th, 1951.

ATTENTION: Mr. R. A. Olmsted

F. P. Varcoe, Esq., K.C.,
Deputy Minister of Justice,
Department of Justice,
Ottawa, Ontario.

Dear Mr. Varcoe:

Re: Mrs. Masuye Jinnouchi - Case 143
Life Insurance

Reference is made to the writer's recent interview with your Mr. Olmsted, when it was suggested that a report dealing with Mr. Clyne's interest in this case be obtained from the Director of our Vancouver Office.

Enclosed you will find copy of communication received from the Director under date of the 23rd instant.

You will observe that Mr. Shears is of opinion that if we accept responsibility the award should be in the neighbourhood of $3000. You will also note the suggestion that the three cases under review, viz. Masuye Jinnouchi insurance claim for $5500, Hirokichi Yamanaka claim for failure on the part of the Custodian to collect outstanding accounts and Kagetsu and Deep Bay Logging claim for expenses other than legal fees, should be settled by negotiation without further reference to Commissioner Bird.

Mr. A. J. P. Cameron, M.P., has agreed to call upon you and discuss the Yamanaka claim, and Mr. John Osborne of Messrs. Gowling, MacTavish & Company, hopes to receive instructions to see you about the Kagetsu case from his principal, Col. T. G. Norris, K.C., of Vancouver.

You understand that the Custodian intends to close the Vancouver Office not later than March 31st, 1952, and in view of this it is desirable to complete contentious cases with the least possible delay.

Will you be kind enough to let me hear from you at your early convenience.

Yours very truly,

K. W. Wright,
Chief Counsel.

KWW/G
Enc.

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS
A. J. P. CAMERON, K.C., M.P. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM
H. M. HARRISON

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO, 1, CANADA

November 10, 1950.

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Re: Kagetsu and Yokohama Specie Bank,
Seattle Branch.

Attention Mr. D. J. Sinclair.

Dear Sirs:

This is to thank you for your letter of November 9th and acknowledge that we have received a cheque from your Vancouver Office in the sum of $8,803.97, which completes this matter.

We would like to thank you very much for your co-operation and kindness in respect to it.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F A Brewin.

FAB: HC

OFFICE OF THE CUSTODIAN
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FILE

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55165

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Legal Section
DJS:ED

November 9th, 1950.

Messrs. Campron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto, 1, Ontario.

Attention: Mr. F. A. Brewin.

Dear Sirs:- Re: E. Kagetsu and Yokohama Specie Bank,
Seattle Branch.

We have to-day been advised by our Vancouver office that notification has been received from the Office of Alien Property, Washington, D.C., that the settlement agreed upon was consummated on October 30th, 1950 and that the various documents were delivered at that time to Miss B. Duff.

Our Vancouver office further reports that a cheque has been issued in favour of Mr. Kagetsu in the sum of $8,803.97 which cheque you should have received by the time this letter reaches you. I believe that this closes the matter.

Yours very truly,

D. J. Sinclair,
for Assistant Deputy Custodian.

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Bldg.,
Vancouver, B.C.,
November 6, 1950.

D.J. Sinclair, Esq.,
Office of the Custodian,
Victoria Bldg.,
7 O'Connor St.,
Ottawa, Ont.

Dear Mr. Sinclair: Re: Eikichi Kagetsu and Yokohama Specie Bank, Seattle Branch - Your 55165 & J-84

Further to our letter of October 19th, we have now received advice from the Office of Alien Property, Washington, D.C. that the settlement agreed upon was comsummated on Oct. 30, 1950, various documents being delivered to Miss B. Duff.

We have today issued cheque in favour of Mr. Kagetsu in the sum of $8,803.97 which cheque has been forwarded to Messrs. Cameron, Weldon, Brewin & McCallum. This will close the matter as far as our files are concerned.

Yours very truly,

F. G. Shears

F. G. Shears,
Director.

FGS/GN

55165

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Legal Section
DJS:ED

October 24, 1950.

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto, 1, Ontario.

Attention: Mr. F. A. Brewin.

Dear Sirs:- Re: E. Kagetsu and Yokohama Specie Bank,
Seattle Branch.

2

Herewith for your files are carbon copies of letters from Mr. F. G. Shears, Director of our Vancouver Office, to Mr. Harold I. Baynton, Assistant Attorney General, Director Office of Alien Property, United States, and to the writer, both dated October 19th, 1950. The said letters are self-explanatory.

Yours very truly,

D. J. Sinclair,
for Assistant Deputy Custodian.

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

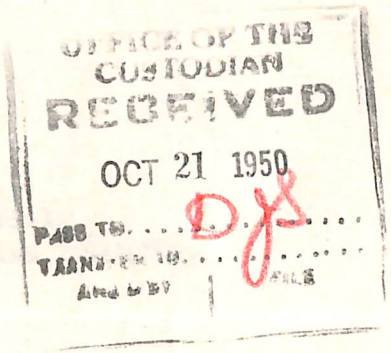
OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Bldg.,
Vancouver, B. C.,

October 19, 1950.



D. J. Sinclair, Esq.,
Office of the Custodian,
Victoria Building,
7 O'Connor St.,
Ottawa, Ont.

Dear Mr. Sinclair:

Re: Eikichi Kagetsu and Yokohamd Specie Bank, Seattle Branch - Your 55165 & J-84

We received your letter of the 16th instant with enclosures. Your instructions have been followed and we have today sent our cheque for $19,000.00 issued in favour of the Attorney General of the United States, to Mr. Harold I. Baynton, Asst. Attorney General, Office of Alien Property, Washington 25, D.C.

A copy of our covering letter is enclosed herein, and this is sent in duplicate in case you wish to send a copy to Mr. Brewin.

When advice is received from the Alien Property Custodian that the settlement agreed upon has been carried out and the documents sent to Miss Duff, we will issue our cheque for the balance of funds on hand. This cheque will be made in favour of E. Kagetsu, but forwarded to Mr. Brewin. The amount of this balance as stated in your letter, is $8,783.97. However, the actual balance now being held is $8,803.97. This difference of $20.00 occurs due to the fact that Mr. Brewin and yourself refer to the sum of $28,171.72 as the amount in our Suspense Account, whereas the correct figure is $28,191.72, and this was the sum which has been mentioned in previous correspondence with your office.

55165

The sum of $387.75 representing the Custodian's usual fee of 2%, has been credited to our Income Account.

Yours very truly,

F.G.Shears

F. G. Shears,
Director.

FGS/GN
Encl.

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Bldg.,
Vancouver, B. C.,

October 19, 1950.

C
O
P
Y

Harold I. Baynton, Esq.,
Assistant Attorney General,
Director, Office of Alien Property,
Department of Justice,
Washington 25, D. C.

Dear Sir:

Re: Yokohama Specie Bank Ltd., Seattle Branch,
Obligation of Eikichi Kagetsu.
Ottawa File No. 55165 & J-84

We have received instructions from the Office of the Custodian of Enemy Property, Ottawa, to forward Custodian cheque for $19,000.00 in favour of the Attorney General of the United States, account Number 39-23489. This cheque is enclosed herein marked by Foreign Exchange Control Board "Approved for payment G.11-4-1934"

We refer you to your letter of October 11, 1950 addressed to the Custodian's Office, Department of the Secretary of State, Victoria Building, Ottawa, your file No. HER:SU:mp - F-39-1566.

The enclosed remittance is sent on the understanding that the settlement agreed upon will be carried out and that the following documents will be delivered to Miss B. Duff of Duff, Schwartz & Davis, Hibbs Building, Washington, 5, D.C.,-

1. A release executed by the Attorney General to Mr. Kagetsu

2. The note of Eikichi Kagetsu, dated February 16, 1939 in favor of the Yokohama Specie Bank, Ltd., Seattle Branch

3. The Certificate of Deposit, dated January 4, 1940, No. 43907, issued by said bank to Mr. Kagetsu.

Will you kindly advise this office when the settlement above referred to has been completed.

Yours truly,

F. G. Shears,
Director.

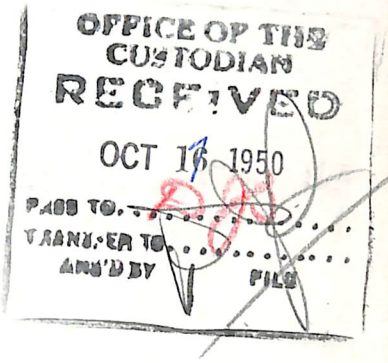
FGS/GN
Encl

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS
A. J. P. CAMERON, K.C., M.P. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM
H. M. HARRISON

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO, 1, CANADA

October 16, 1950.



Office of the Custodian of Alien Property,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Re: Your file No. 55165
Legal Section, D.J.S/DI-
E. Kagetsu and Yokohama Specie
Bank, Seattle.

Attention Mr. D. J. Sinclair.

Dear Sir:

We thank you for your letter of October 14th enclosing the letter from the Office of Alien Property of October 11th, 1950.

You will by this time have received our letter of October 11th dealing with this matter, and you will observe from that letter that it is quite satisfactory to us that the cheque for the sum of 19,000 Canadian dollars payable to the Attorney General of United States be transmitted to Mr. Baynton, on the terms set out in his letter and in our letter.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F.A. Brewin.

55165

FAB: HC

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165

Legal Section
DJS:ED

October 16, 1950.

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto, 1, Ontario.

Attention: F. A. Brewin, Esq.

Dear Sirs:- Re: Eikichi Kagetsu and Yokohama Specie Bank, Seattle Branch.

Further to our letter of October 14, 1950, please be advised that our Vancouver office have been instructed to arrange for the remittance of the $19,000.00 Canadian to the Attorney General of the United States, and the balance due Mr. Kagetsu to him in your care. Copies of our letters to Mr. Baynton, of the Office of Alien Property, Washington, and to Mr. F. G. Shears, Director of our Vancouver Office, are enclosed for your files.

2

Yours very truly,

D. J. Sinclair,
for Assistant Deputy Custodian.

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165

Legal Section
DJS:ED

October 16, 1950.

F. G. Shears, Esq.,
Director, Office of the Custodian,
506 Royal Bank Building,
Vancouver, B. C.

Dear Sir:- Re: Eikichi Kagetsu and Yokohama Specie Bank, Seattle Branch.

-A-

Enclosed herewith are copies of the following:

1. Letter of October 11, 1950, from Cameron, Weldon, Brewin & McCallum to the Custodian;
2. Letter of October 11, 1950, from Office of Alien Property to the Custodian;
3. Letter from the Custodian to the Office of Alien Property, Washington, October 16, 1950;
4. Letter to Cameron, Weldon, Brewin & McCallum, October 16th, 1950.

From the enclosed it will be noted that the Custodian is to forward $19,000.00 Canadian to Mr. Harold I. Baynton, Assistant Attorney-General, Director of the Office of Alien Property, Washington 25. The Custodian's cheque is to be made payable to the Attorney-General of the United States, Account No. 39-23489. As this amount of money is, in fact, "enemy" funds the Trading with the Enemy Regulations will apply and the Custodian should receive his usual fee of 2% in respect of the amount involved, as our fees are always on the gross amount rather than the net, it would appear that the amount in question would be $19,387 .75 and at 2% the fee would be $387.75, leaving a net of $19,000.00 Canadian to be remitted.

It is my understanding we are presently holding to the credit of Mr. Kagetsu the sum of $28,171.72. When the above operation has been completed this should leave a balance of $8,783.97 to Mr. Kagetsu's credit. This should be remitted to him in care of his solicitors, Messrs. Cameron, Weldon, Brewin & McCallum, Toronto. There will be no fee chargeable in respect of this sum as it represents proceeds of his assets which came under the Custodian's control pursuant to the Canadian Orders-in-Council issued in respect of the evacuees.

Would you kindly advise this office when the above steps have been taken.

Yours very truly,

D. J. Sinclair,
for Assistant Deputy Custodian.

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165

Legal Section
DJS:ED

October 16, 1950.

Harold I. Baynton, Esq.,
Assistant Attorney-General,
Director Office of Alien Property,
Washington, 25, D. C.

Dear Sir:- Re: Eikichi Kagetsu and Yokohama Specie Bank Limited, Seattle Branch,
Your Reference: HFR:SU:mp--F-39-1566.

I have the honour to acknowledge your communication of October 11th, 1950, setting forth your acceptance of Mr. Kagetsu's proposal advanced through his solicitor, Mr. F. A. Brewin.

We are also in receipt of Mr. Brewin's request for release and have to-day instructed our Vancouver office to remit in accordance with the terms of your letter. It is understood that on receipt of $19,000.00 Canadian you will deliver the documents referred to in the fourth paragraph of your letter to Miss Duff, of the firm of Duff, Schwartz & Davis, Hibbs Building, Washington 5.

Yours very truly,

D. J. Sinclair,
for Assistant Deputy Custodian.

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165

Legal Section
DJS:ED

October 14, 1950.

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto, 1, Ontario.

Attention: Mr. F. A. Brewin, K.C.

Dear Sirs:- Re: E. Kagetsu and Yokohama Specia Bank, Seattle.

This will acknowledge receipt of your letter of October 11, 1950, and in respect to the details set forth under your last paragraph, I would refer you to a letter dated October 11, 1950 from the Office of Alien Property, Washington, a copy of which is enclosed herewith.

You will note that on payment by the Custodian to the Attorney-General of the United States of the sum of $19,000.00 Canadian, they will deliver to Miss Duff, of Duff, Schwartz & Davis,

(a) The Time Draft which the Yokohama Specie Bank held as collateral;
(b) Promissory note executed by Mr. Kagetsu;
(c) A Release from the Attorney-General.

It is assumed that the Time Draft No. 43907 dated January 4th, 1940, referred to in their letter is the same document which you refer to in Item 3 of your letter as 'Certificate of Deposit dated 43907 of January 4, 1940'. Unless we hear from you by telephone that there is some exception to their proposal the Release will be recommended and the cheque requisitioned for transmittal to Mr. Baynton.

Yours very truly,

D. J. Sinclair,
for Assistant Deputy Custodian.

IN RE[illegible] PLEASE REFER TO [illegible] NUMBER

HFR:SU:mp
F-39-1566

OFFICE OF ALIEN PROPERTY
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

AIR MAIL

OCT 11 1950

OFFICE OF THE CUSTODIAN
RECEIVED
OCT 13 1950
PASS TO.. DJ
TRANSFER TO..
ANSWER BY..

Custodian's Office
Department of the Secretary of State
Victoria Building
7 O'Connor Street
Ottowa, Canada

Your File No. J-84

Re: Yokohama Specie Bank, Ltd., Seattle Branch
Obligation of Eikichi Kagetsu.

Gentlemen:

Reference is made to your letter of February 7, 1950, transmitting an offer made by Mr. F. A. Brewin, Mr. Kagetsu's solicitor, to compromise the obligation of Mr. Eikichi Kagetsu to the subject bank.

My letter of March 17, 1950 advised that members of my staff were engaged in negotiations with Miss Duff, of Duff, Schwartz & Davis, Mr. Brewin's representatives here, with a view toward disposing of this matter without resort to the courts. By letter dated July 3, 1950, Miss Duff advised us that Mr. Kagetsu had offered to settle this matter "by directing the Canadian Custodian of Enemy Alien Property to pay to you, out of the sum of $28,171.72 (Canadian Dollars) owned by him and held by the said Canadian Custodian in a suspense account, the sum of $19,000.00 (Canadian Dollars) in full settlement, provided that you release to him the Time Draft No. 43907, dated January 4, 1940, for 96,394.15 yen which the Yokohama Specie Bank Limited, Seattle, held as collateral."

The offer is acceptable to this Office and Miss Duff has been so advised. In the near future you undoubtedly will receive a request by or on behalf of Mr. Kagetsu to release to this Office from the suspense account the sum of $19,000.00 (Canadian Dollars). Please make this check payable to the Attorney General of the United States, account No. 39-23489.

Upon receipt of the aforesaid sum, Time Draft No. 43907, dated January 4, 1940, for ¥96,394.15, which the subject bank held as collateral for the obligation, will be delivered to Miss Duff, together with the promissory note for $23,000.00 executed by Mr. Kagetsu and a release from the Attorney General.

I should appreciate your retaining the balance of the funds in the suspense account pending advice from this Office that the settlement has been consummated.

Sincerely yours,

For the Attorney General

Harold I. Baynton

Harold I. Baynton
Assistant Attorney General
Director, Office of Alien Property

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS
A. J. P. CAMERON, K.C., M.P. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM
H. M. HARRISON

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO, 1, CANADA

October 11, 1950.

OFFICE OF THE CUSTODIAN
RECEIVED
OCT 12 1950
FILE

Office of the Custodian of Alien Property,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

Re: Your file No. 55165
Legal Section, D.J.S/DI-
E. Kagetsu and Yokohama Specie
Bank, Seattle.

Attention Mr. D. J. Sinclair.

Dear Sirs:

We have now received instructions from our consultants in Washington that the Office of Alien Property have accepted the settlement of outstanding differences in this matter.

You will recall that the Custodian is holding in a suspense account in this matter, the sum of $28,171.72, being part of the proceeds of the administration of Mr. Kagetsu's assets which were administered by the Custodian under the various Japanese Canadian Orders-in-Council.

You will also recall that the Office of Alien Property of the United States made a claim to these funds on the grounds that they represented the debt owing to the Yokohama Specie Bank Limited, Seattle, by reason of a note signed by Mr. Kagetsu dated February 16th, 1939.

55165

Your office took the view which we had put forward, that the monies in this account were not covered by the Conflicting Custodial Agreement and were not owed to the American Custodian. As I have said, the matter has now been settled, and you will shortly be receiving a letter from the Office of Alien Property requesting that the sum of $19,000 Canadian dollars be paid out to the suspense account to the order of the Attorney General of the United States. They will also request that you hold the balance of the funds in the Suspense Account until you are notified that the settlement is completed.

We are writing this letter on behalf of our client to direct you on behalf of Mr. Kagetsu to remit on receipt of the letter, the sum of $19,000 in Canadian funds to the order of the

Office of the Custodian of Alien Property October 11, 1950.

Attorney General of the United States.

While we do not recognize, and have never recognized the right of the Attorney General of the United States or of the Alien Property Custodian of the United States to have any say as to the disposition of the balance, we are prepared to instruct you to hold the balance of the funds as requested by the Attorney General until the settlement is completed, and you have been so notified. We would then be much obliged if you would send to us, a cheque for the balance of the funds in this account.

We are, of course, reserving our right to make any other or further directions in regard to the funds, should the Attorney General or the Alien Property Custodian not carry through the settlement we have agreed upon.

In sending the funds to the Attorney General of the United States, would you kindly advise him that it is on the understanding that the settlement agreed upon will be carried out, and that the following documents will be delived to Miss B. Duff of Duff, Shwartz & Davis, Hibbs Building, Washington 5, D.C.

1. A release executed by the Attorney General to Mr. Kagetsu.

2. The note of Eikichi Kagetsu, dated February 16, 1939 in favor of the Yokohama Specie Bank, Ltd., Seattle Branch.

3. The Certificate of Deposit, dated 43907, of January 4, 1940 issued by said bank to Mr. Kagetsu.

Yours very truly

CAMERON, WELDON, BREWIN & McCALLUM

per: F. A. Brewin

FAB:HC

T. G. Norris, K.C.
BAR[redacted] AT LAW, SOLICITOR
[redacted]ARY PUBLIC

TELEPHONE PACIFIC 5254
CABLE ADDRESS: "NORRIS"
VANCOUVER, CANADA

BANK OF NOVA SCOTIA BUILDING
602 HASTINGS STREET WEST
Vancouver, B.C.

August 7, 1950.

K. W. Wright, Esq., K.C.,
Chief Counsel,
Office of the Custodian,
Department of the Secretary of State,
Ottawa, Canada.

Dear Mr. Wright:

Re: Kagetsu.

Upon my return from vacation, I received your letter of July 10th returning my file which I left in your office. I appreciate very much your courtesy in the matter.

It was a pleasure to me to meet you in Ottawa.

Yours very truly,

T. G. Norris.

5'5'65

TGN:mt

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

July 10th, 1950.

T. H. Norris, Esq., K.C.,
Bank of Nova Scotia Building,
602 Hastings Street West,
Vancouver, B.C.

Dear Mr. Norris,-

Re: E. Kagetsu

I enclose herewith your file, which I discovered this morning, that you left in my office on Friday, June 7th, 1950.

Kindly acknowledge receipt.

Yours very truly,

K. W. Wright,
Chief Counsel.

KWW/G
Encl.

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165
Leg[illegible] Section
[illegible]S/DI

May 1, 1950

F. A. Brewin, Esq.,
Messrs. Cameron,Weldoh, Brewin & McCallum,
Barristers, Solicitors, etc.,
Sterling Tower,
Toronto 1, Canada.

Dear Sir:

Re: E. Kagetsu & Yokohama Specie Bank,
Seattle

I wish to acknowledge your letter of April 22, 1950. Immediately upon receipt of the same, a short brief was prepared and forwarded by airmail to Mr. G. G. Beckett, who, with the Deputy Custodian, Mr. Charles Stein, has been attending the international meeting of Custodians at Brussels. Unfortunately, the material was not available in time to reach them before they left Brussels, but was sent to Paris in the hope that they might still be able to take the matter up with the American representatives who had attended the meeting in Brussels.

As soon as a report has been received from Mr. Beckett, we shall advise you further.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165
Legal Section
DJS/DI

April 28, 1950

G. G. Beckett, Esq.,
c/o Royal Monceau Hotel,
35-37-39 Avenue Hoche,
Paris, France.

Dear Gordon:

Re: E. Kagetsu & Yokohama Specie Bank,
Seattle

You expressed the desire to take up this case with representatives of the American Custodian of Alien Property and I am enclosing copies of the correspondence which will brief you on the circumstances of the case.

Unfortunately, the latest correspondence which brought the matter to a head was delayed in reaching us and this has held up the transmission of the complete correspondence until I am afraid it may be too late for you to proceed with the matter. However, I am sending it along in the hope that you may have some contact with the Americans either in Paris or at some other point before leaving Europe.

Yours very truly,

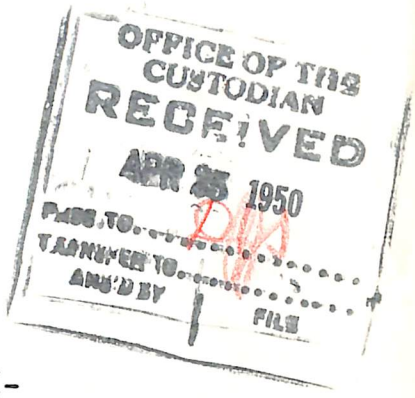
D. J. Sinclair,
For Assistant Deputy Custodian

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS
A. J. P. CAMERON, K.C., M.P. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM
H. M. HARRISON

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO, 1, CANADA

April 22, 1950.



Office of the Custodian of Alien Property,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

Re: Your file No. 55165
Legal Section, D.J.S./DI-
E. Kagetsu and Yokohama Specie
Bank, Seattle.

Dear Sirs:

Our Mr. Cameron conferred with you this week and discussed this matter with you, and we are now writing to confirm the request made orally by him.

In your letter of February 7th to Mr. Harold Baynton, Deputy Director of the Office of Alien Property in the United States, you expressed to Mr. Baynton a confirmation of the view previously expressed on September 14th, 1949 in correspondence with Mr. Baynton, that the funds in the Custodian's hands by reason of the sale of Mr. Kagetsu's property under the various orders-in-council dealing with persons of the Japanese race evacuated from the coastal areas, were not covered by the "proposals for settlement of certain problems arising under conflicting custodial controls" and that therefore the request of the American Custodian to the release of these funds to them was not agreed to by yourselves.

55165

In your letter you referred to the proposal made by ourselves for compromise which might conclude this matter. Subsequently on March 17th Mr. Baynton wrote to you stating that the compromise proposed was in his view, inadequate, and informing you of a counter proposal made to ourselves.

This counter proposal is in our view and that of our client, totally inadequate, and we are so informing the American Custodian.

In these circumstances we wish to renew our re-

quest for the release of the funds in question to our client.

Funds held for persons of the Japanese race have now been paid over by the Custodian. The only reason for the withholding of Mr. Kagetsu's funds was the claim of the American Custodian to the funds, based on the Custodial agreement. You have now determined that this agreement is not applicable.

We have been anxious if possible to effect a settlement with the American Custodian, but the attitude taken by him makes this impossible.

It would appear from our correspondence with our consultants in Washington that the American Custodian is accepting the position taken in your letter of February 7th, 1950, and is now concerning himself with his rights to collect directly from Mr. Kagetsu.

We believe that the offer which we made to the American Custodian was a very fair one in the circumstances and we are disappointed that it does not commend itself to the American Custodian.

We would be glad to be advised as to what action you propose to take to meet our request for release of the funds to Mr. Kagetsu.

Yours truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F A Brewin

FAB:HC

House of Commons
Canada

OTTAWA, April 20, 1950.

Office of the Custodian of Alien Property,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
OTTAWA, Ontario.

Attention: Mr. D.J. Sinclair

Dear Mr. Sinclair:

Re: Your File Reference No. 55165,
Legal Section, D.J.S./DI -
E. Kagetsu and Yokohama Specie
Bank, Seattle.

As suggested during the course of my interview with Mr. K.W. Wright and yourself, I am enclosing herewith copies of the latest correspondence received from Mr. Brewin's Washington consultants.

I also wish to express my thanks and appreciation to Mr. Wright and yourself for your courtesy and co-operation in connection with this matter.

Yours sincerely,

A.J.P. Cameron, K.C.,
(M.P. for Toronto-High Park).

AJPC:MM
Encs.

DUFF, SHWARTZ & DAVIS

Hibbs Building,
Washington 5, D.C.,

March 23, 1950.

Mr. F.A. Brewin,
Sterling Tower,
Toronto 1, Canada.

Dear Mr. Brewin: Re: Kagetsu

Late last week we had a meeting with officials of the Office of Alien Property concerning the offer of settlement in this case. They made a counter-proposal of settlement for $22,000 U.S. Dollars. We advised them that we did not consider it satisfactory, and we did not believe this would be acceptable to you. However, we told them that we would report it to you.

In a few days, we will send you a detailed report of the conference, and our thoughts on how we should proceed.

Sincerely yours,

(Sgd.) B. Duff.

DUFF, SHWARTZ & DAVIS

Hibbs Building,
Washington, D.C.,

April 3, 1950.

Mr. F. A. Brewin,
Sterling Tower,
Toronto 1, Canada.

Dear Mr. Brewin:

Re: Kagetsu

As we advised you, at our recent meeting with officials of the Office of Alien Property, they said that they are not prepared to accept anything less than $22,000 U.S. dollars in settlement of this case. They came to this position, apparently, after several weeks of research on the effect of the Statute of Limitations on a suit in this case, and after consultation with Mr. Malcolm Mason, Chief Counsel of the Office of Alien Property. In essence, they felt that they had little to lose if they go to suit since, as they read the note, Kagetsu would have to pay attorney's fees. (Copy of the original note is enclosed). They do not consider that they would be barred by the Statute of Limitations, indicating that they will rely principally on the automatic vesting of the debt in Canada. Although they did not spell this out any further, what we think they are driving at is that while the debt remains vested in Canada, it stays the running of the Statute; when control is lifted, they will not be barred from bringing an action as the period of limitation will not then have fully run. Moreover, they indicated that they were not troubled by the fact that if the case went to litigation, it might raise in the Courts the whole question of the interpretation of the Conflicting Custodian Agreement.

It seems to us that this position ignores the many difficulties in the way of a successful prosecution of a suit on this note. In this connection, we would like to point out the following:

1. By the automatic vesting of Kagetsu's debt, it would appear that the Canadian Custodian is the owner of the debt in Canada and, therefore, the Office of Alien Property would have to request the Canadian Custodian to release control of the debt in order to sue. It is our view that this debt is not one over which the Canadian Custodian is required to release control to the Office of Alien Property under the Agreement. However, we assume that the Canadian Custodian will not want to raise this question and will agree tothe release.

2. With respect to the Statute of Limitations, if the Office of Alien Property succeeds in its argument that the period of limitation had not run due to its stay while the Canadian Custodian was the owner of the debt, then the matter of estoppel might well arise. It would seem that the Office of Alien Property should have attempted to obtain release of control over the debt within the period of limitation, rather than rely upon the advantage which the Canadian Custodian had in this connection.

3. (Cont'd.).....

3. Of course, the greatest difficulty will arise on the question of a set-off or counterclaim on the debt due from the Yokohama Specie Bank, Seattle, to Kagetsu which was pledged as collateral. Since Kagetsu was vague about how this obligation arose, we are not in a position to evaluate the possibility of success on a counterclaim. This document which the Bank itself called a time draft and which the Office of Alien Property calls a certificate of deposit, provides that it is payable only at the head office of the bank in Japan. You will recall that the Office of Alien Property took the position that it was not an obligation of the Seattle Bank. However, in somewhat similar cases, this position is disputed by many debt claimants who hold yen certificates of deposit which were purchased in the U.S. with dollars. These, however, did not have, on the face, the legend "payable only in Japan." I recently discussed the position taken by yen claimants, with a local attorney who represents a considerable number of these debt claimants. It is his view that the Office of Alien Property should, and that the courts eventually will hold that these certificates of deposit are obligations of the issuing bank, payable at the rate of exchange prevailing at the due date shown on the certificates. He is confident that the courts will consider the custom which prevailed with respect to these certificates, which were issued by the Japanese-owned banks in the United States, payable in six months from date, drawn on the home bank. The holders were promised that they would be paid in dollars by the local banks at the end of the six months period, or that they could borrow dollars on these certificates before the due date.

In this connection, we thought you would be interested to know that a bill is presently pending in the Congress providing that debt claims of U.S. citizens on obligations expressed in a foreign currency should be payable in dollars at the rate prevailing on June 14, 1941. The Office of Alien Property has not as yet advised the sub-committee handling the bill of its official views. It is our guess that it will be opposed.

In view of the possibility that Kagetsu's debt may no longer be collectible, and, if collectible, the possibility of the court holding that the yen obligation is that of the Seattle Bank and may be set off against the note, at the rate prevailing on the due date, it seems to us that Mr. Kagetsu has some chance to defeat a suit. Under these circumstances, we feel that the officer of settlement was a very generous one and, if not fainally accepted by the Office of Alien Property, that your client will want to consider seriously leaving the Office of Alien Property to its legal remedy, if any.

We.....

We would like to point out that the Office of Alien Property apparently believed that the first offer was made for bargaining purposes despite our explanation that it was the top amount that he would offer. Since it was so high, it left little room to bargain. However, Mr. Kagetsu may desire to raise his offer of settlement in order to avoid gambling on a suit. The matter has, of course, been left open, and we will await your further advice.

Sincerely yours,

(Sgd.) B. Duff.

COPY

CAMERON, WELDON, BREWIN & McCALLUM
Barristers & Solicitors

Sterling Tower
Toronto, 1, Canada

January 12, 1950

Department of the Secretary of State,
Office of the Custodian,
Victoria Building, 7 O'Connor Street,
Ottawa, Canada

File J-84 Legal Section DJS/DI
RE: E. Kagetsu & Yokohama Specie Bank,
Seattle

Attention Mr. D. J. Sinclair

Dear Sirs:

The writer is expecting to see Mr. Wright and yourself at 10.00 o'clock on Saturday morning.

In the meantime in accordance with your suggestion we are sending comments on Mr. Mason's letter.

We have not yet received the advice we expected from our Washington consultants. However, for what they are worth, our comments are sent herewith.

Mr. Mason stresses the argument that the action of the Custodian in transferring $28,171.72 to the Suspense Account was an allocation of these monies to the debt due to the Yokohama Specie Bank. In our opinion he does so rightly because if there was no allocation then the Conflicting Custodial Agreement does not apply except perhaps to oblige the Canadian Custodian to relinquish control of the debt of Mr. Kagetsu's to the American Custodian and relegate the latter to his right to sue on the debt.

Section 4 (c) of the Agreement obliges the Custodian (subject to other reservations) to relinquish control of property if he has control over such property held to the order of a person of Class "B" carrying on the business of banking and provided that he is satisfied that such property is an asset of such bank.

It seems quite clear that the existence of a debt owed to a bank does not mean that funds held by the debtor not earmarked or allocated to the creditor, are held to the order of the bank or are assets of the bank. Such funds would only be held to the order of the bank and be converted into an asset of the bank when the debtor or someone having effective control over his funds, assigned such funds in some unequivocal manner to the debt. The effect of such an action would be to extinguish the original debt and confer a property interest in the fund or moneys themselves on the former creditor.

It is submitted that the action of the Canadian Custodian in transferring $28,182.72 to a suspense account was at best an equivocal act. As the word suspense account suggests it was an interim or provisional measure only. It was making the funds set aside available for any claim that Yokohama Specie Bank might make, or might have. The Custodian might without any breach of trust or agreement have transferred the money back again the next day into the original Kagetsu account. The transfer does not appear to have been communicated to the American Custodian or to the Yokohama Specie Bank. The American Custodian has throughout acted as though the debt due on the note was still in existence. He has never surrendered the note or the collateral.

Mr. Mason seems to us to recognize this point by making a further argument that the Canadian Custodian should now by virtue of Regulation 29 allocate these monies to the debt in question and thereby make them into an asset or property held to the order of the Yokohama Specie Bank or the American Custodian and therefore subject to the provisions of the Custodial Agreement.

In our respectful submission there is no obligation upon the Canadian Custodian to do so. To put it briefly the Canadian Custodian does not by the terms of the Custodial Agreement become a collection agency for a foreign Government agency, namely the American Custodian.

The American Custodian is not an enemy within the meaning of the Regulations. Furthermore it is Mr. Kagetsu's submission that the original debt is now statute barred and has ceased to be enforceable. It is submitted that there is no right or obligation on the part of the Canadian Custodian to pay out of Mr. Kagetsu's funds which are held by the Custodian as a result of the Orders-in-Council which authorize the liquidation and administration of his assets as a protective measure only, a debt which the Japanese Canadian in question says has ceased to be enforceable and is statute barred.

Despite Mr. Mason's statements we by no means withdraw our contention that control should be reserved "for special reasons".

We will not repeat our previous correspondence in regard to this, except to say that Mr. Kagetsu if he were an American citizen would be entitled to certain rights in connection with the premises which are not allowed to him as a Canadian citizen.

If on the other hand the Canadian Custodian were acting in relation to another Canadian citizen he might as a matter of discretion refuse to exercise control over the debt in question and indeed as a matter of practice would so so. Surely this is a special reason why he should not be asked to exercise control for the benefit of the American Custodian which he would by practice and the exercise of fair discretion refrain from exercising for himself.

Reference is made to Regulation 29 of the Trading with the Enemy Regulations. Under this the Canadian Custodian might have but did not collect the debt due to the Yokohama Specie Bank assuming the latter to have been an enemy. However, on April 20th, 1943 this debt vested in the Alien Property Custodian. The debt was thereafter due to him and not to an enemy. There is nothing in the Regulations or Orders in Council which would have prevented the Alien Property Custodian suing Mr. Kagetsu on the note. The latter was not an enemy and the person to whom the money was due had ceased to be an enemy.

For these and other reasons which we would like to elaborate on when we see you, we urge that notwithstanding the views expressed in Mr. Mason's letter, you should reiterate to the Alien Property Custodian the views expressed in your letter to him of September 14th, 1949.

Yours respectfully,

"F. A. Brewin"
per H.C.

FAB:HC

COPY

CAMERON, WELDON, BREWIN & McCALLUM
Barristers & Solicitors

Sterling Tower
Toronto, 1, Canada

January 17, 1950

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada

File J-84 Legal Section DJS/DI
RE: E. Kagetsu & Yokohama Specie
Bank, Seattle

Attention Mr. K. W. Wright

Dear Sirs:

This letter is to confirm my conversation with you on Saturday.

I am instructed by my client to say that he still wishes us to claim that the funds held in the suspense account should be released to him notwithstanding the representations of the Alien Property Custodian of the United States of America.

I have considered the representations made in Mr. Mason's most recent letter. With great respect I cannot agree that the funds in question have ever become subject to the Conflicting Custodial Agreement. These funds are in the hands of the Custodian by virtue of the Japanese Orders in Council which were adopted as a protective measure only.

We understand that the Conflicting Custodial Agreement expressly reserves control where property is subject to Custodian controls for reasons other than the fact that it is property of persons of Class "A" or persons of Class "B". Mr. Mason argues that there has been an allocation of these monies to the debt to the Yokohama Specie Bank. With respect it seems clear to us that the placing of funds in the suspense account in connection with the Yokohama Specie Bank was not an unequivocal act appropriating these funds to the debt and converting the funds into property held to the order of the Yokohama Specie Bank or an asset of the Specie Bank, so as to bring them within the terms of the Custodial Agreement.

As to the request of Mr. Mason that an allocation now be made, we would point out that it is no obligation on the part of the Canadian Custodian to act as a collection agency and we have on behalf of our client pointed out that in our view the obligation to the Yokohama Specie Bank is no longer collectible.

There are a number of other reasons which we have discussed in previous correspondence as to why it would be unequitable for the Custodian to exercise control at this stage for the benefit of the Alien Property Custodian. We will not repeat this argument here.

We note the statement of Mr. Mason that failure now to allocate the funds to the claim will needlessly cause considerable administrative inconvenience to their office without corresponding benefit to any one entitled thereto.

We could agree that if the Alien Property Custodian is relegated to his right to sue Mr. Kagetsu it will cause considerable inconvenience to him, and indeed we believe that we could successfully contest any such claim. However, we are willing in order to avoid the inconvenience of litigation to advise our client to instruct the Custodian to release $18,000 out of the monies on hand to the Alien Property Custodian if they in turn are willing to agree to release the balance to our client.

We believe in all the circumstances, this would be an equitable settlement and would avoid what Mr. Mason called the considerable administrative inconvenience without making it necessary to litigate the very difficult question of law and interpretation involved.

We are making this suggestion without prejudice and solely in order to terminate this matter promptly.

If you wish to write to the American Custodian saying that you have our authority to make this proposal on behalf of our client to terminate the issues in dispute, you may do so. If the proposal is not satisfactory, we respectfully request you to advise the American Custodian that his remedies, if any, against Mr. Kagetsu should be sought through the courts and that the funds in question be released to our client.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: "F. A. Brewin"

FAB:HC

COPY

DEPARTMENT OF JUSTICE
Office of Alien Property
Washington 25, D.C.

AIR MAIL

Mar 17 1950

Custodian's Office
Department of the Secretary of State
Victoria Building
7 O'Connor Street
Ottawa, Canada

Your File No. J-84

Re: Yokohama Specie Bank, Ltd.
Seattle Agency
Obligation of E. Kagetsu

Gentlemen:

Reference is made to your letter of February 7, 1950, transmitting the offer of Mr. F. A. Brewin, Mr. Kagetsu's solicitor, to compromise the indebtedness of Mr. Kagetsu to subject bank by your releasing to this Office $18,000 out of the moneys in your possession.

It is my view that this offer is inadequate. This conclusion was transmitted by members of my staff to Miss Duff of Duff, Schwartz and Davis, Mr. Brewin's representatives here, during negotiations undertaken upon receipt of your letter of February 7, 1950 in an effort to dispose of this matter without resort to the courts. Miss Duff was advised that this Office would consider the acceptance of the principle amount due under Mr. Kagetsu's promissory note and the waiver of the interest which is due thereunder. She stated that she would transmit this advice to Mr. Brewin and would inform this Office whether a compromise can be effected on this basis.

I will communicate with you when the negotiations have been concluded.

Sincerely yours,

"Harold I. Baynton"

Harold I. Baynton
Acting Director
Office of Alien Property
Department of Justice

COPY

DUFF, SHWARTZ & DAVIS

Hibbs Building,
Washington, 5, D.C.

March 23, 1950

Mr. F. A. Brewin,
Sterling Tower,
Toronto, 1, Canada

Dear Mr. Brewin: Re: Kagetsu

Late last week we had a meeting with officials of the Office of Alien Property concerning the offer of settlement in this case. They made a counter-proposal of settlement for $22,000 U.S. Dollars. We advised them that we did not consider it satisfactory and we did not believe this would be acceptable to you. However, we told them that we would report it to you.

In a few days, we will send you a detailed report of the conference and our thoughts on how we should proceed.

Sincerely yours,

(Sgd.) B. Duff

COPY

DUFF, SHWARTZ & DAVIS

Hibbs Building,
Washington, D.C.,

April 3, 1950

Mr. F. A. Brewin,
Sterling Tower,
Toronto 1, Canada

Dear Mr. Brewin: Re: Kagetsu

As we advised you at our recent meeting with officials of the Office of Alien Property, they said that they are not prepared to accept anything less than $22,000 U.S. dollars in settlement of this case. They came to this position, apparently, after several weeks of research on the effect of the Statute of Limitations on a suit in this case and after consultation with Mr. Malcolm Mason, Chief Counsel of the Office of Alien Property. In essence, they felt that they had little to lose if they go to suit since, as they read the note, Kagetsu would have to pay attorney's fees. (Copy of the original note is enclosed). They do not consider that they would be barred by the Statute of Limitations, indicating that they will rely principally on the automatic vesting of the debt in Canada. Although they did not spell this out any further, what we think they are driving at is that while the debt remains vested in Canada, it stays the running of the Statute; when control is lifted, they will not be barred from bringing an action as the period of limitation will not then have fully run. Moreover, they indicated that they were not troubled by the fact that if the case went to litigation, it might raise in the Courts the whole question of the interpretation of the Conflicting Custodian Agreement.

It seems to us that this position ignores the many difficulties in the way of a successful prosecution of a suit on this note. In this connection, we would like to point out the following:

1. By the automatic vesting of Kagetsu's debt, it would appear that the Canadian Custodian is the owner of the debt in Canada and, therefore, the Office of Alien Property would have to request the Canadian Custodian to release control of the debt in order to sue. It is our view that this debt is not one over which the Canadian Custodian is required to release control to the Office of Alien Property under the Agreement. However, we assume that the Canadian Custodian will not want to raise this question and will agree to the release.

2. With respect to the Statute of Limitations, if the Office of Alien Property succeeds in its argument that the period of limitations had not run due to its stay while the Canadian Custodian was the owner of the debt, then the matter of estoppel might well arise. It would seem that the Office of Alien Property should have attempted to obtain release of control over the debt within the period of limitation, rather than rely upon the advantage which the Canadian Custodian had in this connection.

3. Of course, the greatest difficulty will arise on the question of a set-off or counterclaim on the debt due from the Yokohama Specie Bank, Seattle, to Kagetsu which was pledged as collateral. Since Kagetsu was vague about how this obligation arose, we are not in a position to evaluate the possibility of success on a counterclaim. This document which the Bank itself called a time draft and which the Office of Alien Property calls a certificate of deposit, provides that it is payable only at the head office of the bank in Japan. You will recall that the Office of Alien Property took the position that it was not an obligation of the Seattle Bank. However, in somewhat similar cases, this position is disputed by many debt claimants who hold yen certificates of deposit which were purchased in the U.S. with dollars. These, however, did not

have, on the face, the legend "payable only in Japan". I recently discussed the position taken by yen claimants with a local attorney who represents a considerable number of these debt claimants. It is his view that the Office of Alien Property should, and that the courts eventually will hold that these certificates of deposit are obligations of the issuing bank, payable at the rate of exchange prevailing at the due date shown on the certificates. He is confident that the courts will consider the custom which prevailed with respect to these certificates, which were issued by the Japanese-owned banks in the United States, payable in six months from date, drawn on the home bank. The holders were promised that they would be paid in dollars by the local banks at the end of the six months period, or that they could borrow dollars on these certificates before the due date.

In this connection, we thought you would be interested to know that a bill is presently pending in the Congress providing that debt claims of U.S. citizens on obligations expressed in a foreign currency should be payable in dollars at the rate prevailing on June 14, 1941. The Office of Alien Property has not as yet advised the sub-committee handling the bill of its official views. It is our guess that it will be opposed.

In view of the possibility that Kagetsu's debt may no longer be collectible, and, if collectible, the possibility of the court holding that the yen obligation is that of the Seattle Bank and may be set off against the note, at the rate prevailing on the due date, it seems to us that Mr. Kagetsu has some chance to defeat a suit. Under these circumstances, we feel that the officer of settlement was a very generous one and, if not finally accepted by the Office of Alien Property, that your client will want to consider seriously leaving the Office of Alien Property to its legal remedy, if any.

We would like to point out that the Office of Alien Property apparently believed that the first offer was made for bargaining purposes despite our explanation that it was the top amount that he would offer. Since it was so high, it left little room to bargain. However, Mr. Kagetsu may desire to raise his offer of settlement in order to avoid gambling on a suit. The matter has, of course, been left open and we will await your further advice.

Sincerely yours,

(Sgd.) B. Duff

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

55165
Legal Section
DJS/DI

March 28, 1950

F. A. Brewin, Esq., K.C.,
Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers, Solicitors, etc.,
Sterling Tower,
Toronto 1, Canada.

Dear Sir:

Re: E. Kagetsu and Yokohama
Specie Bank, Seattle

I am enclosing herewith for your consideration and any comment you may care to make, copy of a letter received from the Office of the Alien Property Custodian, Washington, D.C., dated March 17, 1950.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

IN [redacted], PLEASE REFER TO FILE NUMBER

MSM:SU:mp
F39-1566

DEPARTMENT OF JUSTICE
OFFICE OF ALIEN PROPERTY
WASHINGTON 25, D. C.

AIR MAIL

MAR 17 1950
OFFICE OF THE CUSTODIAN
RECEIVED
MAR 20 1950
PASS TO... D.G.S.
TRANSFER TO...
AND RETURN
FILE

Custodian's Office
Department of the Secretary of State
Victoria Building
7 O'Connor Street
Ottawa, Canada

Your File No. J-84

Re: Yokohama Specie Bank, Ltd.
Seattle Agency
Obligation of E. Kagetsu

Gentlemen:

Reference is made to your letter of February 7, 1950 transmitting the offer of Mr. F. A. Brewin, Mr. Kagetsu's solicitor, to compromise the indebtedness of Mr. Kagetsu to subject bank by your releasing to this Office $18,000 out of the moneys in your possession.

It is my view that this offer is inadequate. This conclusion was transmitted by members of my staff to Miss Duff, of Duff, Schwartz and Davis, Mr. Brewin's representatives here, during negotiations undertaken upon receipt of your letter of February 7, 1950 in an effort to dispose of this matter without resort to the courts. Miss Duff was advised that this Office would consider the acceptance of the principle amount due under Mr. Kagetsu's promissory note and the waiver of the interest which is due thereunder. She stated that she would transmit this advice to Mr. Brewin and would inform this Office whether a compromise can be effected on this basis.

I will communicate with you when the negotiations have been concluded.

Sincerely yours,

Harold I. Baynton

Harold I. Baynton
Acting Director
Office of Alien Property
Department of Justice

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C.
F. A. BREWIN, K.C.
ROY WELDON
J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

February 13, 1950.

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J-84
Legal Section
DJS/DI
E. Kagetsu and Yokohama Specie
Bank, Seattle

Attention Mr. D. J. Sinclair.

Dear Sir:

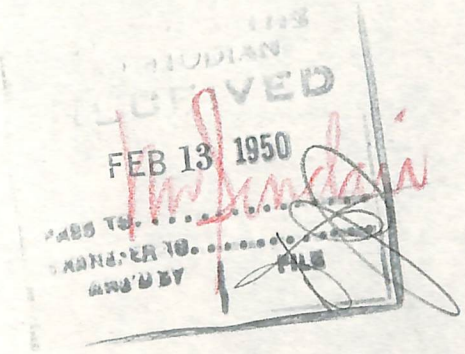
Thank you very much for your letters of February 7th and 8th enclosing a copy of your letter in this matter.

I will be glad to hear from you when you receive a reply from the Office of the Alien Property.

Yours very truly,

F. A. Brewin
per A.C.

FAB: HC



Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J-84
Legal Section
DJS/DI

February 8, 1950

F. A. Brewin, Esq., K.C.,
Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Dear Sir:

Re: E. Kagetsu and Yokohama
Specie Bank, Seattle

I enclose herewith for your files a copy of my recent letter to Mr. Harold I. Baynton.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J-84

Legal Section
DJS/DI

February 7, 1950

Harold I. Baynton, Esq.,
Deputy Director,
Office of Alien Property,
Department of Justice,
Washington 25, D.C.

Dear Sir:

Re: Yokohama Specie Bank, Ltd., Seattle Agency:
E. Kagetsu: Your Ref. MSM:SU:mo: F-39-1566.

I am instructed to inform you that notwithstanding the representations made in Mr. Mason's letter of December 14, 1949, the Custodian holds to the view expressed in Mr. K. W. Wright's letter to you dated September 14, 1949.

Further it is submitted that exercise of control in this case is reserved pursuant to the provision of sub-paragraph (3)(b)(ii) of the "Proposals for settlement of Certain Problems Arising Under Conflicting Custodian Controls" which reads as follows:

> "(3)(b)(ii) in cases where property is subject to Custodian controls for reasons other than the fact that it is property of persons of Class A or persons of Class B:"

However, with a view to providing an effective and expeditious solution of the problem, Mr. F. A. Brewin, solicitor for Mr. Kagetsu, has put forward a compromise suggestion which without prejudice to the Custodian's position is hereby presented for your consideration. For details of the suggestion see Mr. Brewin's letter, a copy of which is attached hereto.

Your views on this proposal would be greatly appreciated.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

February 7, 1950

J-84
Legal Section
DJS/DI

F. A. Brewin, Esq., K.C.,
Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers & Solicitors,
Sterling Tower,
Toronto 1, Canada.

Dear Sir:

Re: E. Kagetsu & Yokohama
Specie Bank, Seattle

In response to your communication of January 17, 1950, I enclose herein for your consideration a copy of a letter received by Mr. Wright from Malcolm S. Mason, Chief of the Legal Branch, Department of Justice, Office of Alien Property, Washington 25, D. C. The letter is self-explanatory.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

Re

Upon memo to Dan of Nov 25. 1949 par 2 ref
Quite in order as I got this information
quite outside Custodian's office.
As to the case cited.
We should not pay U.S. Custodian on one
ground only - namely that Kagetsu has
protested. Should we not give money to Kagetsu
and then if necessary demand payment of this
enemy debt. Kagetsu would claim set off
Following our usual practice we would let
parties settle direct.

Gordon

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

January 17, 1950.

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 18 1950
PASS TO...
TRANSFER TO...
ANS'D BY
FILE

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

File J-84 Legal Section DJS/DI
Re: E. Kagetsu & Yokohama Specie Bank, Seattle

Attention Mr. K. W. Wright.

Dear Sirs:

This letter is to confirm my conversation with you on Saturday.

I am instructed by my client to say that he still wishes us to claim that the funds held in the suspense account should be released to him notwithstanding the representations of the Alien Property Custodian of the United States of America.

I have considered the representations made in Mr. Mason's most recent letter. With great respect I cannot agree that the funds in question have ever become subject to the Conflicting Custodial Agreement. These funds are in the hands of the Custodian by virtue of the Japanese Orders-in-Council which were adopted as a protective measure only.

We understand that the Conflicting Custodial Agreement expressly reserves control where property is subject to Custodian controls for reasons other than the fact that it is property of persons of Class "A" or persons of Class "B". Mr. Mason argues that there has been an allocation of these monies to the debt to the Yokohama Specie Bank. With respect it seems clear to us that the placing of funds in the suspense account in connection with the Yokohama Specie

Bank was not an unequivocal act appropriating these funds to the debt and converting the funds into property held to the order of the Yokohama Specie Bank or an asset of the Specie Bank, so as to bring them within the terms of the Custodial Agreement.

As to the request of Mr. Mason that an allocation now be made, we would point out that it is no obligation on the part of the Canadian Custodian to act as a collection agency and we have on behalf of our client pointed out that in our view they obligation to the Yokohama Specie Bank is no longer collectible.

There are a number of other reasons which we have discussed in previous correspondence as to why it would be unequitable for the Custodian to exercise control at this stage for the benefit of the Alien Property Custodian. We will not repeat this argument here.

We note the statement of Mr. Mason that failure now to allocate the funds to the claim will needlessly cause considerable administrative inconvenience to their office without corresponding benefit to any one entitled thereto.

We could agree that if the Alien Property Custodian is relegated to his right to sue Mr. Kagetsu it will cause considerable inconvenience to him, and indeed we believe that we could successfully contest any such claim. However, we are willing in order to avoid the inconvenience of litigation, to advise our client to instruct the Custodian to release $18,000 out of the monies on hand to the Alien Property Custodian if they in turn are willing to agree to release the balance to our client.

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Yours very truly,
CAMERON, WELDON, BREWIN & McCALLUM

per: F.A. Brewin

FAB:HC

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

January 12, 1950.

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 13 1950
REFER TO... DJS
ANSWER TO...
ANSWERED | FILE

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

File J-84 Legal Section DJS/DI
Re: E. Kagetsu & Yokohama Specie Bank,
Seattle

Attention Mr. D. J. Sinclair.

Dear Sirs:

The writer is expecting to see Mr. Wright and yourself at 10.00 o'clock on Saturday morning.

In the meantime in accordance with your suggestion we are sending comments on Mr. Mason's letter.

We have not yet received the advice we expected from our Washington consultants. However, for what they are worth, our comments are sent herewith.

Mr. Mason stresses the argument that the action of the Custodian in transferring $28,171.72 to the Suspense Account was an allocation of these monies to the debt due to the Yokohama Specie Bank. In our opinion he does so rightly because if there was no allocation then the Conflicting Custodial Agreement does not apply except perhaps to oblige the Canadian Custodian to relinquish control of the debt of Mr. Kagetsu's to the American Custodian and relegate the latter to his right to sue on the debt.

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It seems quite clear that the existence of a debt owed to a bank does not mean that funds held by the debtor not earmarked or allocated to the creditor, are held to the order of

the bank or are assets of the bank. Such funds would only be held to the order of the bank and be converted into an asset of the bank when the debtor or someone having effective control over his funds, assigned such funds in some unequivocal manner to the debt. The effect of such an action would be to extinguish the original debt and confer a property interest in the fund or moneys themselves on the former creditor.

It is submitted that the action of the Canadian Custodian in transferring $28,182.72 to a suspense account was at best an equivocal act. As the word suspense account suggests it was an interim or provisional measure only. It was making the funds set aside available for any claim that Yokohama Specie Bank might make, or might have. The Custodian might without any breach of trust or agreement have transferred the money back again the next day into the original Kagetsu account. The transfer does not appear to have been communicated to the American Custodian or to the Yokohama Specie Bank. The American Custodian has throughout acted as though the debt due on the note was still in existence. He has never surrendered the note or the collateral.

Mr. Mason seems to us to recognize this point by making a further argument that the Canadian Custodian should now by virtue of Regulation 29 allocate these monies to the debt in question and thereby make them into an asset or property held to the order of the Yokohama Specie Bank or the American Custodian and therefore subject to the provisions of the Custodial Agreement.

In our respectful submission there is no obligation upon the Canadian Custodian to do so. To put it briefly the Canadian Custodian does not by the terms of the Custodial Agreement become a collection agency for a foreign Government agency, namely the American Custodian.

The American Custodian is not an enemy within the meaning of the Regulations. Furthermore it is Mr. Kagetsu's submission that the original debt is now statute barred and has ceased to be enforceable. It is submitted that there is no right or obligation on the part of the Canadian Custodian to pay out of Mr. Kagetsu's funds which are held by the Custodian as a result of the Orders-in-Council which authorize the liquidation and administration of his assets as a protective measure only, a debt which the Japanese Canadian in question says has ceased to be enforceable and is statute barred.

Despite Mr. Mason's statements we by no means withdraw our contention that control should be reserved "for special reasons."

We will not repeat our previous correspondence in regard to this, except to say that Mr. Kagetsu if he were an American citizen would be entitled to certain rights in connection with the premises which are not allowed to him as a Canadian citizen.

If on the other hand the Canadian Custodian were acting

in relation to another Canadian citizen he might as a matter of discretion refuse to exercise control over the debt in question and indeed as a matter of practice would do so. Surely this is a special reason why he should not be asked to exercise control for the benefit of the American Custodian which he would by practice and the exercise of fair discretion refrain from exercising for himself.

Reference is made to Regulation 29 of the Trading with the Enemy Regulations. Under this the Canadian Custodian might have but did not collect the debt due to the Yokohama Specie Bank assuming the latter to have been an enemy. However, on April 20th 1943 this debt vested in the Alien Property Custodian. The debt was thereafter due to him, and not to an enemy. There is nothing in the Regulations or Orders-in-Council which would have prevented the Alien Property Custodian suing Mr. Kagetsu on the note. The latter was not an enemy and the person to whom the money was due had ceased to be an enemy.

For these and other reasons which we would like to elaborate on when we see you, we urge that notwithstanding the views expressed in Mr. Mason's letter, you should reiterate to the Alien Property Custodian the views expressed in your letter to him of September 14th, 1949.

Yours respectfully,

F. A. Brewin
per A.C.

FAB:HC

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A.J.P. CAMERON, K.C.
F.A. BREWIN, K.C.
ROY WELDON
J.F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 11 1950
PASS TO.
TRANSFER TO.
ANSWER BY
FILE

January 10, 1950.

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Re: E.Kagetsu & Yokohama Specie Bank,
Seattle

Attention Mr. D.J. Sinclair.

Dear Sirs:

In reply to your letter of December 30th the writer would be glad to attend at 10.00 o'clock on Saturday January 14th to discuss this matter with you.

We have not furnished you as yet with the comments suggested, as we were seeking first of all, advice from our Washington consultants, and if we do not hear by to-morrow, we will endeavour to get to you our unaided comments, so that there will be time for you to read them before our discussions.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F.A. Brewin

FAB:HC

Victoria Building,
7 O&Connor Street,
Ottawa, Canada.

J-84
Legal Section
DJS/DI

December 30, 1949

F. A. Brewin, Esq.,
Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers, etc.,
Sterling Tower,
Toronto 1, Canada.

Dear Sir:

Re: E.Kagetsu & Yokohama Specie Bank, Seattle

This will acknowledge your letter of December 28, 1949, and in reply, I wish to advise that I have made an appointment with Mr. K. W. Wright for 10.00 a.m., on Saturday, January 14, 1950, and trust that this hour and day will be satisfactory to you.

It has occurred to me that it might save a great deal of time if you were to let us have your comments on Mr. Mason's letter, a copy of which I sent to you with my letter of December 21, 1949. If this suggestion finds favour with you, let us have your views some days in advance of the proposed meeting.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

December 28, 1949.

J 84

RL
DEC 29
PASS TO D.J.S.
TRANSFER TO
ANS'D BY

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Re: E. Kagetsu and Yokohama Specie Bank,
Seattle

Attention Mr. D. J. Sinclair.

Dear Sirs:

We acknowledge with thanks your letter of December 21st enclosing a copy of Mr. Mason's letter.

We would be glad to arrange an appointment with you some time during the latter part of the week of the 9th of January. We suggest Friday the 13th or Saturday the 14th.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F. A. Brewin.

FAB:HC

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J-84
Legal Section
DJS/DI

December 21, 1949

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Attention: Mr. F.A. Brewin, K.C.

Dear Sirs:

Re: E.Kagetsu and Yokohama Specie Bank, Seattle

Herewith attached you will find copy of a letter received from Mr. Malcolm S. Mason, Chief of the Legal Branch of the Office of Alien Property, Washington 25, D.C. You might give this document some thought before discussing the matter further with our office.

It is suggested that you defer the discussion until after January 1, 1950.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Investigation under Section 96.39(1)(b)
Paras (4)(a) & (4)(c)?

IN REPLY, PLEASE REFER TO FILE NUMBER

MSM:SH:mp

F39-1566

DEPARTMENT OF JUSTICE
OFFICE OF ALIEN PROPERTY
WASHINGTON 25, D. C.

MR. Sinclair

AIR MAIL

DEC 14 1949

K. W. Wright, Esq.
Counsel to the Custodian
Victoria Building
7 O'Connor Street
Ottawa, Canada

Re: Yokohama Specie Bank, Ltd.
Seattle Agency
Obligation of E. Kagetsu

Dear Mr. Wright:

Reference is made to your letter of September 14, 1949, and to the letter of D. J. Sinclair dated September 15, 1949, pertaining to the indebtedness of Mr. E. Kagetsu to subject bank in the amount of $22,000 with interest from November 16, 1941.

Your letter of September 14, 1949, expresses the view that the present case is not governed by the Proposals for the Settlement of Certain Problems under Conflicting Custodian Controls, pointing out that Mr. Kagetsu's property was not vested under the Trading with the Enemy Act but was taken into custody under Orders-in-Council. We regret that we have not made our position on this matter clear. We are, of course, aware of the distinction between the Orders-in-Council and the Trading with the Enemy Act vesting. We understand that the Orders-in-Council under which Mr. Kagetsu's property was taken into custody had a protective purpose and presumably did not involve a divesting of title. It is not on the ground of Mr. Kagetsu's interest in the property, however, that we have invoked the Proposals. Mr. Kagetsu's obligation to the Yokohama Specie Bank, like the obligation of any Canadian resident to that Bank, is enemy property which was vested, we assume, under Regulation 21 pursuant to your Trading with the Enemy Act and as such it is governed, we believe, by paragraph (4)(a) and (c) of the Proposals. The only argument to the contrary of which we are aware is the argument advanced by Mr. Brewin to the effect that the phrase "held to the order of" a bank in paragraph (4)(c) was intended to be limited to checks, drafts and the like which have indicia of negotiability. We consider this interpretation of paragraph (4)(c) as plainly incorrect. I participated in the negotiations which led to the formulation of the Proposals and had a particular interest in the drafting of paragraph (4)(a) and (c) and I have recently refreshed my recollection by examining my notes made during the course of the negotiations. I am satisfied that the limitation suggested by Mr. Brewin was not contemplated by the negotiators and would be plainly inconsistent with the intended purposes of the paragraph. The practical construction of this provision, resulting from the administrative action of our respective offices since the announcement of the Proposals, fully confirms this view. For example, by an exchange of correspondence dated June 3, 1949 and June 9, 1949, in a case which did not involve indicia of negotiability,

you released to the Sumitomo Bank of Seattle the sum of $63.65 which was maintained by that Bank on deposit with the Royal Bank of Canada.

I therefore conclude that the Proposals are fully applicable to the obligation of Kagetsu to the Bank. Mr. Brewin does not object to your releasing the debt. He argues, however, that the funds themselves held by your office should not be released pursuant to the Proposals but that the American Custodian should be relegated to his suit against Kagetsu. This result, I believe to be unsound, both as a matter of construction of the Proposals and as an independent question of policy.

Under your Trading with the Enemy Act Regulations, any person owing an obligation to an enemy was bound to pay the sum into the hands of the Custodian. Accordingly Mr. Kagetsu, even if his property had not been taken into custody under the Orders-in-Council, would have been bound to make such payment and we believe therefore that your office was bound to allocate from Mr. Kagetsu's account such funds as were necessary to pay the obligation to Yokohama Specie Bank and to treat such funds as property of Yokohama Specie Bank. Accordingly, we ask now that you release the funds under the Proposals not as property of Kagetsu but as property held by you to the account of Yokohama Specie Bank. It is our understanding that in fact such an allocation has been made, as evidenced by your advice to Mr. Kagetsu's attorney "that Mr. Kagetsu's account with the Custodian had been charged with $28,171.72 (Canadian Dollars) in connection with the claim of the Alien Property Custodian and Liquidator of the Yokohama Specie Bank, and that this amount was being transferred to the Custodian's suspense account." (See memorandum attached to Mr. Brewin's brief.) If this understanding is correct, then it seems to us to be an end to the matter. On the other hand, if such allocation has not yet been made, we urge that under your own Regulations, particularly Regulation 29, it should be done promptly and that as an independent matter of policy the failure to do so will needlessly cause considerable administrative inconvenience to this Office without corresponding benefit to anyone entitled thereto.

Mr. Brewin has asserted against our claim, defenses and so-called equities in favor of Mr. Kagetsu, which he contends should form the basis of your reservation of control "for special reasons". The defenses are predicated on Mr. Kagetsu's right to a set-off, based upon an alleged oral agreement with the former manager of the Bank, relating to the payment of United States dollars for the yen certificate of deposit pledged as collateral, at the rate of exchange existing when the loan was made. As stated in our letter to you of January 31, 1949, our files reveal no basis for the assertion of this set-off. In addition, it is my understanding that oral testimony of any such alleged agreement would violate the parole evidence rule under the laws of Canada as well as those of the United States, in the face of the executed written agreement between Mr. Kagetsu and the Bank with respect to the collateral. This agreement provides that the Bank may sell the collateral on default in payment and that Mr. Kagetsu remains liable for any deficiency. The insufficiency of the defense is further evidenced by correspondence between the subject Bank and the Royal Bank of Canada, East End Branch, which transmitted a payment on this loan on Mr. Kagetsu's behalf

in 1940. Subject bank, in describing the status of the loan in a letter dated January 22, 1940, indicated the value of the collateral "at say $23.10 (subject to fluctuation)". The letter also stated that the Bank was "awaiting the receipt of remittance from the debtor covering the insufficiency of securities" in lieu of selling the securities under its right to do so. By letter dated January 26, 1940, the Royal Bank of Canada advised that "Mr. Kagetsu confirmed the information furnished by you", and remitted $1000 on account of principal and $316.25 on account of interest. It would be absurd, therefore, to contend that the parties to the agreement intended that the Bank should bear the risk of loss occasioned by depreciation of the collateral.

Other so called equities simply do not exist. The statement by Mr. Brewin that the Canadian Custodian in similar situations does not demand payment of a debt owing to an enemy in Canada where adequate collateral has been pledged and has become worthless due to the war, should not form the basis of your action in this case. Mr. Kagetsu made this loan from a bank in the United States and thereby voluntarily assumed such obligations and accepted such rights as were applicable in this country. Further, Mr. Kagetsu's collateral is payable by the head office of the Yokohama Specie Bank in Japan. Upon payment of the debt and return to him of the collateral, he would have his rights against the Bank in Japan.

I would appreciate your comments.

Sincerely yours,

Malcolm S. Mason

Malcolm S. Mason
Chief, Legal Branch

IN REPLY PLEASE REFER TO FILE NUMBER
MS:SU:jcl
F-39-1566

OFFICE OF ALIEN PROPERTY
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

AIR MAIL

DEC 6 1949

D. J. Sinclair, Esq.
Department of the Secretary of State
Office of the Custodian
Victoria Building
7 O'Connor Street
Ottawa, Canada.

Re: E. Kagetsu & Yokohama Specie Bank, Seattle

Dear Sir:

I acknowledge your letter of November 24, 1949, referring to the copy of Mr. F. A. Brewin's views on the subject matter which you forwarded to this Office. It is expected that the comments of this Office on Mr. Brewin's memorandum will be transmitted to you within the course of the next few days.

Sincerely yours,

Harold I. Baynton

Harold I. Baynton S.G.
Acting Director
Office of Alien Property
Department of Justice

OFFICE OF THE CUSTODIAN
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DEC 7 1949
CASE TO.....
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ANS'D BY
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Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J-84
Legal Section
DJS/DI

December 5, 1949

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Attention: Mr. F.A. Brewin, K.C.

Dear Sirs:

Re: E.Kagetsu and Yokohama Specie Bank, Seattle

I wish to acknowledge your letter of November 29, 1949, the contents of which have been duly noted.

I enclose herein for your consideration a copy of Vesting Order No. 1255 issued by the Office of Alien Property Custodian (U.S.A.) on April 20, 1943.

Our Consolidated Regulations Respecting Trading with the Enemy (1939) which were in effect prior to and at the time of the American Vesting Order, in Section 1, Sub-section (b) (iii) define "enemy as "any person acting as agent or otherwise on behalf of an enemy or under the control of a person who is an enemy." These last mentioned Regulations appear in Order-in-Council P.C.3959, August 21, 1940, and became applicable to Japan on December 7, 1941.

It is noted that in Par. 4 of your letter, you do not recite either the above designated definition of "enemy" or the one contained in the Trading with the Enemy (Transitional Powers) Act which reads as follows: "1 (d) (4) Any person acting as agent or otherwise on behalf of an enemy or under the control of an enemy." You might consider these points while we are awaiting a reply from the Office of Alien Property Custodian.

As soon as we have heard from Washington, we shall either telephone Mr. Cameron or contact your office in Toronto.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

November 29, 1949.

OFFICE OF THE CUSTODIAN
RECEIVED
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ANS'D BY FILE

Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Attention Mr. D. J. Sinclair.

Re: File J-84 - E. Kagetsu
Legal Section DJS/DI

Dear Sirs:

We have heard from our consultants in Washington that they expect the American Custodian to be writing to you shortly and we are anxious to discuss this matter with you before any final reply is sent to the American Custodian.

We would be very much obliged, therefore, if you could either write us or get in touch with Mr. A.J.P. Cameron at the House of Commons or at the Chateau when you hear from the American Custodian.

We note the point made in your letter in regard to Section 29.

We first of all suggest the technical point as to whether or not the Yokohama Specie Bank to whom this was paid, was an enemy within the meaning of Section (d) of the regulations at the time this was passed. The only clause that seems to us to be applicable is (d) (iv) "Any person under the control of an enemy." If the control of the Yokohama Specie Bank automatically vested in the American Custodian could it be said that the Yokohama Specie Bank was under the control of an enemy, even assuming which I presume is the case, that the shareholders of the Yokohama Specie Bank were enemies.

1) only Can. vesting was automatic Regulations
2) Can. Regulations applied before the U.S.A. vesting order effective.

Apart from this altogether, we assume from previous discussions with Mr. Wright that the Canadian Custodian would not as a matter of policy exact payment due to an enemy from a Canadian citizen, under the regulations, where the enemy controlled collateral which as a result of the war could not be realized upon.

Department of the Secretary of State November 29, 1949.

You will recall in this case the Yokohama Specie Bank held yen which at the time of the outbreak of war and at the current rates of exchange would practically balance the original debt.

We note Section 39 which gives the Custodian the discretion to relinquish any property or the proceeds of the liquidation of any property, and we suggest that if the file is reviewed it will indicate very strong grounds of equity which would justify the Custodian in his discretion relinquishing any monies which might be payable under Section 29 to the Canadian debtor who is not in a position to recover his collateral.

These observations are, of course, made offhand and without more than a cursory opportunity to consider the situation. Perhaps we can take the matter up with you in more detail when you have heard from the American Custodian.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F.A. Brewin

FAB:HC

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J-84
Legal Section
DJS/DI

November 28, 1949

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Attention: Mr. F.A. Brewin, K.C.

Dear Sirs:

Re: E. Kagetsu and Yokohama Specie Bank, Seattle

We have heard from Mr. Cameron that you are intending to come to Ottawa in a few days and we feel that before you come, you should be advised as to the problem which is presently confronting the Custodian in this case.

As yet, we have not received any reply from the Office of Alien Property, Dept. of Justice in Washington, and we are hoping that we will have further information as to their position in the matter before you arrive in this city. However, assuming that the American Custodian withdraws his claim, the Canadian Custodian is confronted with a problem posed by Section 29 of the Trading with the Enemy Act. A copy of the Act is enclosed herewith for your consideration. Your views on the effect of this provision of the Act on Mr. Kagetsu's proposal would be welcomed.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

File No. J-84

November 25th, 1949

MEMORANDUM FOR MR. SINCLAIR

RE: Eikichi Kagetsu

Mr. Cameron, M.P., telephoned today and advised that it was not possible for his partner, Mr. Brewin, to come to Ottawa tomorrow as he is leaving for Buffalo this afternoon. Mr. Cameron stated that Mr. Brewin would visit the office next week in connection with the Kagetsu matter.

Mr. Beckett was in the office when I spoke to Mr. Cameron and afterwards informed me that representatives of the Alien Property Custodian spoke to him about this case during his last visit to Washington. I gather that they have decided not to press for payment.

Consideration must therefore be given to the matter of release and I think we should now examine our position in the light of Regulation 29.

I suggest to you that these monies are owing to an enemy and therefore vest in the Custodian. The Yokohama Specie Bank, a Japanese Corporation, Tokyo, Japan, is a national of a designated enemy country (Japan). This Company established an agency or branch office in Seattle, Washington, engaged in the conduct of business within the U.S.

I recall that you reviewed the file and submitted a report to the Advisory Board some time ago. In view of this, you may be in a position to offset the thought in my mind by brief examination of the records.

* I attach File No. J-84 and would be glad if you would consider this angle and discuss the case with me at your early convenience.

K. W. WRIGHT

KWW/JF
Attach.

* Amalgamated with our file 33/165 Vol 1 as it is dealing with the same individual.
A. Theodore Dees 1/62.

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J. -84
Legal Section
DJS/DI

November 24, 1949

Harold I. Baynton, Esq.,
Deputy Director,
Office of Alien Property,
Dept. of Justice,
Washington 25, D.C.

Dear Sir:

Re: E. Kagetsu & Yokohama Specie Bank, Seattle
Your Reference File MSM:SU:mo

On September 15, 1949, I sent you a copy of Mr. F.A. Brewin's views on this case. To date, we do not appear to have received any comments from you in this regard. It would be greatly appreciated if you could let us have your views as Mr. Brewin will undoubtedly be taking up the matter of the release of Mr. Kagetsu's assets in the near future.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

October 11, 1949.

Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Refer to File J.-84
Legal Section DJS/DI
Re: Kagetsu and Yokahama Specie Bank

Dear Sirs:

This is to acknowledge receipt of your letter of September 23rd enclosing copy of your letter of September 14th to the Office of Alien Property.

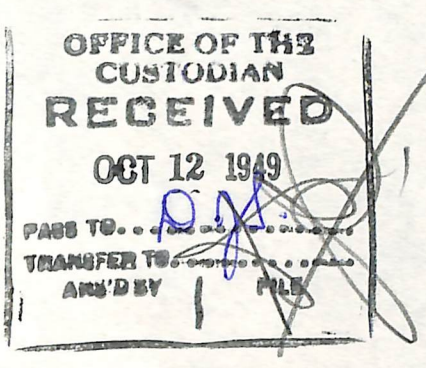
We would be very glad to be informed by you of any replies that you may have from the Office of Alien Property, so that if at all possible this matter may be finally closed out.

Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F A Brewin

FAB:HC



Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J.-84
Legal Section
DJS/DI

September 22nd, 1949

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Attention: Mr. F.A. Brewin, K.C.

Dear Sirs:

Re: E.Kagetsu and Yokohama Specie Bank, Seattle

I wish to acknowledge your letter of Sept. 21, 1949, in which you advise that the copy of our letter to the Alien Property Custodian of the United States dated September 14th, 1949, was omitted from our letter to you of the 15th. I regret this oversight, and I am now enclosing the copy herewith for your file.

There have not been any further developments in this matter.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian.

Encls:(1)

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A.J.P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

September 21, 1949.

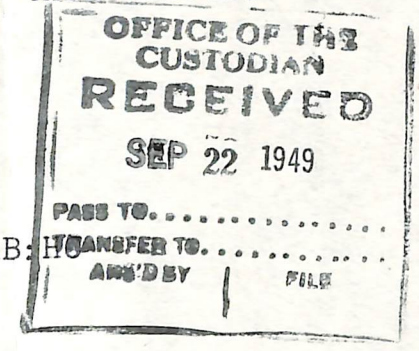
The Department of the Secretary of State,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

File No. J.-84
Legal Section DJS/DI
E. Kagetsu and Yokahama Specie
Bank, Seattle

Dear Sir:

We thank you for your two letters herein dated the 13th and 15th of September. In the letter of the 15th, you state that for our records you are enclosing a copy of your letter to the Alien Property Custodian of the United States of September 14th.

It seems that the enclosure of the copy was in fact overlooked, and we would be very glad if you could let us have a copy of the letter for our records and also inform us of any further developments in this matter.



Yours very truly,

CAMERON, WELDON, BREWIN & McCALLUM

per: F. A. Brewin

FAB:HG

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J.-84
Legal Section
DJS/DI

September 15, 1949

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Attention: Mr. F.A. Brewin, K.C.

Dear Sirs:

Re: E. Kagetsu and Yokohama Specie Bank, Seattle

I wish to acknowledge your letter of September 12, 1949, to Mr. K. W. Wright, setting forth reasons why the Canadian Custodian should not hand over to the Alien Property Custodian of the United States, as liquidator of the Yokohama Specie Bank funds held by the Canadian Custodian in a suspense account.

Your letter arrived in the afternoon mail, and I had already acknowledged your letter of September 2nd and advised you that the Custodian's views had been passed on to Washington. For your record, I am enclosing a copy of our letter to the Alien Property Custodian which went out on the morning of September 14th, 1949.

To bring your views directly before the Alien Property Custodian of the United States, we are sending to him today a copy of your letter of September 12th and of the statement of facts as provided by Duff, Swartz and Davis.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

J.- 84
Legal Section
DJS/DI

September 15th, 1949

Harold I. Baynton, Esq.,
Deputy Director,
Office of Alien Property,
Department of Justice,
Washington 25, D.C.

Dear Sir:

Re: E. Kagetsu & Yokohama Specie Bank, Seattle
Your Reference File MSM:SU:mo

Further to Mr. Wright's letter of September 14th, I am now submitting for your consideration copy of a brief in letter form advanced by Mr. Brewin, solicitor for E. Kagetsu, together with copy of a memorandum attached to his letter and referred to therein. These documents speak for themselves.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian

Encls:(1)

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

September 14th, 1949

J.-84
Legal Section
DJS/DI

Harold I. Baynton, Esq.,
Deputy Director,
Office of Alien Property,
Department of Justice,
Washington 25, D.C.

Dear Sir:

Re: E. Kagetsu & Yokohama Specie Bank, Seattle:
Your Reference File MSM:SU:mo

Your letter of August 16, 1949, was not acknowledged, due to my absence on holidays.

This case has been carefully considered and it is felt that it did not fall within the terms of the proposal for settlement of certain problems under conflicting Custodian controls adopted by the Custodian agencies of Canada and the United States. The funds in the Custodian's hands are the result of the liquidation of certain of Mr. Kagetsu's assets which came under control, not by virtue of the Trading with the Enemy Regulations, but through the operation of certain Orders-in-Council, copies of which are enclosed.

A further expression of your views aftera perusal of the enclosed documents would be welcome.

Yours very truly,

K. W. Wright,
Counsel to the Custodian.

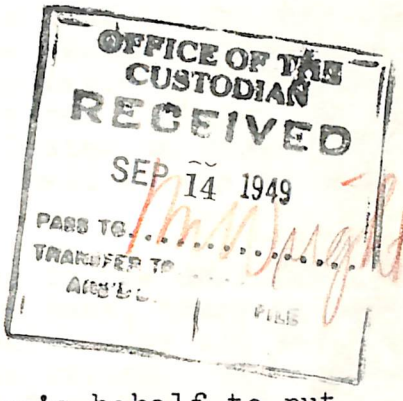
CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A.J.P. CAMERON, K.C. ROY WELDON
F. A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

September 12, 1949.



Custodian of Enemy Alien Property,
Ottawa, Canada.

Attention Mr. K. W. Wright.

Re: Kagetsu

Dear Sir:

I am now writing on Mr. Kagetsu's behalf to put forward our submissions as to why the sum of $28,171.72 which was set aside in the suspense account by the Custodian should be paid to Mr. Kagetsu and not to the Alien Property Custodian of United States as liquidator of the Yokahama Specie Bank as requested by him.

This matter has already been discussed between the writer and yourselves, and in the meantime we have consulted Duff, Swartz and Davis of Washington, D.C. who are consultants in these matters and have a wide experience in connection with them.

We are enclosing herewith a memorandum prepared by them as stating the facts, and submit that the Conflicting Custodial Agreement was inapplicable to Mr. Kagetsu's case.

Our first and main submission is that the Conflicting Custodial Agreement between the United States and Canada of July 1945 has no application to the circumstances.

We have not ourselves had a copy of this Agreement, but we believe that we are familiar with the relevant sections.

We understand that the American Custodian is basing his demand on the specific reference in paragraph 4 (c)ii of the Agreement, arguing that the following language of that paragraph covers this case:

> "The Custodian having control over property in one participating country held to the order of a person of Class B carrying on the business of banking in another participating country...shall relinquish control of such property on being satisfied....that the property is an asset of any such bank or branch under the laws of the participating country in which it carried on business."

The contention would appear to be based upon the defin-

ition of "property" in the Agreement, paragraph 1(b) as including debts.

In our submission, Mr. Kagetsu's debt to the Yokahama Specie Bank, assuming that it vested in the Canadian Custodian by virtue of the Trading with the Enemy Regulations, is not what the Alien Custodian is now claiming. He is not claiming the right to collect the debt, or that the Canadian Custodian should relinquish the debt to him, but is claiming the funds held in the Suspense Account.

If the debt as such is released to the American Custodian as Liquidator of the Yokahama Specie Bank, there is nothing to prevent him from suing Mr. Kagetsu at which time all defences and charges which Mr. Kagetsu has, could be raised. If, however, it is suggested that the funds held in the Suspense Account are an asset of the Yokahama Specie Bank and therefore are property, control of which should be released in accordance with the above quoted paragraph 4 (c) ii of the Agreement, then it is our submission that the terminology used in the above paragraph is not appropriate. Neither Mr. Kagetsu nor the Custodian ever held these funds to the order of the Yokahama Specie Bank or the American Custodian.

The Canadian Custodian did not in fact seek to exercise control of Mr. Kagetsu's debt by virtue of the automatic vesting of debts. The Custodian held certain funds, the property of Mr. Kagetsu by reason of the various Orders-in-Council relating to persons of Japanese origin and not by virtue of the Trading with the Enemy Regulations.

It is my understanding from discussion with you that the Canadian Custodian is not in the practice of demanding payment of a debt owed to an enemy in Canada where the Debtor had pledged adequate collateral which became worthless due to the War. Since the proposals in the Agreement are "based on existing law and practice", this practice, which, in effect, amounts to a non-adoption of control over this class of debts should, we suggest, be made known by yourselves to the American Custodian. Moreover, should the American Custodian request that such practice be disregarded and control enforced over Kagetsu's debt, he would, in effect, be asking you to create an overlapping in control to the benefit of the United States in a particular case. This does not square with the purpose of the Agreement "to minimize the occasions for overlapping of controls."

It is further submitted that "property" as referred to in this paragraph 4 (c) ii does not include Kagetsu's debt. It is true that the definition of property in the Agreement (Paragraph 1(b)) includes debts, but it is wrong to apply this definition of property to the paragraph under discussion, since it ignores the crucial words "held to the order of" which qualify the word "property". It must be

assumed that the Attorneys who drafted this Agreement used this phrase in its legal sense of indicia of negotiability and, therefore, intended it to cover only such property as cheques, drafts and bill of exchange. Obviously, a debt is not "held to the order of", but is "due or owing to." This is further borne out by the language in Paragraph 5 which, in providing for the release of property owing to Class A persons, specifically defines debts as "debts....owing to."

For these reasons we respectfully submit that Kagetsu's debt does not come within the provisions of 4 (c) ii. It may be, however, that the American Custodian will rely on the fact that in August 1944, Mr. Kagetsu through his attorney suggested to the Canadian Custodian that his debt to the Yokahama Specie Bank be paid out of his funds.

We would like to urge that these instructions were given by Mr. Kagetsu's solicitor under the misunderstanding of his rights. The instructions to pay the debt were given because he believed that he would receive in return, an asset of value, namely, the yen certificate. Mr. Kagetsu in thinking this, relied on the promise of the Assistant Manager of the Bank that dollars would be paid to him on his yen collateral at any time, but he discovered that the American Custodian refused to recognize the agreement made by the Assistant Manager of the Bank and regarded the collateral as worthless. He revoked his instructions to pay, in a letter to you before the amount was paid.

It further does not seem to us that the mere suggestion that the debt be paid out of his funds has legal significance. This was certainly not an order or direction to pay so as to convert the funds into funds held to the order of the American Custodian, or the Yokahama Specie Bank. Furthermore the setting up of a Suspense Account in its nature, as was previously pointed out, is not an appropriation of the funds to any particular purpose, but is obviously designed as nothing more than a holding account until the questions as to the amount of the debt and whether it is payable or not have been settled, or more explicit instructions received from Mr. Kagetsu.

We further submit that the exercise of control is reserved by the Conflicting Custodial Agreement in cases in which a Custodian declares himself unwilling "for special reasons" to relinquish control.

We have already submitted that there are special reasons in this case why control should be reserved. We understand that there has been no authoritative interpretation of this phrase, to date. We suggest that there is inherent inequity in relinquishing control in the present case which gives the Canadian Custodian special reason for failing to do so. The following points may be made in connection with this submission.

1. The Canadian Custodian in situations involving secured debts owed by its citizens to an enemy person within its jurisdiction, releases, as a matter of equity, its citizens from the obligation to pay such debts, if adequate collateral had been pledged and had become valueless as a result of the war.

Custodian of Enemy Alien Property September 12, 1949.

2. Mr. Kagetsu contends that the Assistant Manager of the Yokahama Specie Bank promised him that payment in dollars of his yen collateral would be made at any time. The American Custodian denied the existence of such an agreement. Ordinarily such a disputed question of fact would be settled by the Courts. However, it cannot be brought to issue in an American Court nor raised on a claim to the American Custodian since, by Statute passed in 1946 amending the Trading with the Enemy Act, which was subsequent to the coming into force of the Conflicting Custodial Agreement, Mr. Kagetsu as a non-resident of the United States, was deprived of his prior existing right to institute a suit in the United States courts and was disqualified to file a claim with the American Custodian. These rights are available to American residents, and it does not appear reasonable that the Canadian Custodian should be asked to exercise control over this debt due by a Canadian citizen when the rights which would be available to an American resident in like circumstances are not available to Canadian residents.

3. If Mr. Kagetsu were forced to pay the debt in these circumstances he, in effect, would be treated as an American resident for this purpose, but would not be treated as an American resident insofar as his legal and administrative remedies under the Trading with the Enemy Act are concerned. Such inequitable treatment should obviously be avoided, and constitutes in our submission a special reason why the Canadian Custodian should not relinquish control.

Reviewing the situation as a whole, it can be seen;

(1) As a strict matter of law and the proper interpretation of the Conflicting Custodial Agreement, that the provisions relied upon by the Alien Custodian are inapplicable. We have in support of this view the opinion of Duff, Swartz and Davis who have had very wide experience in this field in Washington.

(2) That even if the general provisions of the Agreement applied, this case should nevertheless be excepted from its application by the condition that the Canadian Custodian can for special reasons refrain from relinquishing control.

We have submitted that there are special reasons in this case that would make it unequitable that the amount be paid over.

May we respectfully suggest that the Custodian should in reply to the demand of the American Custodian acquaint him with the fact that there is a very serious doubt as to the applicability of the Agreement, and suggest that the American Custodian, if desirous of realizing on the debt, could sue Mr. Kagetsu, and that the money held in the Suspense Account could be available for payment of any Judgment that he can secure. To dispose of Mr. Kagetsu's funds against his will and express instructions under circumstances in which he contends that the Custodial Agreement is inapplicable, might lead to lit-

igation in which the Canadian Custodian would be involved, which does not seem to be reasonable in the circumstances.

Further we believe that if the Canadian Custodian thought it wise to advise the American Custodian that there was serious doubt as to the applicability of the Agreement, then the American Custodian might be willing to discuss with our representatives in Washington, whether or not some settlement might be arrived at. In a letter received from Duff, Swartz and Davis, they inform us that although they raised the matter of settlement, the officials of the American Custodian's office refused to discuss the matter of settlement, taking the position that they must first have a formal reply from the Canadian Custodian to their demand for payment under the terms of the Agreement. They stated that the Canadian Custodian has not to date raised the matter of the applicability of the Agreement to this case. Should you see fit to raise this question as we urge that should be done, you might also suggest that in view of the conflicting view as to the interpretation of the Agreement, some question of settlement agreeable to the American Custodian and to Mr. Kagetsu might properly be a matter of discussion so that litigation might be avoided.

The writer would be glad to discuss this matter personally with you if anything is to be gained by making further personal representations. I would be glad to be advised from time to time if it is permissible, what view you take of this matter, and what representations you are making to the American Custodian.

In our view it is a question which involves protection of the equities of a Canadian citizen and the American Custodian could have no grievance if the Canadian Custodian sees fit to protect these equities.

Yours respectfully,

F.A. Brewin

FAB:HC

MEMORANDUM RE KAGETSU CASE

A. STATEMENT OF FACTS

1. Mr. E. Kagetsu, a naturalized Canadian citizen of Japanese origin, resided in Vancouver, B.C. Canada, from June 1906 to May 12, 1942.

2. On August 18, 1938, Mr. Kagetsu gave a demand note payable to the Yokahama Specie Bank, Limited, Seattle, Washington, in the amount of $23,000 (American dollars) with interest at the rate of 5½ percent per annum. The note was renewed on February 16, 1939 and interest was paid up to November 16, 1941. As collateral, the Bank held a time draft No. 43907, dated January 4, 1940 for 96,394.15 yen.

3. In May, 1942 Mr. Kagetsu was evacuated from the coastal area of British Colmbia to Minto, B.C., as part of a Canadian wartime measure. At that time the administration of Mr. Kagetsu's property was vested in and subject to the control and management of the Canadian Custodian of Enemy Property under an Order-in-Council (P.C. 1665) of the Canadian Government.

Vesting, under the Canadian Regulations did not constitute a transfer of title to the Canadian Government, but was merely a technique whereby the Custodian was enabled to liquidate, sell or otherwise dispose of the property "in the interest of the owner".

4. The Canadian Custodian proceeded to liquidate Mr. Kagetsu's property, including some timber land, and to reduce it to cash.

5. On November 4, 1944 the Custodian's office at Vancouver advised Mr. Kagetsu's attorney that Mr. Kagetsu's account with the Custodian had been charged with $28,171.72 (Canadian dollars) in connection with the claim of the Alien Property Custodian and Liquidator of the Yokahama Specie Bank, and that this amount was being transferred to the Custodian's suspense account.

6. On January 20, 1949, Mr. Kagetsu through his counsel, requested the Canadian Custodian not to transfer any of his funds out of the suspense account and to turn these funds over to him.

B. CONFLICTING CUSTODIAL AGREEMENT INAPPLICABLE TO MR. KAGETSU'S CASE

The Conflicting Custodial Agreement between the United States and Canada (July 1945) which specifies the categories of enemy property within the respective jurisdictions which will be transferred to the other signatory does not apply to Mr. Kagetsu's property, because of the following:

1. Mr. Kagetsu was never a person of Class A (a person residing in territory occupied by the enemy, or controlled by a person residing in such territory), or a person of Class B (a person residing in enemy territory, controlled by a person residing in enemy territory.)

G. & T.
6383

2. Mr. Kagetsu's property was merely taken over for administration and protective custody by the Canadian Custodian in connection with its control program over property of Japanese nationals and citizens of Japanese origin in Canada, and thus was controlled by the Canadian Custodian for reasons other than the fact that it is or was property of a person of Class A or Class B.

3. At the time the control of Mr. Kagetsu's property was taken over by the Canadian Custodian, and at all times thereafter, it was the property of a Canadian citizen of Japanese origin, and no part of it was held to the order of a person of Class B or constituted an asset of such a person.

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G. & T.
6383

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CAM[illegible]ON, WELDON, BREWIN & McCALLUM
Barristers & Solicitors

Sterling Tower,
Toronto 1, Canada.
September 12, 1949

Custodian of Enemy Alien Property,
Ottawa, Canada.

Attention: Mr. K. W. Wright.

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Our first and main submission is that the Conflicting Custodial Agreement between the United States and Canada of July 1945 has no application to the circumstances.

We have not ourselves had a copy of this Agreement, but we believe that we are familiar with the relevant sections.

We understand that the American Custodian is basing his demand on the specific reference in paragraph 4 (c)ii of the Agreement, arguing that the following language of that paragraph covers this case:

> "The Custodian having control over property in one participating country held to the order of a person of Class B carrying on the business of banking in another participating country...shall relinquish control of such property on being satisfied....that the property is an asset of any such bank or branch under the laws of the participating country in which it carried on business."

The contention would appear to be based upon the definition of "property" in the Agreement, paragraph 1(b) as including debts.

In our submission, Mr. Kagetsu's debt to the Yokohama Specie Bank, assuming that it vested in the Canadian Custodian by virtue of the Trading with the Enemy Regulations, is not what the Alien Custodian is now claiming. He is not claiming the right to collect the debt, or that the Canadian Custodian should relinquish the debt to him, but is claiming the funds held in the Suspense Account.

If the debt as such is released to the American Custodian as Liquidator of the Yokohama Specie Bank, there is nothing to prevent him from suing Mr. Kagetsu at which time all defences and charges which Mr. Kagetsu has, could be raised. If, however, it is suggested that the funds held in the Suspense Account are an asset of the Yokohama Specie Bank and therefore are property, control of which should be released in accordance with the above quoted paragraph 4 (c)ii of the Agreement, then it is our submission that the terminology used

in the above paragraph is not appropriate. Neither Mr. Kagetsu nor the Custodian ever held these funds to the order of the Yokohama Specie Bank or the American Custodian.

The Canadian Custodian did not in fact seek to exercise control of Mr. Kagetsu's debt by virtue of the automatic vesting of debts. The Custodian held certain funds, the property of Mr. Kagetsu by reason of the various Orders-in-Council relating to persons of Japanese origin and not by virtue of the Trading with the Enemy Regulations.

It is my understanding from discussion with you that the Canadian Custodian is not in the practice of demanding payment of a debt owed to an enemy in Canada where the Debtor had pledged adequate collateral which became worthless due to the War. Since the proposals in the Agreement are "based on existing law and practice", this practice, which, in effect, amounts to a non-adoption of control over this class of debts should, we suggest, be made known by yourselves to the American Custodian. Moreover, should the American Custodian request that such practice be disregarded and control enforced over Kagetsu's debt, he would, in effect, be asking you to create an overlapping in control to the benefit of the United States in a particular case. This does not square with the purpose of the Agreement "to minimize the occasions for overlapping of controls."

It is further submitted that "property" as referred to in this paragraph 4 (c)ii does not include Kagetsu's debt. It is true that the definition of property in the Agreement (Paragraph 1(b) includes debts, but it is wrong to apply this definition of property to the paragraph under discussion, since it ignores the crucial words "held to the order of" which qualify the word "property." It must be assumed that the Attorneys who drafted this Agreement used this phrase in its legal sense of indicia of negotiability and, therefore, intended it to cover only such property as cheques, drafts and bills of exchange. Obviously, a debt is not "held to the order of", but is "due or owing to." This is further borne out by the language in Paragraph 5 which, in providing for the release of property owing to Class A persons, specifically defines debts as "debts.....owing to."

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Yours respectfully,

"F. A. Brewin"

FAB:HC

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Vesting, under the Canadian Regulations did not constitute a transfer of title to the Canadian Government, but was merely a technique whereby the Custodian was enabled to liquidate, sell or otherwise dispose of the property "in the interest of the owner."

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5. On Nov. 4, 1944 the Custodian's Office at Vancouver advised Mr. Kagetsu's attorney that Mr. Kagetsu's account with the Custodian had been charged with $28,171.72 (Canadian dollars) in connection with the claim of the Alien Property Custodian and Liquidator of the Yokohama Specie Bank, and that this amount was being transferred to the Custodian's suspense account.

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1. Mr. Kagetsu was never a person of Class A (a person residing in territory occupied by the enemy, or controlled by a person residing in such territory), or a person of Class B (a person residing in enemy territory, controlled by a person residing in enemy territory.)

2. Mr. Kagetsu's property was merely taken over for administration and protective custody by the Canadian Custodian in connection with its control program over property of Japanese nationals and citizens of Japanese origin in Canada, and thus was controlled by the Canadian Custodian for reasons other than the fact that it is or was property of a person of Class A or Class B.

3. At the time the control of Mr. Kagetsu's property was taken over by the Canadian Custodian, and at all times thereafter, it was the propertyof a Canadian citizen of Japanese origin, and no part of it was held to the order of a person of Class B or constituted an asset of such a person.

Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

File No. J-84

September 13th, 1949

Legal Section
DJS/DI

Messrs. Cameron, Weldon, Brewin & McCallum,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Attention: Mr. F.A. Brewin, K.C.

Dear Sirs:

Re: E. Kagetsu

This will acknowledge your letter of September 2nd, 1949, in the above matter, and will also acquaint you with the fact that the Custodian has now passed his views on this matter to the Office of Alien Property, Department of Justice, Washington. It is noted that your further submissions in the matter will be coming forward some time this week.

Yours very truly,

D. J. Sinclair,
For Assistant Deputy Custodian.

CAMERON, WELDON, BREWIN & McCALLUM
BARRISTERS & SOLICITORS

A.J.P. CAMERON, K.C. ROY WELDON
F.A. BREWIN, K.C. J. F. McCALLUM

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

September 2, 1949.

OFFICE OF THE CUSTODIAN
RECEIVED
SEP 6 1949
PASS TO K.W.W.
TRANSFER TO MR. SINCLAIR
ANS'D BY FILE

Custodian of Enemy Alien Property,
Ottawa, Canada.

Attention Mr. K. W. Wright.

Re: Kagetsu

Dear Sir:

You will recall that we have corresponded with you before in respect to the sum of $28,171.72 which was set aside in a suspense account by the Custodian in connection with the claim of the U.S. Alien Property Custodian and Liquidator of the Yokahama Specie Bank on the 4th of November 1944.

You will recall that the Alien Property Custodian requested payment of this sum claiming it in accordance with the provisions of the Conflicting Custodial Agreement between United States and Canada (July 1945).

You will further see from our correspondence that Mr. Kagetsu instructed us to request you not to transfer any of his funds out of the suspense account and asked that the monies be paid over to him.

Since our last correspondence with you we have had Miss B. Duff of Duff, Swartz & Davis, Consultants of Washington, D.C. look into the matter for us and discuss the matter with representatives of the Alien Property Custodian in Washington.

We now understand from Miss Duff that the American Custodian does not wish to deal with this matter until he has received a letter from you setting out your view as to the facts and the application of the Custodial Agreement, and that recently he has renewed his request for the payment over of the money, relying again on the Conflicting Custodial Agreement.

The writer is in the course of preparing a statement of the facts, and the basis of his submissions, that the Agreement has no application to the facts of the present case and urging that you so advise the United States Custodian.

Custodian of Enemy Alien Property

Ottawa, Canada
September 2, 1949.

We telephoned to your office a week or so ago and understood that this matter would not be dealt with until your return and until you had heard representations from us.

The writer hopes to be able to send you a letter on Tuesday next setting out our submissions and re-emphasizing our request that the money be paid over to us. We assume that if you are of the opinion that there is serious doubt as to the applicability of the Agreement and your obligation to hand over these funds of Mr. Kagetsu's and you so inform the U.S. Custodian, he will then be in a position to consider the matter, and some settlement of the difficulty may be arrived at without the necessity of litigation. However, for the present we would request that you defer any decision until you receive our letter which we think we can undertake that you will have some time next week. If you feel it necessary to discuss this matter with the writer personally, or if anything were to be gained by personal representations to the Custodian, the writer would be glad to arrange an appointment in Ottawa to discuss it with yourself or whoever will have the responsibility of deciding what should be done in the circumstances.

Yours very truly,

F A Brewin

FAB:HC

IN REPLY, PLEASE REFER TO FILE NUMBER

MSA:SU:mo

OFFICE OF ALIEN PROPERTY
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

OFFICE OF THE CUSTODIAN
RECEIVED
AUG 18 1949
PASS TO MR. SINCLAIR
TRANSFER TO
AND'D BY
FILE

AIR MAIL

AUG 16 1949

K. W. Wright, Esq.
Counsel to the Custodian
Victoria Building
7 O'Connor Street
Ottawa, Ontario

Re: Yokohama Specie Bank, Ltd.
Seattle Agency
Obligation of E. Kagetsu

Dear Mr. Wright:

Reference is made to a letter of this Office, dated November 10, 1948, addressed to Dr. E. H. Coleman, pertaining to a debt owed by Mr. E. Kagetsu to subject bank, in the amount of $22,000, with interest from November 16, 1941. The letter suggested that inasmuch as "all property" of subject bank was vested by the Alien Property Custodian, predecessor of the Attorney General of the United States, Mr. Kagetsu's debt is property over which the Canadian Custodian should relinquish control pursuant to the Proposals for Settlement of Certain Problems Under Conflicting Custodian Controls.

Your response of November 22, 1948 advised that Mr. Kagetsu's solicitor had requested an opportunity to investigate the matter and to discuss it with Dr. Coleman and yourself. You stated that "It is suggested that Kagetsu is entitled to some form of set off as between himself and the bank which held the collateral security in yen." Thereafter, by letter dated January 31, 1949, this Office advised that the files of subject bank pertaining to Mr. Kagetsu's obligation had been examined thoroughly, that they reveal no basis for the assertion of a right of set-off in favor of Mr. Kagetsu, and that any report transmitted by Duff, Schwartz and Davis to Mr. Kagetsu's solicitor must be in complete accord with this conclusion.

Inasmuch as Mr. Kagetsu's debt constituted property of an enemy (subject bank) in Canada, the debt vested in the Canadian Custodian pursuant to Regulation 21 of the Revised Regulations Respecting Trading with the Enemy (1943). It follows that the funds of Mr. Kagetsu under the control of the Canadian Custodian are, to the extent of this debt, property over which the Canadian Custodian's control should be relinquished pursuant to paragraphs (4) (a) and (4) (c) of the Proposals.

I should appreciate your indicating whether your conclusions are in accord with the above and, if so, your suggestions as to arrangements for the turnover to this Office of the funds required to pay the indebtedness.

Sincerely yours,

Harold I. Baynton

Harold I. Baynton
Deputy Director

CAMERON. WELDON & BREWIN
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K. C. ROY WELDON
F. A. BREWIN

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

March 22, 1949.

OFFICE OF THE CUSTODIAN
RECEIVED
MAR 23 1949
PASS TO.....
TRANSFER TO.....
ANS'D BY FILE

Mr. K. W. Wright,
Counsel to the Custodian,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Dear Sir:

We understand from you that the American Custodian has once again been requesting payment over to him of the sum of $28,000 in the suspense account, and claimed to be owed to the Yokohama Specie Bank, Seattle.

As a result of our conversation with you, we have once again written to our Washington Attorneys asking them to take the matter up directly with the American Custodian, with a view to possible settlement. We enclose a copy of our letter.

We would be ogliged if you would let the matter stand until our Washington Attorneys have had an opportunity to discuss this matter fully with the American Custodian.

Yours very truly,

CAMERON, WELDON & BREWIN

per: F A Brewin

FAB: HC

March 21, 1949.

Messrs. Duff, Shwartz & Davis,
Hibbs Building,
Washington, D.C. U.S.A.

Re: Kagetsu

Attention Mr. B. Duff.

Dear Mr. Duff:

On January 20th we wrote to Mr. Wright counsel to the Custodian, a letter based on your previous correspondence with us, a copy of which we enclose. It would appear that after receiving this letter the counsel to the Canadian Custodian wrote to the American Custodian stating that we had objected to payment over of the funds to the American Custodian under the terms of the Conflicting Custodial Agreement, and received a further letter from the American Custodian in which he again requested the payment of the money, pointing out that the facts which we alleged did not establish a right of set-off.

It will be recalled that we had not claimed that the facts established a legal right of set-off, and it would appear from the letter written to the Canadian Custodian by the American Custodian that they are still under some misapprehension as to the facts. It would appear that they are of the opinion that the funds held in the suspense account were held to the order of the Yokohama Specie Bank, Seattle, at the time the Canadian Custodian took control of Mr. Kagetsu's assets. This is not the fact. The funds which the Canadian Custodian held in the suspense account were the proceeds of the sale of certain timber limits, the property of Mr. Kagetsu, which became vested in the Canadian Custodian by virtue of various Orders-in-Council respecting persons of the Japanese race in Canada. They were at no time held to the order of the Yokohama Specie Bank, Seattle. The monies came under the control of the Canadian Custodian not by virtue of the fact that Mr. Kagetsu was an enemy aline, but by virtue of special wartime measures taken under the provisions of the War Measures Act in re-

G. & T.
6383

spect to persons of the Japanese race resident in the protected areas of Canada on the west coast.

We have discussed this matter further with the Canadian Custodian's representatives, and it would appear that under the terms of the Conflicting Custodial Agreement, the exercise of control is reserved

"(11) In cases where property is subject to Custodian controls for reasons other than the fact that it is property of persons of Class "A" or persons of Class "B", and

(111) In cases in which a Custodian declares himself unwilling for special reasons to relinquish control."

Our Custodian has already raised the question as to whether in the circumstances of this case there are not special reasons within (111) why he should not relinquish control, but in any event it would appear that the agreement is inapplicable because the property did not vest in the Custodian because it was property of persons of either Class "A" or Class "B" under the Agreement. If this is correct and we cannot see how it is incorrect, the Conflicting Custodial Agreement would not apply.

We would be glad if you would take this up with the American Custodian once again and point out to him the points raised in this letter and in our letter of January 20th.

We would be glad to settle this matter on any basis that appears equitable, provided our client was to receive at least 50% of the funds. He would then be willing to relinquish to the American Custodian his claim to the yen pledged as collateral.

We would be glad to leave it in your hands to see whether any such settlement could be arrived at. If it is not, it would appear that we would be obliged to advise the Canadian Custodian that we would object to the payment not being covered by the terms of the Conflicting Custodial Agreement, in which event the American Custodian would have to consider what steps he could take, and expensive litigation might result. It is our hope that some arrangement may be made and we give you full authority to make any arrangement within the limits set out above. If there is anything to be gained by so doing, the writer would be glad to come to Washington to discuss the matter with you or with the representatives of the American Custodian.

Yours very truly,

CAMERON, WELDON & BREWIN

per:

FAB:HC

G. & T.
6383

Extract from Minutes of Meeting of the Advisory Board held in Mr. Mathieu's Office on Monday, March 14, 1949, at 2:30 p.m.

File No. J-84 - Eikichi Kagetsu

A memorandum reviewing the file was read. It was agreed that this case did not fall within the terms of the U.S.-Canadian proposals and that the A. P. Custodian should be so advised. The manner in which the funds came into the Custodian's possession should be explained to the A.P.C. The A.P.C. should also be advised that the Custodian was presently considering the matter of release of funds held to the credit of Kagetsu. If the A.P.C. could show cause why these monies should not be released to Kagetsu, the matter would receive further consideration.

Extract from Minutes of Meeting of the Advisory Board held in Mr. Mathieu's Office on Monday, March 14, 1949, at 2:30 p.m.

File No. J-84 - Eikichi Kagetsu

A memorandum reviewing the file was read. It was agreed that this case did not fall within the terms of the U.S.-Canadian proposals and that the A. P. Custodian should be so advised. The manner in which the funds came into the Custodian's possession should be explained to the A.P.C. The A.P.C. should also be advised that the Custodian was presently considering the matter of release of funds held to the credit of Kagetsu. If the A.P.C. could show cause why these monies should not be released to Kagetsu, the matter would receive further consideration.

J - 84

February 11th, 1949.

MEMORANDUM FOR MR. MATHIEU:

Re: E. Kagetsu & Yokohama Specie Bank, Seattle
(Alien Property Custodian of U.S.A.)

Eikichi Kagetsu, a Canadian citizen of Japanese race and an evacuee, was the owner of timber limits known as Block 195, Cowichan District, which property, pursuant to Order-in-Council P.C. 1665 (March 4, 1942) as amended by P.C. 2483 (March 27, 1942), became vested in the Custodian "for the purpose of protecting the interests of the owner or any other person."

Pursuant to Order-in-Council P.C. 469 (January 19, 1943) the said property was liquidated in the summer of 1943. Out of the proceeds of the sale there was transferred to a suspense account on September 6, 1944, the sum of $28,191.72 to cover principal, interest and exchange re a demand note given by Kagetsu to the Yokohama Specie Bank, Seattle. This liability had been reported by the U.S. Custodian, in whom the assets of the said bank were vested by Vesting Order No. 1255 (April 20, 1943) and he sought payment from the Canadian Custodian. Kagetsu, who had failed to report the liability, admitted it on questioning and directed that it should be paid out of his liquidated assets under the control of the Canadian Custodian. Pending certain clarification of policy, this step was not taken and the funds remained on deposit.

Kagetsu, through his solicitors, has withdrawn the direction to pay and has requested the Canadian Custodian to hold the funds "for the benefit of himself." (Kagetsu).

The U.S. Custodian is pressing for payment and the following excerpt from his letter of November 10, 1948, indicates the basis of his claim:

> "I understand that Mr. Kagetsu is a naturalized Canadian citizen and that some time ago he attempted to pay his obligation to this office through the Canadian Bank of Commerce, Vancouver, B.C., but that the funds (approximately $28,000.) were turned over to you by the last mentioned bank.
>
> If my understanding of the facts is correct, the funds turned over to you by the Canadian Bank of Commerce constitute property which, under Section 4(c) of the proposals for settlement of certain problems under conflicting Custodian controls adopted by the Custodian agencies of Canada and the United States, is held to the order of a person of Class B carrying on the business of banking in the United States and which is an asset of the subject bank under the laws of the United States. It would appear, therefore, that the funds arepr o-perty over which your control should be relinquished pursuant to the Proposals."

There is no evidence on file to support the contention in Paragraph One.

The above-mentioned suspense account was created by the deposit of part of the proceeds of the sale of Kagetsu's timber limits. These funds wer held pending determination of policy. They were not held to the order of the Yokohama Specie Bank, Seattle, but were held pursuant to the provisions of the Order-in-Council above mentioned.

It is possible that the U.S. Custodian believed that absolute title to Kagetsu's property automatically vested in the Custodian. Such was not the case. Moreover, as Kagetsu was not a person of class "A" or class "B", as defined in the Proposals, and as no funds were held in Canada to the order of the Yokohama Specie Bank, there is no basis under the said proposals for the U.S. Custodian's claim.

It would not be in order for the Canadian Custodian to transfer these funds to the U.S. Custodian in the face of Kagetsu's opposition. Moreover, Kagetsu now claims an offset against the U.S. Custodian. This is not a matter to be determined by the Canadian Custodian, but by a Court of Law.

It is recommended:

(1) That pursuant to Section (3) (b)(iii) of the Proposals, the Canadian Custodian reserves control over the funds and that the U.S. Custodian be so advised.

(2) That the U.S. Custodian be advised to establish in a Canadian Court his right to payment from Kagetsu. The rights of the parties to the funds presently held in trust by the Canadian Custodian would be determined then and pursuant to a Court Order, he would release the funds.

D. J. Sinclair.

DJS/DI

February 11th, 1949.

IN REPLY, PLEASE REFER TO FILE NUMBER

MSM:SU:mp
F-39-15

OFFICE OF ALIEN PROPERTY
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

OFFICE OF THE CUSTODIAN
RECEIVED
FEB 3 1949
PASS TO.....
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ANS'D BY DATE

AIR MAIL

JAN 31 1949

K. W. Wright, Esq.
Counsel to the Custodian
Victoria Bldg., 7 O'Connor Street
Ottawa, Ontario

Re: Yokohama Specie Bank, Ltd., Seattle Agency
Obligation of E. Kagetsu - Your File No. J-84

Dear Mr. Wright:

Reference is made to your letter of November 22, 1948, advising that Mr. Kagetsu's solicitor had requested that you refrain from paying over the amount claimed by subject bank, until he has an opportunity to investigate and discuss, with Dr. Coleman and yourself, the matter of a set-off between Mr. Kagetsu and the bank.

Shortly after your letter was received, representatives of the Washington firm of Schwartz, Duff and Davis communicated with members of my staff and advised that they had been retained by Mr. Kagetsu's attorney. They requested that my reply to your letter of November 22, 1948, be delayed until they could investigate the right of Mr. Kagetsu to a set-off against the bank. After several conferences with members of my staff, Miss Duff advised, on January 14, 1949, that she no longer desired that my reply to your letter be delayed.

The files of subject bank pertaining to Mr. Kagetsu's obligation have been examined thoroughly. They reveal no basis for the assertion of a right of set-off in favor of Mr. Kagetsu. I believe that any report which Schwartz, Duff and Davis may have transmitted to Mr. Kagetsu's solicitor must be in complete accord with this conclusion.

I trust that I will hear from Dr. Coleman in the near future with respect to the relinquishment of control over the funds, as suggested in my letter of November 10. 1948.

Sincerely yours,

David L. Bazelon

David L. Bazelon
Assistant Attorney General
Director, Office of Alien Property

J-84
Legal Section
KWW/MC

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

January 25, 1949.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Building,
Vancouver, B.C.

Re: Kagetsu

Dear Mr. Shears:

I enclose herewith, for record purposes, copy of communication received from F.A. Brewin, Barrister, Toronto, under date of 20th instant.

As soon as time permits, I will consider the matter and write you.

Yours very truly,

K. W. Wright,
Counsel to the Custodian.

Encl.

CAMERON. WELDON & BREWIN
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K C ROY WELDON
F. A. BREWIN

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

3 copies

January 20, 1949.

Mr. K. W. Wright,
Counsel to the Custodian,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 20 1949
PASS TO.....
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Re: Kagetsu

Dear Sir:

Further to our correspondence on this matter, you will recall that we have requested the Custodian to withhold payment of the sum of $28,191.72 claimed by the American Alien Property Custodian, and Liquidator of the Yokohama Specie Bank, Seattle.

As the previous correspondence indicates, the above sum has been held in a suspense account by the Custodian, and Mr. Kagetsu's account was debited with this amount. Mr. Kagetsu, as the correspondence reveals, had assumed that this sum had been paid, and only became aware that it had not been paid on the 29th of July, 1948 when he visited the Alien Properties Custodian's offices in New York.

We have had the situation investigated by our representatives in Washington, and it would appear from the information which they gave us, that there is at least serious doubt whether the Conflicting Custodial Agreement is applicable. We have not got a copy of this agreement, and would be much obliged if it is available, if we could have a copy of it. We understand, however, that Sec. 4 (c) of the agreement describes the categories of enemy property over which the respective Custodians agreed to relinquish controls, as follows:

> "The Custodian having control over property in one participating country held to the order of a person of Class B (that is, a German or Japanese) carrying on the business of banking in another participating country .....shall relinquish control of such property on being satisfied (1) that the property though in his jurisdiction in the name of any such bank or branch is the property of some other person in the other participating country, not being a person of Class A (that is, a resident of occupied areas) or a person of Class B, and will revert to

"that person, or (ii) that the property is an asset of any such bank or branch under the laws of the participating country in which it carried on business ....."

You will note that this provision covers, among other properties, property "held to the order of" an enemy banking institution which the Custodian is satisfied is an asset of such institution. This naturally raises the following questions: -

(1) Were the funds now held in the suspense account held to the order of Yokohama Specie Bank, Seattle, at the time the Custodian vested or otherwise took control of Mr. Kagetsu's assets?

(2) If so held, do they legally constitute an asset of Yokohama Specie Bank, Seattle;

(3) If not so held, did the taking over by the Canadian Custodian constitute a transfer of title to him under the regulations, so that the Custodian had the right to pay the debt to Yokohama, Seattle;

(4) If title did not pass upon transfer to the Custodian, and Mr. Kagetsu instructed the Custodian to debit his account in the amount due on the note, can he not, under Canadian law, revoke his instructions and at the same time make demand for the return of his property?

We would submit in answer to the above questions that at the time the assets of Mr. Kagetsu vested in the Custodian under the various Orders in Council relevant thereto, the funds now held in the suspense account were not held to the order of the Yokohama Specie Bank, Seattle. There is no doubt Mr. Kagetsu at that time owed money to the Yokohama Specie Bank, Seattle, on the note which he had signed, but the funds were in no way ear-marked for that purpose.

In answer to question (2), it would clearly appear that the said funds were not, at that time, legally "an asset" of Yokohama Specie Bank, Seattle.

The answer to question (3) would seem to be that the property of Mr. Kagetsu did, by the terms of P.C . 2483, vest in the Custodian "for the purpose of protecting the interests of the owner or any other person", and the Custodian had "full power to administer such property for the benefit of all such interested persons". However, there would not

appear to be any provision which required the Custodian to pay the debt to Yokohama, Seattle, and insofar as Mr. Kagetsu instructed the Custodian to debit his account in the amount due on the note, either personally or through his Solicitor, he now desires to revoke his instructions and requests that the said moneys be held "for the benefit of himself".

The Liquidator of the Yokohama Specie Bank, in asserting any claim against Mr. Kagetsu, would in so doing be subject to any equities that might arise by reason of the collateral held by the Yokohama Specie Bank in the form of a time certificate of deposit of the Yokohama Specie Bank, Yokohama.

The Liquidator might at any time have sued Mr. Kagetsu, notwithstanding the operations of the Japanese Orders-in-Council, and it might well be that the Statue of Limitations would intervene before he can establish any such right. In addition, as I have said, the equities in respect to the holding of the collateral, should be investigated.

In the event, however, that it is considered that the Conflicting Custodial Agreement applies, we submit the following further special reason why the payment of the debt should not in equity be required. It would appear that the American Custodian has dollars available after completing the liquidation of the branches of the Yokohama Specie Bank in the United States, to pay off holders of the yen obligations of the Yokohama Specie Bank, Yokohama, at a rate yet to be fixed. However, by virtue of Section 34 of the Trading with the Enemy Act (U.S.) claims of non residents are not allowable, although interest of any non resident creditors to which the American Custodian succeeds are allowable. Moreover, it is the informal opinion of the legal division of the Custodian's Office, as we are advised, that a non-resident may not have the right to sue on his debt claimed under Sec. 9(a) of the Trading with the Enemy Act in the light of Section 34, which was added as an amendment of the Act in August, 1946. Under these circumstances, we suggest that the Canadian Custodian might well point out to the American Custodian, on behalf of Mr. Kagetsu, the inequity involved in seeking payment of the entire loan from a Canadian citizen, which could be avoided if the American Custodian, who is in a position to do so, were to proceed to realize on the collateral, and to seek only from Canada the remittance of the balance due on the loan.

Mr. K. W. Wright

January 20, 1949.

It would appear, if this debt is paid, Mr. Kagetsu being a non resident creditor in the United States, might be unable to make any collection in respect to the yen obligations of the Yokohama Specie Bank, Yokohama, which would then be released to him. The effect would be to place a Canadian citizen at a serious disadvantage.

As we have stated before in our correspondence, it would appear that even if the collateral, namely, the yen obligation of the Yokohama Specie Bank, Yokohama, to Mr. Kagetsu, which was held as collateral on his loan, cannot be set-off against the debt due on the loan to Mr. Kagetsu, nevertheless it would be highly inequitable if by reason of the operation of the war, Mr. Kagetsu were required to pay in full his debt to the enemy alien bank, and were not able to have any off-set in respect to the collateral which he had lodged with the enemy alien bank, and which, owing to the operation of the war, and the various Orders consequent thereon, he cannot realize upon.

We would therefore request that you further withhold payment of the amount claimed by the American Custodian, and if it is possible we would be obliged if you would let us have a copy of the Custodial Agreement so that we may make a more complete submission, having in mind the actual terms of that agreement.

In any event, we would request that the amount to be paid should be scrutinized. We notice that the amount originally held in the suspense account included interest from the 17th of November, 1941, and 11% U.S. exchange. It would appear that Mr. Kagetsu was of the opinion that this debt had been discharged at an early date, but in view of the fact that it was in no way his responsibility that the debt was not discharged originally, he should not be required to pay interest, nor at the present time should the exchange be chargeable to him.

The writer would be glad if necessary to present his further submissions that may be necessary personally to you or any other representative of the Custodian.

Yours very truly,

CAMERON, WELDON & BREWIN

F.A. Brewin

FAB/RHG

CAMERON.WELDON & BREWIN
BARRISTERS & SOLICITORS

A.J.P. CAMERON, K.C. ROY WELDON
F. A. BREWIN

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL.4391

STERLING TOWER
TORONTO 1, CANADA

January 5, 1949.

Mr. K. W. Wright,
Counsel to the Custodian,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Re: Kagetsu

Dear Sir:

We have a letter from Messrs. Duff, Shwartz & Davis of Washington who are investigating the matter of the indebtedness of Mr. Kagetsu to the Yokohama Specie Bank for us. The last sentence of their letter to us of December 30th reads, "Pending the completion of our discussions with the Custodian, we have reason to believe he will not press the Canadian Custodian for the remittance of Kagetsu's funds."

We and our agents will continue to press the investigation of the facts, so that we may be able to make our submissions.

Yours very truly,

CAMERON, WELDON & BREWIN

per: F.A. Brewin

FAB:HC

CAMERON, WELDON & BREWIN
BARRISTERS & SOLICITORS

A. J. P. CAMERON, K.C. ROY WELDON
F. A. BREWIN

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL. 4391

STERLING TOWER
TORONTO 1, CANADA

December 23, 1948.

Mr. K. W. Wright,
Counsel to the Custodian,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

Re: E. Kagetsu and Alien Property Custodian in United States

Dear Sir:

We acknowledge receipt of your letter of December 10th in regard to this matter.

We have communicated with Messrs. Duff, Shwartz & Davis, Attorneys of Washington, D.C., with a view to obtaining their advice on the question of whether there is a special reason to justify retention of the dollars in Canada.

They have told us that they will speak to the American Custodian with a view to having them agree that it would be in order for a further extension of time to be granted before the payment is required, pending the receipt of our submissions.

We will press on with the matter as quickly as possible. In the meantime we would be glad if you could agree to a further extension so that we may be fully advised by the Attorneys whom we have consulted in Washington.

Yours very truly,

CAMERON, WELDON & BREWIN

per: F.A. Brewin

FAB:HC

J-84
Legal Section
KWW/MC

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

December 10, 1948.

F. A. Brewin, Esq.,
Messrs. Cameron, Weldon & Brewin,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Canada.

Re: E. Kagetsu and Alien Property
Custodian in United States

Dear Sir:

We have for acknowledgment your communication of the 1st instant and wish to advise that we will delay further action pending receipt of your submissions.

We shall expect to hear from you, however, before January 1st next as the Alien Property Custodian in Washington is pressing this office for action herein.

Yours very truly,

K. W. Wright,
Counsel to the Custodian.

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

December 3, 1948.

J-84
Legal Section
KWW/MC

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Building,
Vancouver, B.C.

Dear Mr. Shears:

I enclose herewith, for your information, copy of letter received from Mr. F.A. Brewin under date of 1st instant.

Yours very truly,

K. W. Wright,
Counsel to the Custodian.

Encl.

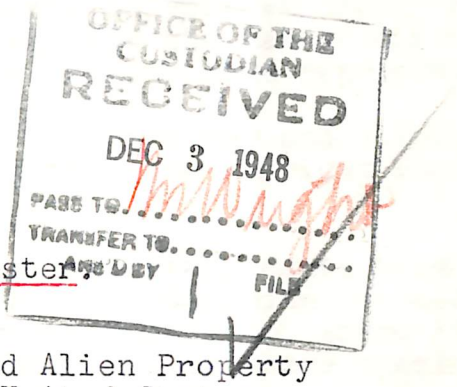
CAMERON.WELDON & BREWIN
BARRISTERS & SOLICITORS

A.J.P. CAMERON, K.C. ROY WELDON
F. A. BREWIN

CABLE "RUERMAS" TORONTO
TELEPHONE ADEL.4391

STERLING TOWER
TORONTO 1, CANADA

December 1, 1948.



Secretary of State,
Office of the Custodian,
7 O'Connor Street,
Ottawa, Canada.

Attention Mr. K. W. Wright, Barrister.

Dear Sir :

Re: E. Kagetsu and Alien Property
Custodian in United States

I am writing to confirm a letter written to you from Vancouver in connection with this matter, and the submissions that I made in a personal interview with Mr. Wright on Saturday morning last.

Mr. Kagetsu who is a Canadian citizen, was indebted to the Yokahama Specie Bank of Seattle, under a note dated the 16th of August 1938 in the original amount of $23,000 (U.S.). As collateral to this, the Yokahama Specie Bank Limited held draft No. 43907 dated June 4th 1940 for 96,394.15 yen.

This remained roughly the situation at the outbreak of war, although Mr. Kagetsu had made some payments on account of interest.

It would appear at the outbreak of war, that the Yokahama Specie Bank Limited as a secured creditor was in the position to liquidate the collateral in full payment of the note. On the other hand if Mr. Kagetsu had paid off this amount, he would have been entitled to receive the collateral.

As a result of the outbreak of war and enemy action, Mr. Kagetsu's right to pay off the amount of the note and to receive his collateral has been suspended indefinitely, and since the collapse of Japanese currency, the collateral is virtually worthless.

In the year 1944 Mr. Kagetsu's account with the Custodian showed under date of November 7th a debit to him of $28,191.72 under the heading "Paid claim to Yokahama Specie Bank." Mr. Kagetsu assumed from this that the Custodian had paid out of funds standing to his credit, the full amount due on the note, and was not aware until some time this summer when

he was in New York and interviewed the controller of alien property there on the 29th of July, seeking to have some compensation made for the collateral held by him, that the amount had not been paid. In fact, it appears his account was debited, and the amount claimed to be due by the alien property Custodian of the United States, was held in a suspense account by your Vancouver office. On the 1st of September 1948 our firm wrote to your Vancouver office setting out the situation, and asking that the matter not be further dealt with until we have had a chance to make representations.

When the writer was recently in Vancouver and discussed this matter with Mr. Shears, it appeared that the American Custodian was now requesting payment of this sum.

We understand that under existing arrangements between the American and Canadian Custodians, that the Canadian Custodian undertakes to pay debts due to the American Custodian, where it has in its hands the funds of a Canadian debtor, except where special reasons exist to withhold payment.

In our respectful submission, the above circumstances create a special reason for withholding payment. We think it most improbable that the American Custodian would insist upon an American citizen paying the debt due by him to an enemy alien, where an enemy alien held ample security upon which they could have realized at any time prior to the outbreak of war, and where the right to redeem the collateral and indeed the collateral itself, has been destroyed through the outbreak of war and enemy action.

We believe that these circumstances, if they do not raise a legal right to resist payment of the debt, create a moral and equitable right that should be recognized.

However, before making our final submission to you, we wish to secure further expert advice from counsel in the United States, and would be much obliged if you could withhold further action on this matter until we are in a position to make our final submissions in respect to this matter.

Yours very truly,

F A Brewin

FAB:HC

Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario
November 30, 1948

J-84

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Building,
Vancouver, B. C.

Re: Eikichi KAGETSU and Yokohama Specie Bank

Dear Mr. Shears:

Thank you for your letters of the 20th instant.

For your information, I enclose copy of letter to Mr. Bazelon and copy of letter received from Mr. Brewin under date of 18th instant. Your communications reached this office later.

Mr. Brewin spent some time with me in the office last Saturday and it was decided to delay action herein until such time as he has an opportunity to submit representations in writing. He promised to do this as soon as he hears from his agents in Washington regarding the Alien Property Custodian's policy in dealing with similar types of cases where American residents are involved. Mr. Brewin will also seek information from Washington concerning the International Agreement to which reference is made in your letter. We understand that a Bill required to make the Agreement effective will be submitted to Congress but have no information as to the date of such submission.

I have not examined the Agreement to ascertain if our position with respect to Mr. Kagetsu's case might be changed nor have I heard from Mr. Bazelon in reply to my letter of the 22nd instant.

You will be kept informed of any developments.

Yours very truly,

K. W. WRIGHT
COUNSEL TO THE CUSTODIAN

KWW/JF
Encl.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No.....

OFFICE OF THE CUSTODIAN
RECEIVED
NOV 22 1948
PASS TO.....
TRANSFER TO.....
ANS'D BY | FILE

506 Royal Bank Building,
Vancouver, B. C.

November 20th, 1948.

K. W. Wright, Esq.,
Counsel to the Custodian,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Dear Mr. Wright:

Re: Eikichi KAGETSU and Yokohama Specie Bank

I have your letter of November 15th and have discussed the letter and the enclosures with Mr. McPherson.

Insofar as the Canadian American Agreement is concerned, Mr. McPherson advises that if the International Agreement negotiated at Brussels comes into effect the Canadian American Agreement will probably be superseded. In any event, he is of the opinion that under the International Agreement the Americans have been very careful to protect their Nationals rights with respect to set-offs.

He is only advising me from memory with respect to the International Agreement but with respect to the Canadian American Agreement he feels that this is a case that you should either reserve by stating reasons as provided in (3) (iii) or you should reserve it under (3)(b)(i) for the reason that it may become involved in attachment proceedings which Mr. Kagetsu has not commenced up to the present time because of the uncertainty of his position. He further feels that regardless of the Agreement, this appears to be a case that the Americans should be willing to discuss if it can be shown by Mr. Kagetsu, a Canadian citizen, that he has a right of set-off against the amount claimed. This would not mean a payment in Yen, which would not be acceptable to Mr. Kagetsu. There appears to be some confusion as to Mr. Kagetsu's attempt to pay the money to the A.P.C. because the money had already been seized by the Custodian and Mr. Kagetsu was in no position to pay the money to the

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

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FILE No.....

K. W. Wright, Esq. November 20, 1948.

A. P. C. but I believe that he was under the mistaken impression that the money had been paid to the A.P.C. by the Canadian Custodian and what he was trying to do was to make some claim against it in the United States.

Dr. Coleman knows Mr. Brewin and is familiar with his efforts on behalf of Japanese Evacuees and the results of same, and Mr. McPherson feels that no step should be taken to release this money to the A.P.C. until Mr. Brewin returns East and has an opportunity of putting forward his client's case. I understand that Mr. Brewin is leaving Vancouver on Sunday night and he has indicated that this is one of the first things on his agenda when he arrives in the East.

You will appreciate that I cannot make any recommendation or take any responsibility as to how this matter should be settled because I have no personal knowledge of the workings of the Canadian American Agreement or of the proposals in the International Agreement. While I would like to be of assistance to you, I think the decision must of necessity be made in Ottawa.

Yours very truly,

F. G. Shears

F. G. Shears,
Director.

FGS/ER

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE NO.....

506 Royal Bank Bldg.,
Vancouver, B.C.,
November 20, 1948.

OFFICE OF THE CUSTODIAN
RECEIVED
NOV 22 1948
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TRANSFER TO.....
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K.W. Wright, Esq.,
Counsel to the Custodian,
Office of the Custodian,
Victoria Bldg.,
7 O'Connor St.,
Ottawa, Ont.

Dear Mr. Wright: Re: E. Kagetsu & Yokohama Specie Bank

This office is holding in Suspense Account $28,191.72, which amount is made up on the following basis:-

A Demand Note given by E. Kagetsu to the Yokohama Specie Bank, Seattle, dated February 16, 1939, for the sum of $23,000.00.

Our files indicate that the amount outstanding as at November 16, 1941 was $22,000.00

The amount above referred to was transferred to Suspense Account on Sept. 6, 1944, at which time interest was figured on the basis of 5½%, amounting to 3,397.95

25,397.95

To this was added 11% for exchange 2,793.77

$28,191.72

In a statement issued by our Accounting Dept. to Mr. Kagetsu, debit for this amount was shown as "Paid Claim to Yokohama Specie Bank". Evidently this item was interpreted by Mr. Kagetsu as meaning that the amount had actually been paid, and apparently he made enquiries in New York and was advised by Mr. W.E. Downey, Controller of Alien Property, that the amount had not been received.

Mr. Carl M. Stewart who was acting on behalf of Mr. Kagetsu, wrote to us on Sept. 6, 1944 stating that Mr. Kagetsu had suggested that the debt which he owed to the Yokohama Specie Bank at Seattle be paid as

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE NO.....

it was carrying 5½% interest, and it was at that time the above entries were made in our books.

We have on file a copy of a letter signed by Mr. M.G. Tucker Assistant to the Custodian of Alien Property, Washington, addressed to Mr. McPherson at Ottawa, dated June 26, 1943, reading as follows -

> "Your letter of June 22, 1943, addressed to Mr. Markham, has been received. In this letter you inquire whether the books of the Yokohama Specie Bank, Ltd., Seattle Branch, disclose an amount owing to that branch from one Eikichi Kagetsu. It appears that the Canadian Custodian has sold certain property of Mr. Kagetsu and that the payment therefor is due within the next few days. The Canadian Custodian, you have stated, has in mind the possibility of applying the amount to be paid to Mr. Kagetsu as above described against the indebtedness from Mr. Kagetsu to Yokohama of Seattle, the effect of this transaction to be determined in due course by negotiation between the Canadian Custodian and the American Custodian.
>
> In response to your request I would inform you that a letter from the American Custodian's Office, Seattle, dated March 23, 1943, states that one E. Kagetsu, 335 Princess Avenue, Victoria, British Columbia, is indebted to Yokohama Specie Bank, Ltd., Seattle Branch, in the sum of $22,000. with interest at 5% from November 6, 1941."

You will note from this that interest was at the rate of 5%.

My general understanding of this matter is that at the time Kagetsu borrowed this money from the Seattle branch of the Yokohama Specie Bank, the advance was secured by a time certificate of deposit in the amount of 96,394 yen, payable by the Yokohama Agency of the bank.

Mr. Field's records indicate that the money borrowed from Seattle was used to pay an advance made by the Royal Bank of Canada in Vancouver to Mr. Kagetsu, this loan having been used in partial payment

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

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PLEASE REFER TO

FILE NO.....

for the purchase of timber limit Block 195.

I am writing a further letter, outlining to you some views expressed to me by Mr. McPherson in regard to this matter.

Yours very truly,

F.G. Shears

F.G. Shears,
Director.

FGS/GN

Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario
November 22nd, 1948

J-84

David L. Bazelon, Esq.,
Assistant Attorney General,
Director, Office of Alien Property,
Department of Justice,
Washington, 25, D. C.

Re: Yokohama Specie Bank Ltd., - Seattle
and E. Kagetsu - Your File No. MSN:SU:sg
F-39-15

Dear Mr. Bazelon:

Dr. Coleman handed me your letter of the 10th instant some days ago and asked me to submit a report on the matter in order to send you a reply.

The file covering this case is in our Branch Office in Vancouver and it will be necessary to secure detailed information from that office before reporting to Dr. Coleman. I will obtain this without delay.

This is also to advise that I received a letter today from Mr. Kagetsu's Solicitor, requesting us to refrain from paying over the amount claimed until he has an opportunity to investigate the matter further and discuss it with Dr. Coleman and the writer. It is suggested that Kagetsu is entitled to some form of set off as between himself and the Bank which held the collateral security in yen. Mr. Kagetsu's Solicitor states that he will be in Ottawa during the next month. Meantime, if you care to comment on this latest suggestion, I will be glad to include same in my report to Dr. Coleman.

Yours very truly,

K. W. WRIGHT
COUNSEL TO THE CUSTODIAN

KWW/JF

F. G. Norris, K.C.
BARRISTER AT LAW, SOLICITOR
NOTARY PUBLIC

R. P. Baldwin, L.L.B.
(ALSO OF THE NOVA SCOTIA BAR)

TELEPHONE PACIFIC 5254
CABLE ADDRESS: "NORRIS"
VANCOUVER, CANADA

BANK OF NOVA SCOTIA BUILDING
602 HASTINGS STREET WEST
Vancouver, B.C.

November 18, 1948.

OFFICE OF THE CUSTODIAN
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ANSWER FILE

K. W. Wright, Esq.,
Barrister & Solicitor,
Counsel to the Custodian,
Office of the Secretary of State,
Victoria Building,
Ottawa, Canada.

Dear Sir:

Re: E. Kagetsu and Yokohama
Specie Bank Limited.

The writer, who acts for Mr. E. Kagetsu, has discussed with Mr. F. G. Shears and Mr. G. W. McPherson in Vancouver, the situation in respect to a Demand Note made by Mr. E. Kagetsu on February 16, 1939, in the original amount of $23,000.00, payable to the Yokohama Specie Bank Limited, now in liquidation by the Alien Property Custodian of the United States.

In the accounts with Mr. Kagetsu, the Custodian had shown an entry under date of November 7, 1944, of a debit of $28,191.72 under the heading "Paid claim to Yokohama Specie Bank" and had therefore been of the opinion that this Note had been paid. In fact, it appears that the amount set out above has been set aside in a suspense account of the Custodian and has not yet been paid.

We understand that the Alien Property Custodian of the United States is now seeking payment from the Canadian Custodian of this sum. At the time of the original loan, Mr. Kagetsu had given as collateral for the repayment of the Note a Draft dated June 4th, 1940 for 96,394.15 yen. This Draft, at the rate current in 1940 and, as we understand, to the outbreak of war, which was roughly at the rate of $23.00 for 100 yen, would have been available to the Yokohama Specie Bank at any time up until the outbreak of war.

We would be much obliged if you would refrain from paying over the amount claimed to the

T. G. Norris, K.C.

American Custodian until the writer has an opportunity to investigate the matter further and to discuss it with Dr. E. H. Coleman and yourself.

The writer expects to be in Ottawa sometime during the next month and will write with a view to obtaining an appointment upon his return to Toronto.

It is our off-hand feeling that Mr. Kagetsu, being a Canadian citizen himself, is entitled to some form of set-off as between himself and the Bank which held the collateral security in yen.

Yours faithfully,

F. A. BREWIN,

per: R. Baldwin

Mr. F. A. Brewin,
c/o Messrs.Cameron,Weldon & Brewin,
Barristers and Solicitors,
372 Bay Street,
Toronto, Ontario.

FAB:mt

Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario
November 15, 1948

J-84

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Building,
Vancouver, B. C.

Re: Eikichi KAGETSU and
Yokohama Specie Bank, Ltd.

Dear Mr. Shears:

I enclose copy of letter, dated 10th instant, addressed to Dr. Coleman by the Director of Alien Property, Washington; also copy of A.P.C. Vesting Order 1255.

You will observe that it is suggested that Kagetsu attempted to pay the obligation some time ago and I would be glad to know if you have any information as to this.

We do not appear to have copies of Messrs. P. S. Ross & Sons' reports covering this case but my recollection is that there are ample funds in the account. I believe this is one of the files that Mr. McPherson took with him to Vancouver and it has not been returned.

Reference is made to the U.S. - Canadian Agreement made in 1945, copy of which is enclosed. Mr. McPherson is conversant with this and Dr. Coleman tells me that he believes Mr. McPherson also visited Seattle early in 1942 in connection with this matter and cases of a similar nature.

What is the present position of this account? Do you expect to release Kagetsu's funds reasonably soon? If so, should we let him settle this direct?

An early and complete report, together with your comments would be appreciated.

Yours very truly,

K. W. WRIGHT
COUNSEL TO THE CUSTODIAN

KWW/JF
Encl.

ATM

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

MEMORANDUM

FOR MR. WRIGHT :

The attached letter relates to a matter which I think was taken up before your time in the Vancouver Office. Mr. McPherson, as I recollect it, had visits to Seattle in connection with it. I wonder if you could have the matter checked up and a draft reply prepared for me.

E. H. Coleman
Under Secretary of State.

Ottawa, November 13, 1948.

2 copies

IN REPLY, PLEASE REFER TO FILE NUMBER

MSM:SU:sg
F-39-15

OFFICE OF ALIEN PROPERTY
DEPARTMENT OF JUSTICE
WASHINGTON 25, D. C.

1948 NOV 13 AM 8:0
UNDER SECRETARY OF STATE

NOV 10 1948

Dr. E. H. Coleman
Under Secretary of State of Canada and
Deputy Custodian
Ottawa, Canada

Re: Yokohama Specie Bank, Ltd., Seattle Agency
Obligation of E. Kagetsu

Dear Dr. Coleman:

By Vesting Order 1255, dated April 20, 1943 [8 F.R. 5598 (April 29, 1943)] the Alien Property Custodian, who has been succeeded by the Attorney General of the United States, vested "all property" of the Yokohama Specie Bank, Ltd., Seattle Agency. A copy of the Vesting Order is attached.

Among the assets of the bank is a promissory note by E. Kagetsu, dated February 16, 1939, in the amount of $23,000, payable to the bank on demand, evidencing Mr. Kagetsu's obligation to the bank in that amount. The obligation is secured by Time Certificate of Deposit No. 43907, dated January 4, 1940, in the amount of ¥96,394.15, payable by the Yokohama agency of the bank. The note and collateral are in the possession of this Office. A balance of $22,000, with interest from November 16, 1941, remains unpaid.

I understand that Mr. Kagetsu is a naturalized Canadian citizen and that some time ago he attempted to pay his obligation to this Office through the Canadian Bank of Commerce, Vancouver, B. C., but that the funds (approximately $28,000) were turned over to you by the last mentioned bank.

If my understanding of the facts is correct, the funds turned over to you by the Canadian Bank of Commerce constitute property which, under Section 4(c) of the Proposals for Settlement of Certain Problems under Conflicting Custodian Controls adopted by the Custodian agencies of Canada and the United States, is held to the order of a person of Class B carrying on the business of banking in the United States and which is an asset of the subject bank under the laws of the United States. It would appear, therefore, that the funds are property over which your control should be relinquished pursuant to the Proposals.

I should appreciate your indicating whether your conclusions are in accord with mine and, if so, your suggestions as to arrangements for the turnover of the funds to this Office.

Sincerely yours,

David L. Bazelon

David L. Bazelon
Assistant Attorney General
Director, Office of Alien Property

Attachment

Y.M.B.
Seattle
V.O. 1253-

UNITED STATES OF AMERICA
OFFICE OF ALIEN PROPERTY CUSTODIAN

Vesting Order Number 1255

Re: The Yokohama Specie Bank, Ltd.,
(Seattle)

Under the authority of the Trading with the enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation:

1. Finding that The Yokohama Specie Bank, Ltd., a Japanese corporation, Tokyo, Japan, is a national of a designated enemy country (Japan);

2. Finding that said The Yokohama Specie Bank, Ltd., has an established agency or branch office at Seattle, Washington, engaged in the conduct of business within the United States and therefore is, to that extent, a business enterprise within the United States;

3. Finding, therefore, that the property described as follows:

   All property of any nature whatsoever subject to the jurisdiction of the United States and owned or controlled by, payable or deliverable to, or held on behalf of or on account of or owing to, said Seattle branch of the aforesaid The Yokohama Specie Bank, Ltd.,

   is property of a business enterprise within the United States which is a national of a designated enemy country (Japan);

4. Determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of the aforesaid designated enemy country (Japan);

5. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and

6. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in subparagraph 3 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The property herein vested, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Alien Property Custodian. This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Alien Property Custodian. Nothing herein contained shall be deemed to constitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in Section 10 of said Executive Order.

Executed at Washington, D. C. on April 20, 1943.

(Signed) Leo T. Crowley
Leo T. Crowley
Alien Property Custodian

(Official seal)

(F.R.Doc. 43-654; April 28, 1943; 9:07 a.m.)

C
O
P
Y

OFFICE OF ALIEN PROPERTY

In Reply, Please Refer to File Number

Department of Justice

Washington 25, D.C.

MSM:SU:sg
F-39-15

NOV 10 1948

Dr. E. H. Coleman
Under Secretary of State of Canada
and Deputy Custodian
Ottawa, Canada

Re: Yokohama Specie Bank, Ltd., Seattle Agency
Obligation of E. Kagetsu

Dear Dr. Coleman:

By Vesting Order 1255, dated April 20,1943 (8 F.R.5598 (April 29,1943) the Alien Property Custodian, who has been succeeded by the Attorney General of the United States, vested "all property" of the Yokohama Specie Bank, Ltd., Seattle Agency. A copy of the Vesting Order is attached.

Among the assets of the bank is a promissory note by E. Kagetsu, dated February 16, 1939, in the amount of $23,000, payable to the bank on demand, evidencing Mr. Kagetsu's obligation to the bank in that amount. The obligation is secured by Time Certificate of Deposit No. 43907, dated January 4,1940, in the amount of Y96,394.15, payable by the Yokohama agency of the bank. The note and collateral are in the possession of this Office. A balance of $22,000, with interest from November 16, 1941, remains unpaid.

I understand that Mr. Kagetsu is a naturalized Canadian citizen and that some time ago he attempted to pay his obligation to this office through the Canadian Bank of Commerce, Vancouver, B.C., but that the funds (approximately $28,000) were turned over to you by the last mentioned bank.

If my understanding of the facts is correct, the funds turned over to you by the Canadian Bank of Commerce constitute property which, under Section 4(c) of the Proposals for Settlement of Certain Problems under Conflicting Custodian Controls adopted by the Custodian agencies of Canada and the United States, is held to the order of a person of Class B carrying on the business of banking in the United States and which is an asset of the subject bank under the laws of the United States. It would appear, therefore, that the funds are property over which your control should be relinquished pursuant to the Proposals.

I should appreciate your indicating whether your conclusions are in accord with mine and, if so, your suggestions as to arrangements for the turnover of the funds to this Office.

Sincerely yours,

David L. Bazelon
Assistant Attorney General
Director, Office of Alien Property.

Attachment

UNITED STATES OF AMERICA

OFFICE OF ALIEN PROPERTY CUSTODIAN

Vesting Order Number 1255

Re: The Yokohama Specie Bank, Ltd.,
(Seattle)

Under the authority of the Trading with the enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, the undersigned, after investigation;

1. Finding that The Yokohama Specie Bank, Ltd., a Japanese corporation, Tokyo, Japan, is a national of a designated enemy country (Japan);

2. Finding that said The Yokohama Specie Bank, Ltd., has an established agency or branch office at Seattle, Washington, engaged in the conduct of business within the United States and therefore is, to that extent, a business enterprise within the United States;

3. Finding, therefore, that the property described as follows:

> All property of any nature whatsoever subject to the jurisdiction of the United States and owned or controlled by, payable or deliverable to, or held on behalf of or on account of or owing to, said Seattle branch of the aforesaid The Yokohama Specie Bank, Ltd.,

is property of a business enterprise within the United States which is a national of a designated enemy country (Japan);

4. Determining that to the extent that such national is a person not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of the aforesaid designated enemy country (Japan);

5. Having made all determinations and taken all action, after appropriate consultation and certification, required by said Executive Order or Act or otherwise, and

6. Deeming it necessary in the national interest;

hereby vests in the Alien Property Custodian the property described in sub-paragraph 3 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The property herein vested, and any or all of the proceeds thereof, shall be held in an appropriate special account or accounts, pending further determination of the Aliend Property Custodian, This shall not be deemed to limit the powers of the Alien Property Custodian to return such property or the proceeds thereof, or to indicate that compensation will not be paid in lieu thereof, if and when it should be determined that such return should be made or such compensation should be paid.

Any person, except a national of a designated enemy country, asserting any claim arising as a result of this order may file with the Alien Property Custodian a notice of his claim, together with a request for a hearing thereon, on Form APC-1, within one year from the date hereof, or within such further time as may be allowed by the Aliend Property Custodian. Nothing herein contained shall be deemed to consitute an admission of the existence, validity or right to allowance of any such claim.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in Section 10 of said Executive Order.

Executed at Washington, D.C. on April 20, 1943.

(Signed) Leo T. Crowley
Leo T. Crowley
Alien Property Custodian

(Official seal)

(F.R. Doc. 43-6543; Filed, April 28,1943;9.07 a.m.)
(8 Fed. Reg. 5598 (April 29,1943))

6869-47

J-84

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

February 16, 1945.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Evacuee Property Sale
Documents

Your letter of February 10th has been received together with the enclosures which have been duly executed by the Assistant Deputy Custodian and are returned herewith.

Yours very truly,

FC. Miss F. Carroll

9th February, 1945.

REAL PROPERTY MEMORANDUM

FILE NO: 12787/2

NAME: Eikichi KAGETSU

CATALOGUE NO: 442

RE: Tide Flats, Lower Dollarton Road, North Vancouver, B.C. - Vacant Land.

CERTIFICATE OF ENCUMBRANCE:

Description of Property:	Municipality of North Vancouver, Lot 15, Block 40, District Lot 611, Group 1, New Westminster District, Plan 2353.
Encumbrances:	None
Taxes:	1944 taxes paid - no arrears or consolidated.
Vested:	36147
VALUATION BY APPRAISER:	$75.00
AMOUNT OF BID:	$75.00
APPROVED BY COMMITTEE:	January 8th, 1945.
AMOUNT RECEIVED BY CUSTODIAN:	$75.00
NAME OF PURCHASER:	Mrs. Lucy May Barkhouse.

K.W. WRIGHT.

KWW/DG
Attachs

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 12787

Evacuee Section

509 Royal Bank Bldg.,
Vancouver, B. C.
January 25th, 1945



Miss F. Carroll,
Office of the Custodian,
Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario

Re: Eikichi KAGETSU

Dear Miss Carroll:

We have for acknowledgment your communication of the 19th instant, returning documents duly executed by the Assistant Deputy Custodian, for which we thank you.

Yours truly,

K. W. WRIGHT
COUNSEL TO THE CUSTODIAN

KWW/JF

Victoria Building,
Ottawa, Ontario,
January 19, 1945.

K. W. Wright, Esq.,
Counsel to the Custodian,
509 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Wright:

Re: Eikichi KAGETSU

Your letter of January 16th has been received together with the enclosures which have been duly executed by the Assistant Deputy Custodian and are returned herewith.

Yours very truly,

FC. Miss F. Carroll

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE NO. 12787/2

Evacuee Section

509 Royal Bank Building,
Vancouver, B. C.
January 16th, 1945

G. W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario

Re: Eikichi KAGETSU - Reg. No. 00014,
City of Vancouver, Lot 47, (Except the
East 49.4') and Lot 48, Block 29,
D.L. 2027, Group 1, NWD, Plan 2283

Dear Mr. McPherson:

The interest of Eikichi Kagetsu in the property above described was disposed of by this office to one, Bischoff, in October, 1943, and an assignment of agreement to purchase was executed by the Custodian and recorded in the Registry Office..

Title was in the name of Investors Syndicate subject to the Agreement held by Kagetsu. Bischoff sold his interest to Horace and Helen Austin and they have paid the balance due to the original Vendors and are therefore entitled to a conveyance.

Thomas E. Wilson, Solicitor for Investors Syndicate, wrote to us under date of 30th November, 1944, in part as follows:

"Austin has now applied to Investors Syndicate for a conveyance of the property and Investors Syndicate is confronted with its responsibility to Kagetsu under the original agreement should he question the validity or authority of the Custodian or the validity of the purported dealings with his interest.

The situation here is different from that which obtains where a Certificate of Indefeasible Title has issued to the Custodian. Reliance can then be placed upon the provisions of the Land Registry Act.

In the present instance we are driven to ascertain the validity and regularity of the various steps taken in dealing with Kagetsu's interest."

Since then we have had several discussions and have come to an arrangement that is satisfactory to all parties, including the Registrar of Titles.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE NO. 12787/2

G. W. McPherson, Esq., -2- January 16th, 1945

An Agreement between Austin and Investors Syndicate has been approved by the Registrar and will be filed in order to clarify the title insofar as the present registered assignments are concerned. The Investors Syndicate have been directed by the Austins to convey to the Custodian and we in turn are to file the usual form of Transmission and Conveyance to the purchasers.

Enclosed you will find the necessary documents for signature of the Assistant Deputy Custodian.

The sale to Bischoff was approved by the Advisory Board and the full amount to which Kagetsu is entitled has been paid in full.

Will you be good enough to have the enclosed documents signed and returned to us at your early convenience.

Yours truly,

K. W. WRIGHT
COUNSEL TO THE CUSTODIAN

KWW/JF
Encls.

C A N A D A

DEPARTMENT OF THE SECRETARY OF STATE

Office of the Custodian

Address all
Communications
to the
Custodian's Office

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

September 20, 1944.

— — —

Please refer to
File No. ....

COPY

F.G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B.C.

Dear Mr. Shears:

Re: Yokohama Specie Bank, Seattle, Washington

Your letter of September 6th, addressed to Miss Carroll, has been referred to me upon my return from Quebec City.

I think you should just record the claims received from the A.P.C. and where they are admitted by the Japanese evacuees, then a note should be made in your records and the funds held by you in suspense until it is determined whether or not the Alien Property Custodian's rights are to be recognized in Canada.

Yours very truly,

G.W. McPherson
Executive Assistant

GWMcP/FC

COPY

CANADA
DEPARTMENT OF THE SECRETARY OF STATE
Office of the Custodian

506 Royal Bank Building,
Vancouver, B. C.

6th September, 1944

Miss Carroll,
Office of the Custodian,
Victoria Building,
Ottawa, Ont.

Dear Miss Carroll:

The following is a list of claims received from the Alien Property Custodian and Liquidator of the Yokohama Specie Bank, Seattle, Washington:

	U.S. Funds	Credit Held
Teiichi Hamagaki Demand note dated Dec. 6, 1949 Interest @ 5½% paid to July 6, 1941	$ 585.67	no a/c. (see wife's a/c)
Ito Hamagaki (Mrs. Teiichi) Demand note dated Nov. 29, 1939 Interest @ 5½% paid to Nov. 29, 1941	800.00	$2,893.70
Eikichi Kagetsu Demand note dated Feb. 16, 1939 Original amount $23,000.- Interest @ 5½% paid to Nov. 16, 1941	22,000.00	69,514.80
J. Morishita - note dated March 25, 1941	1,000.00	
J. Morishita - " " June 24, 1940	400.00	189.33
J. Morishita - " " Feb. 9, 1940	500.00	
Interest @ 5½% paid to Sept. 8, 1941, Aug. 3, 1941 and Aug. 9, 1941 respectively		
Tetsuo Sakaki Demand note dated May 2, 1940 Interest @ 5½% paid to Oct. 20, 1941	931.49	228.50

We have noted above the amount of the credit balance which this office holds in connection with the accounts concerned and we are making a notation in our ledger to hold a sufficient amount to cover the claim where this is possible.

Where there are funds available and we are able to secure the acknowledgment of this debt from the Japanese concerned, will you kindly advise whether or not we should remit the amount in question to Ottawa.

In regard to Tetsuo Sakaki, he advised us that the claim is in order and instructs us to pay it from the money which we are holding. This you will note amounts to $228.50, but he has an amount of approximately $1,000.00 due to him as a half share from the sale of property formerly owned jointly by Sakaki and his wife.

The matter of interest will of course vary until actual payment is made.

Yours truly,

"F. G. Shears"

F. G. Shears
Director

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 12787/2

Evacuee Section

509 Royal Bank Building,
Vancouver, B. C.
August 22nd, 1944

Miss F. Carroll,
Office of the Custodian,
Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario

Re: Eikichi KAGETSU

Dear Miss Carroll:

We wish to acknowledge and thank you for your communication of the 18th instant, enclosing Vesting Certificate and Conveyance duly executed by the Assistant Deputy Custodian.

Yours truly,

K. W. WRIGHT
COUNSEL TO THE CUSTODIAN

KWW/JF

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

August 18, 1944.

K.W. Wright, Esq.,
Counsel to the Custodian,
509 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Wright:

Re: Eikichi KAGETSU

I have your letter of August 16th enclosing Vesting Certificate and Conveyance.

The documents have been duly executed by the Assistant Deputy Custodian and are returned herewith.

Yours very truly,

FC. Miss F. Carroll

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 12787/2

Evacuee Section

509 Royal Bank Building,
Vancouver, B. C.
August 16th, 1944

G. W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Victoria Bldg., 7 O'Connor St.,
Ottawa, Ontario

Re: Eikichi KAGETSU

Dear Mr. McPherson:

Enclosed herewith please find Vesting Certificate and Conveyance, in duplicate, from the Custodian to H. R. MacMillan Export Company Limited.

Will you be kind enough to have these documents executed and return same to us at your early convenience.

Yours truly,

K. W. ~~WRIGHT~~
COUNSEL TO THE CUSTODIAN

KWW/JF
Encl.

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

July 10, 1944.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Evacuee Property Sale
Documents

I have your letter of June 30th, with enclosures, and wish to return the documents herewith, duly executed.

Yours very truly,

G. W. McPherson
Executive Assistant

FC.

June 29th, 1944

REAL PROPERTY MEMORANDUM

FILE NO: 12787

NAME: Eikichi KAGETSU

CATALOGUE NO: 396

RE: 2867 West 37th Avenue, Vancouver, B. C.
Dwelling

CERTIFICATE OF ENCUMBRANCE:

Description of Property:	City of Vancouver, Lot 46, Block 29, District Lot 2027, Group 1, New Westminster District, Plan 2283
Encumbrances:	None
Taxes:	1943 taxes of $126.26 paid. No arrears.
Vested:	No. 35664
VALUATION BY APPRAISER:	$4,200.00
AMOUNT OF BID:	$4,225.00
APPROVED BY ADVISORY COMMITTEE:	June 7th, 1944
AMOUNT RECEIVED BY CUSTODIAN:	$4,225.00
NAME OF PURCHASER:	James Thom

K. W. WRIGHT

KWW/JF
Attach.

CANADA

DEPARTMENT OF THE SECRETARY OF STATE
OFFICE OF THE CUSTODIAN

JAPANESE EVACUATION SECTION

file

PHONE PACIFIC 6131
PLEASE REFER TO
FILE NO. 12787/1

506 ROYAL BANK BLDG.,
HASTINGS AND GRANVILLE
VANCOUVER, B.C.

12th November, 1943.

G. W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ont.

Dear Mr. McPherson:

Re: Eikichi KAGETSU

I have for acknowledgment your letter of November 5th returning documents concerning property belonging to the above duly executed by the Deputy Custodian.

Yours very truly,

F. G. Shears

F. G. Shears,
Director.

PMH

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

November 5, 1943.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Eikichi Kagetsu

I have your letter of October 30th and wish to return herewith the documents concerning property belonging to the above noted party. These documents have been duly executed by the Deputy Custodian.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

30th October, 1943.

G.W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson:

Adverting to yours of the 19th. I have replied to that part dealing with accepted bids in many cases equalling the appraised value.

I now have Eikichi Kagetsu's file to which you refer in the second paragraph of your letter. You mention you assume that when documents are complete and handed to the purchaser we will pay off the encumbrances and taxes.

In this case Kagetsu is not the actual registered owner but is purchasing under an agreement of sale from the registered owners, Investors Syndicate.

We are selling Kagetsu's interest in this property and we are not conveying but assigning the agreement of sale, having received cash for Kagetsu's equity. The new purchaser takes over and covenants to pay the balance due the registered owner.

You may have overlooked the information at the foot of the Summary sent by Mr. Wright reading "Purchaser assumes and undertakes to pay balance owing amounting to $2,222.45 and as the 1943 taxes have been paid there are no arrears."

In this case Mr. Wright prepared a special form of assignment and transmission that he thought would meet the situation. This may clarify the matter in your mind and I hope will be satisfactory.

Yours very truly,

F.G. Shears

F. G. Shears,
Director.

FGS/PMH

October 4th, 1943.

REAL PROPERTY MEMORANDUM

FILE NO: 12787 and 12787/1

NAME: Eikichi KAGETSU

CATALOGUE NO: 148

RE: 5286 McKenzie Street, Vancouver, B. C.
Dwelling.

CERTIFICATE OF ENCUMBRANCE:

Description of Property: City of Vancouver, Lot 47 (except the easterly 49.4 feet) and Lot 48, in Block 29, D.L. 2027, Group 1, New Westminster District, Plan 2283.

Encumbrances: 4588M. 17/4/37. 11.29. Investors Syndicate. Balance owing as at August 18th, 1943 - $2,222.45.

Will this be paid?

Taxes: 1943 taxes of $132.96 paid. No arrears.

Vested: No. 36442

VALUATION BY APPRAISER: $4250.00

AMOUNT OF BID: $4300.00

APPROVED BY ADVISORY COMMITTEE: August 18th, 1943.

AMOUNT RECEIVED BY CUSTODIAN: $2000.00. Balance of $77.55 to be collected. Purchaser assumes and undertakes to pay balance owing amounting to $2,222.45.

K. W. WRIGHT

KWW/W

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

October 19, 1943.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Sale of Evacuee Property

During the past week the Deputy Custodian has signed a large number of documents relating to the sale of evacuee property, and two points have come to mind when I have been reviewing these documents.

One is that it is surprising the number of times the accepted bid exactly equals the appraised value. If you will look over the documents being returned you may also be struck by this. I would not suggest that there is any leak in the office but I am wondering if you are exercising proper control over the valuators to see that the public are not aware of the values before they bid.

The other point is that in some cases where there are encumbrances against the property, Mr. Wright, in his summary, states that the charges will be paid out of the purchase price, while in other cases he does not refer to this, for example file #12787/1, Eikichi Kagetsu. I am assuming that at the time the documents are returned to you and are handed to the purchaser you make arrangements to pay off any encumbrances and the outstanding taxes.

I merely wish to draw these two points to your attention and your views at your convenience would be appreciated.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

VIA AIR

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

7th September, 1943.

J-84

G. W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson:

Re. Eikichi Kagetsu, Block 195
Cowichan District.

Enclosed herein for your information and records Messrs. P.S. Ross & Sons' Report on the sale of the above timber limit dated 25th August 1943.

Yours truly,

F. G. Shears

F. G. Shears,
Director.

FGS/PMH

encl.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

14th July, 1943.

G. W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ont.

Dear Mr. McPherson:

Re: E. Kagetsu - Block 195, Cowichan

We thank you for yours of the 9th instant in which you returned Agreement of Sale in triplicate duly signed by the Secretary of State.

Yours truly,

F. G. Shears

F. G. Shears,
Director.

FGS/PMH

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

July 9, 1943.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: E. Kagetsu and Block 195 Cowichan Lake

I have your letter of July 3rd, with enclosures.

The enclosures have been duly completed by the Secretary of State as Custodian and are returned herewith.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

FC.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

7th July, 1943.

file

G.W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson:

Re: Eikichi Kagetsu and Block 195, Cowichan

Thiw will acknowledge receipt of your letter of the 30th June in which you enclosed Deed of Land in favour of the H.R. MacMillan Export Company Limited which has been signed by the Honourable Norman McLarty.

We are also in receipt of 1943 Tax Notices covering this property for which we thank you.

Yours very truly,

F.G. Shears

F. G. Shears,
Director.

FGS/PMH

CANADA

DEPARTMENT OF THE SECRETARY OF STATE
OFFICE OF THE CUSTODIAN

JAPANESE EVACUATION SECTION

PHONE PACIFIC 6131

PLEASE REFER TO
FILE NO. 12787

506 ROYAL BANK BLDG.,
HASTINGS AND GRANVILLE
VANCOUVER, B.C.

3rd July, 1943.

G. W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ont.

Dear Mr. McPherson:

Re: E. Kagetsu and Block 195 Cowichan Lake.

We recently sent you deed in duplicate of the above property to Messrs. H.R. MacMillan Export Co.,Ltd. for your signature.

We now attach an agreement which has been prepared by Messrs. Locke, Lane, Guild & Sheppard between the Secretary of State and the H.R. MacMillan Export Company Limited covering this sale and the requirements agreed upon in regard to operations etc.

Yours truly,

F. G. Shears,
Director.

Approved for signature
of the Secretary of State as Custodian
7/7/43.

FGS/PMH

encl.

Victoria Building,
7 O'Connor Street;
Ottawa, Ontario.

J-84

July 3, 1943.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Eikichi Kagetsu

I am attaching hereto, for your information, a copy of a letter received from Mr. Tucker of the Office of the Alien Property Custodian in Washington.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

FC.

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

J-84

July 3, 1943.

Your Reference: MGT:HM:ew

Morrison G. Tucker, Esq.,
Assistant to the Custodian,
Office of the Alien Property Custodian,
Washington, D. C.

Dear Mr. Tucker:

Re: Eikichi Kagetsu

I have your letter of June 26th and wish to thank you for the information given.

No doubt we will have further correspondence in this matter in due course.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

J-84

June 30, 1943.

F. G. Shears, Esq.,
Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: E. Kagetsu and Block 195, Cowichan

I have your letter of June 26th, with enclosures, which have been duly executed by the Minister and are returned herewith.

Attached also for your file and information is a tax notice for 1943, covering the above property.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

FC.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

26th June, 1943.

G.W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson:

Re: E. Kagetsu and Block 195, Cowichan

We have now received from Messrs. P.S. Ross & Sons deed in duplicate of the above property to Messrs. H.R. McMillan Export Company Ltd., which has been prepared by Messrs. Locke, Lane, Guild & Sheppard. These are enclosed herein for signature.

Messrs. P.S. Ross & Sons advise us that in addition to the enclosed deed an agreement is being drawn between the H.R. McMillan Export Company Limited and the Secretary of State, wherein the purchaser is required to operate and the matter of the adjustment of taxes etc. is covered.

Yours very truly,

F. G. Shears

F. G. Shears,
Acting Director.

FGS/PMH

encl.

OFFICE OF

ALIEN PROPERTY CUSTODIAN

WASHINGTON

In replying please
refer to MGT:HM:ew

June 26, 1943

G. W. McPherson, Esq.
Office of Custodian of Enemy Property
Victoria Building
7 O'Connor Street
Ottawa, Canada

Dear Mr. McPherson:

Your letter of June 22, 1943, addressed to Mr. Markham, has been received. In this letter you inquire whether the books of the Yokohama Specie Bank, Ltd., Seattle Branch, disclose an amount owing to that branch from one Eikichi Kagetsu. It appears that the Canadian Custodian has sold certain property of Mr. Kagetsu and that the payment therefor is due within the next few days. The Canadian Custodian, you have stated, has in mind the possibility of applying the amount to be paid to Mr. Kagetsu, as above described against the indebtedness from Mr. Kagetsu to Yokohama of Seattle, the effect of this transaction to be determined in due course by negotiation between the Canadian Custodian and the American Custodian.

In response to your request I would inform you that a letter from the American Custodian's office, Seattle, dated March 23, 1943, states that one E. Kagetsu, 335 Princess Avenue, Victoria, British Columbia, is indebted to Yokohama Specie Bank, Ltd., Seattle Branch, in the sum of $22,000. with interest at 5% from November 6, 1941.

Very truly yours,

Morrison G. Tucker

Morrison G. Tucker
Assistant to the Custodian

ESTABLISHED 1858

CABLE ADDRESS PHILROSS

P. S. ROSS & SONS

CHARTERED ACCOUNTANTS

MONTREAL TORONTO WINNIPEG
CALGARY VANCOUVER

ROYAL BANK BUILDING

VANCOUVER, B. C.

25th June, 1943.

Our file 295-164

G. W. McPherson, Esq.,
Executive Assistant,
Department of the Secretary of State,
Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

Dear Sir:

Re: E. Kagetsu, your file J-84

We would acknowledge with thanks your letter of June 22nd and Mr. Stewart the above's solicitor has been advised of your comments to this matter.

Yours faithfully,

P. S. Ross & Sons.

file

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

J-84

June 22, 1943.

Messrs. P. S. Ross & Sons,
Chartered Accountants,
411 Royal Bank Bldg.,
Vancouver, B. C.

Dear Sirs:

Re: E. Kagetsu

I have your letter of June 18th which I find both interesting and disturbing.

There is no doubt now that the proceeds of the sale of Block 195 will have to be held until the amount of the debt owing to the Yokohama Specie Bank of Seattle is finally determined. This debt will be considered an enemy debt owing by Mr. Kagetsu.

Mr. Kagetsu's solicitor should be advised that the Custodian takes a very serious view of this situation in view of the fact that Mr. Kagetsu should have reported and paid this debt within 30 days after the 7th of December, 1941, or after the due date of the debt subsequent to this date. If the debt is overdue then interest at 5% will be charged.

Mr. Kagetsu should be asked for an explanation as to why he did not disclose this information to the Custodian.

I am writing to the American Custodian concerning the debt and will advise you further in due course.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

Inquiry as to debt owing U.S. Cattle Can. Cust. prepared to collect

3

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

J-84

June 22, 1943.

James E. Markham, Esq.,
Deputy Alien Property Custodian,
Washington, D. C.

Dear Sir:

Re: Yokohama Specie Bank of Seattle
& Eikichi Kagetsu, Vancouver, B.C.

Information which has just come to light indicates that the above Mr. Kagetsu may be indebted to the Yokohama Specie Bank in the sum of approximately $23,000.

The Custodian is anxious to ascertain whether or not the books of this bank indicate such an indebtedness and, if so, the exact amount of same.

The Custodian has just sold a large block of timber owned by Mr. Kagetsu and the funds will be coming into his hands within the next ten days or two weeks. The Canadian Custodian is prepared to collect the debt from Mr. Kagetsu, if owing, and its ultimate disposition can then be determined when questions of general policy are finally agreed upon as between your office, your Treasury Department and the Canadian Custodian.

It would be greatly appreciated if you could let me have information concerning this matter as soon as possible so that appropriate steps may be taken to seize sufficient funds to cover any debt.

Yours very truly,

(G. W. McPherson)
Executive Assistant

GWMcP/FC.

ESTABLISHED 1858

CABLE ADDRESS PHILROSS

P. S. ROSS & SONS
CHARTERED ACCOUNTANTS
MONTREAL TORONTO WINNIPEG
CALGARY VANCOUVER

ROYAL BANK BUILDING
VANCOUVER, B. C.

Our file 295-164

19th June, 1943.

G. W. McPherson, Esq.,
Executive Assistant,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

Dear Sir:

Re: E. Kagetsu and Block 195

Referring to our letter of yesterday Mr. Kagetsu called at our request this morning and during the course of our discussion he informed us that he owed the Yokohama Specie Bank, Seattle, $23,000.00, together with interest of approximately one and one-half years to date at 5%.

We also requested that part of the proceeds of the sale of Block 195 should be used to pay the debts of Deep Bay Logging Company Limited. Mr. Kagetsu agreed that the assets of Deep Bay Logging Company should be advertised for sale by tender, and we informed him that if the debts of the Deep Bay Logging Company were not paid it is possible the creditors may demand that any offer received by tender, whether reasonable or not, must be accepted. He promised to consult with his solicitor, Mr. Carl M. Stewart, and advise us whether or not the Deep Bay Logging Company debts were to be so paid.

Yours faithfully,

P. S. Ross & Sons.

ESTABLISHED 1858

CABLE ADDRESS PHILROSS

P. S. ROSS & SONS
CHARTERED ACCOUNTANTS
MONTREAL TORONTO WINNIPEG
CALGARY VANCOUVER

ROYAL BANK BUILDING
VANCOUVER, B. C.

18th June, 1943.

G. W. McPherson, Esq.,
Executive Assistant,
Office of the Custodian,
Victoria Building,
7 O'Connor Street,
Ottawa, Canada.

Dear Sir:

Re: E. Kagetsu, Deep Bay Logging Company Limited and Block 195

Mr. Kagetsu was brought back to Vancouver at the request of the tax department, who wished him to explain how he had acquired personal assets of a substantial value while for a number of years he did not report taxable income of any consequence.

During his interrogation he admitted having borrowed the sum of approximately $23,000.00 from the Yokohama Specie Bank of Seattle. This balance is still outstanding, and the representative of the United States Custodian in charge of the Yohohama Specie Bank has been pressing Kagetsu for payment. This money was evidently borrowed from the Yokohama Specie Bank to pay the Royal Bank of Canada, East End Branch, Vancouver. The money borrowed from the Royal Bank of Canada was used for the purchase of Block 195. The tax department has requested we should confirm whether or not the Yokohama Specie Bank is owed this money. We presume this amount should be considered as an Enemy Debt, and when the amount is ascertained that portion of the proceeds of the sale of Block 195 will be so held.

It would appear that Kagetsu has satisfied the tax department that the assets owned by him were, with the foregoing exception, acquired through funds left him by his father in Japan several years ago and subsequent savings.

We presume you will wish to confirm with the American Custodian the correctness of Kagetsu's statement with reference to the Yokohama Specie Bank.

Yours faithfully,

P. S. Ross & Sons

June 11, 1943.

MEMORANDUM FOR DR. COLEMAN

Re: Eikichi Kagetsu and Block 195,
Cowichan Lake District

You will recall that this is the property the Custodian advertised for sale and you agreed that it might be desirable to specifically vest same under the provisions of Order in Council P. C. 1665 as amended by Order in Council P. C. 2483.

I am attaching a Certificate of Vesting, which has been considered and approved by Mr. Sheppard of Locke, Lane, Guild & Sheppard, for the signature of the Secretary of State, acting in his capacity as Custodian.

If you approve of the document and it is signed it will be forwarded to Vancouver.

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

For G. W. McP.
E/A
15/6/43

June 11, 1943.

MEMORANDUM FOR DR. COLEMAN

Re: Eikichi Kagetsu and Block 195,
Cowichan Lake District

You will recall that this is the property the Custodian advertised for sale and you agreed that it might be desirable to specifically vest same under the provisions of Order in Council P. C. 1665 as amended by Order in Council P. C. 2483.

I am attaching a Certificate of Vesting, which has been considered and approved by Mr. Sheppard of Locke, Lane, Guild & Sheppard, for the signature of the Secretary of State, acting in his capacity as Custodian.

If you approve of the document and it is signed it will be forwarded to Vancouver.

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

J-84

June 11, 1943.

F. G. Shears, Esq.,
Acting Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Eikichi Kagetsu

I have your letter of June 8th, with enclosures.

I agree with the views expressed by Mr. Sheppard and the Secretary of State has now signed the Vesting Certificate, leaving out the reference to the Timber Controller. In view of the fact that the Custodian is disposing of the property for many reasons, and one of them happens to be the letter from the Timber Controller, I think Mr. Sheppard is quite correct in his reasons for leaving out this reference.

I am enclosing the Vesting Certificate herewith and assume you will be forwarding such additional legal documents as may be necessary in due course.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

WHEREAS by Order in Council P. C. 1665 dated the fourth day of March, 1942, as amended by Order in Council Number P. C. 2483 dated the twenty-seventh day of March, 1942, the Custodian may order that all or any property whatsoever situated in any protected area of British Columbia belonging to any person of the Japanese race shall for the purpose of protecting the interests of the owner or any other person, be vested in the Custodian;

AND WHEREAS Block One Hundred and Ninety-Five (195) Cowichan Lake District, subject to the reservation of minerals in favour of the E. and N. Railway Company under Instrument Number 529686 belongs to EIKICHI KAGETSU, Police Registration Number 00014, a person of the Japanese race, in that and to the extent that the said EIKICHI KAGETSU has purchased the said property from the registered owner thereof, GERALD ARTHUR TISDALL, under an Agreement of Sale in writing;

AND WHEREAS it appears that the interest of the said EIKICHI KAGETSU should be vested in the Custodian;

NOW THEREFORE the Secretary of State of Canada acting in his capacity as Custodian hereby orders that the interest of EIKICHI KAGETSU, Police Registration Number 00014, in Block One Hundred and Ninety-Five (195) Cowichan Lake District, be and such interest is hereby vested in the Custodian in accordance with the provisions of Order in Council P. C. 1665 dated the fourth day of March, 1942, as amended by Order in Council P. C. 2483, dated the twenty-seventh day of March, 1942.

DATED at Ottawa this day of June, 1943.

The Secretary of State acting
in his capacity as Custodian

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

8th June, 1943.

G.W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson:

Re: Eikichi KAGETSU.

Your letter of the 1st instant was received in which you requested the preparation of a specific Vesting Order.

This has been delayed somewhat as Mr. Wright had to contact Mr. Sheppard in regard to particulars of title. Mr. Sheppard struck out, from the draft prepared by Mr. Wright, a clause which referred to the request of the Timber Controller, and some conversation and correspondence ~~which~~ ensued between them.

A copy of Mr. Sheppard's letter is enclosed from which you will note that he is not in favour of making any reference to the request of the Timber Controller in the Vesting Order.

You will also note his reference to your suggestion that in reciting Mr. Kagetsu's title Mr. Wright should be careful to state that Mr. Kagetsu claimed to be the owner rather than that we confirm the title.

The Vesting Order, as prepared by Mr. Wright, is now enclosed and he has retained the reference to the Timber Controller.

With the information now supplied you will doubtless be in a position either to sign the Order as prepared or make such changes as you may deem desirable.

Yours very truly,

F.G. Shears

F. G. Shears,
Acting Director.

FGS/PMH
encl.

COPY

LOCKE, LANE, GUILD & SHEPPARD

Barristers, Solicitors

703 Rogers Building

Vancouver, B. C.

June 7th, 1943.

Office of the Custodian,
Legal Department,
Royal Bank Bldg.,
Vancouver, B. C.

Attention: Mr. Wright

Dear Sir:-

Re: Kagetsu and Custodian
Your File No. 12787

We have submitted to you draft of the Vesting Order covering Block 195, Cowichan Lake District, and have departed from the specific instructions in two instances:-

1. We have deleted the reference to any request of the Timber Controller for the reason that under P.C. 2483 the discretion is assigned to the Custodian to make the vesting order, by the use of the words in Regulation 12 (2) "the Custodian may." The Order-in-Council therefore impliedly contemplates the discretion of the Custodian being exercised in favour of the particular order contemplated and such Order-in-Council purporting to divest property in others will be strictly construed. We were, therefore, of the opinion that it would not strengthen the case to insert a request by the Timber Controller in that it might leave open to argument that the Custodian is not exercising his own discretion but is acting on the request of others, and to that extent abdicating his own discretion. In addition that Regulation permits the order to be made for the purpose of protecting the interest of the owner, or any other person. From strict construction the other person must have an interest, that is, a legal or equitable interest in the property and we do not think the Timber Controller has such an interest, again assuming that the Court will give the word "interest" a strict construction. If any reference to the Timber Controller be left out it could always be shown that the request of the Timber Controller was one of the facts that was considered by the Custodian. On the whole we are inclined to the opinion that reference should not be made to any request of the Timber Controller.

2. It was suggested that we state merely that Kagetsu claims to be the owner but you will bear in mind that Regulation 12 (2) permits the vesting of property "belonging to any person of the Japanese race". It does not permit the vesting of property which is merely claimed by a member of the Japanese race, and therefore we have in drafting the order followed the precise words of this Regulation. We appreciate

that Mitsui may claim to be the beneficial owner but assuming that, the Mitsui interest would be claiming that the property interest was vested in Kagetsu and because it was so vested in him he became trustee for them because of the additional fact that he acquired it under circumstances which made him a trustee. It, therefore appears that the claim by the Mitsui Interest that Kagetsu is trustee must be based on the claim that he has the property otherwise there could be no trust, and from the Custodian's point of view unless he takes the position that this land does belong to Kagetsu the right to make the Vesting Order would not arise under Regulation 12 (2).

For these reasons the Order was drafted in the form submitted to you.

Yours truly,

LOCKE, LANE, GUILD & SHEPPARD

"F.A.S."

FAS/EB

OFFICE OF THE CUSTODIAN
RECEIVED
JUN 12 1943
PASS TO.....
TRANSFER TO.....
ANS'D BY | FILE

CAN.TEL.9623/43.
(page 1 of 2 pages)

Vancouver,B.C. May 28/43. 3:10 p.m. 7 min.

Mr. J.T. O'Bryan,
Vancouver, B.C.

Phone: Marine 0274

NONE

Mr. Saunders,
Seattle, Wash.,

Phone: Seneca 0410 - Firemen's Fund Insurance

NONE

No. 5128 ENGLISH NONE NONE

"This Jap Kagetsu, I don't know whether he was shipped back to Japan or not." "The Government Custodian has taken over the proposition, you see, it's not operating and he's a good friend of ours and he wants us to place the insurance."

Is he still there?

"Who, Kagetsu?"

Yes.

"No, they shipped every Jap clear to hell and gone up in the interior." "There's not a Jap on the Coast."

Well who is making the request?

"The Custodian for the Japanese property."

Custodian?

"Oh that's a cinch, you can't miss there, as a matter of fact, it's as good a risk as we have on the books, under present conditions." "The equipment doesn't come up but they've got some felled and bucked over there and camp buildings and so forth."

Are they going to let it lay there and rot?

"Oh no, of course most of this Jap stuff is being sold and no doubt somebody will take it over, so is that okay?"

Yes, where are they located?

"At Deep Bay on Vancouver Island." "There's nothing on that vicinity, she's wide open territory."

How much is involved?

"Oh there is only $12,500 felled and bucked; $6,000 camps and about $4,000 bridges." "I have been thinking over this proposition of Durham & Bates and it seems that we have sort of been suckers for the reason that we didn't got out and solicit business and the first thing you know, the tail is going to be wagging the dog here." "I'm not so sure and I have no means of finding out, but I think perhaps McAuley, Nicolls, which makes it bad and it's rather embarrassing for your head office up here in British Columbia." "I don't know, we don't need the commission but I think what we should do is charge them so much commission that they couldn't split with any one and that would fix them up."

.....Continued on page 2..

1 CUST.
1 S.I.
2 FILES
4

KW/SA
JUNE 7, 1943

"CONTINUED".

Yes but I don't see how we could change that O.B.

"Well there's a nigger in the woodpile here, I'm sure of it and I don't want to see you made a goat, much less ourselves." "We are too honest for the insurance business." "With them, I don't know, the Jew (Hyndman) always tried to play the game, but these birds, they do things that we wouldn't do and I don't know what to do about it."

Well if we show any discrimination in the thing, the results of it can't be good. I don't know what the answer is, but I don't feel that the boys are playing the game because after all they got in on this deal through a fluke, I mean they happened to have McMillan buy Alpine Pacific and what I'm afraid of is not only that, but - I think the thing to do is to send all these policies -- ours have got to be written the same as theirs, if they are putting in jokers in there, why we've got to watch it, otherwise they would upset our applecart."

They will all be sent to you.

"Well you send them all to me and we'll check things over, but I don't like the looks of it." "Did you talk to him about that point I mentioned, where this business comes from?"

I did.

"What did he say?"

They are giving the small end of it to your friend.

"Yes, well another thing here too, Dick, on these Jap buildings and one thing or another, I never did know how to control anything you have certainly got to watch your stop, but actually the things these boys resort to, I can't understand how they can do business with a white man."

Yes.

"Well I'd turn down the next thing that came along, myself, because that's what we want to avoid." "If they can go out and get it, but what's the use of chiselling around on the thing." "There's one thing about Hyndman, he wouldn't have asked them to do it, but these other birds they are different and I think we should put a stop to it, don't you?"

I don't think there's any question about it. I'll tell you what you had better do, you had better call Russell.

"I can find out the whole story, but I'm not going to still go around on it." "If you want me to call him, I'll put the bird on the spot?"

Well don't make difficulties, but they don't want to take public business.

"Well okay, you have the evidence that he did?"

Don told me.

"Okay, I'll call him."

They are giving me the fall in, sign.

"Well that was my suggestion in the first place, if he lost all commission, there would be an incentive."

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

J-84

June 1, 1943.

F. G. Shears, Esq.,
Acting Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Eikichi Kagetsu

I have your letter of May 28th and have discussed the question of completing the sale papers with the Deputy Custodian. He feels that a specific Vesting Order under Order-in-Council P.C. 2483 should be issued as was done in the case of the Royston Lumber Company Ltd. When I discussed this matter with you in Vancouver I thought I had sufficient information in Ottawa to prepare this Order but on reviewing the file here I find I have not.

Would you please have Mr. Wright prepare an Order from the information available to him in your office; the Order to be along the lines of the one used for the Royston Lumber Company Ltd. In his recitals he should put in a statement describing the timber limits and the name of the registered owner who is, I believe, Mr. Whitmore. He should also recite Kagetsu's title but be careful to state that Kagetsu claims to be the owner since we would not like to confirm the title if Mitsuis are the owners although we have no evidence of this, nor will we raise the point. The recitals should also refer to the letter from theTimber Controller and the desirability of disposing of the timber limits in the interest of Canada's war effort so that it could be operated.

The document will be signed by the Secretary of State acting in his capacity as Custodian.

You might have the above document prepared and forwarded to Ottawa as soon as possible.

You should also take up with Mr. Sheppard the completing of the transfer of the timber limits. The purchaser, of course,

should not be allowed on the property until title has transferred in order to avoid liability from fire, damage, etc.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

WHEREAS the Secretary of State of Canada by his duly authorized Deputy, GLENN WILLOUGHBY McPHERSON, under and by virtue of Regulation 15 of the Consolidated Regulations Respecting Trading with the Enemy (1939) on the 17th day of December, 1941 prohibited the OCEAN TIMBER COMPANY LIMITED from carrying on business except under the supervision and control of P.S. ROSS AND SONS, Chartered Accountants, Vancouver;

AND WHEREAS the said P.S. ROSS AND SONS have supervised and controlled the affairs of OCEAN TIMBER COMPANY LIMITED and have presented to the Secretary of State a report dated 15th January, 1943 of the operations of the Company and have applied to the Secretary of State of Canada to be released and discharged;

NOW THEREFORE the Secretary of State of Canada by his duly authorized Deputy, GLENN WILLOUGHBY McPHERSON, under and by virtue of the Consolidated Regulations Respecting Trading with the Enemy (1939) hereby terminates the appointment of P.S. ROSS AND SONS as Controllers of the said OCEAN TIMBER COMPANY LIMITED made on the 17th day of December, 1941 and discharges the said P.S. ROSS AND SONS from all liability in respect of any act done or default made by the said P.S. ROSS AND SONS in the exercise or performance of their powers as Controllers of the OCEAN TIMBER COMPANY LIMITED.

DATED at Ottawa, Ontario, this First day of June, 1943.

G.W. McPherson
Authorized Deputy of the Secretary
of State and/or Custodian

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

May 31, 1943.

F. G. Shears, Esq.,
Acting Director,
Office of theCustodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Kagetsu

I received a wire from your office late Friday night, it being read to me over the telephone and being delivered Saturday morning.

I think it is dangerous to send wires based on the principle that if I do not take some action you will, since there may be many reasons why I cannot take action, for example, the fact that the wire was not received until after the office was closed. However, as it turns out, the Custodian has approved P. S. Ross & Sons recommendation and I have wired you as follows:

"Custodian approves Ross Recommendation re Kagetsu."

I think it is advisable for the Custodian to execute a specific vesting order in this case and I am preparing same for his signature and if it is signed by him it will be forwarded to you and can be used as a basis for the sale documents.

Yours very truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

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W. D NEIL, GENERAL MANAGER OF COMMUNICATIONS MONTREAL

Send the following message, subject to the conditions on the back thereof, which are hereby agreed to.

OTTAWA ONTARIO
MAY 29 1943

F G SHEARS ESQ
ACTING DIRECTOR
OFFICE OF THE CUSTODIAN
506 ROYAL BANK BLDG
VANCOUVER B C

CUSTODIAN APPROVES ROSS RECOMMENDATION RE KAGETSU

G W MCPHERSON
EXECUTIVE ASSISTANT

Charge to Custodian's Office.

GWMcP/FC. File #J-84

ATM

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

1/6/43 Ltr Gen

84

MEMORANDUM

FOR MR. McPHERSON :

The Custodian on Saturday considered the report of P. S. Ross & Sons re Block 195, Cowichan District. As I telephoned you, the Custodian approves the recommendation that the tender of $93,000 be accepted.

E. H. Coleman
Deputy Custodian.

Ottawa, May 31, 1943.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

28th May, 1943.

G.W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson:

Mr. Carl Stewart has just advised me Mr. Kagetsu was not willing to agree to the sale of Block 195 and had left the matter of injunction in his hands.

Mr. Stewart stated that he had decided not to take any action in this regard and therefore we would be free to take whatever action we desired.

You mentioned that a deal of this size should be confirmed at Ottawa and I have just wired you as follows:

"STEWART ADVISES THAT WHILE KAGETSU WILL NOT AGREE TO SALE IT IS NOT THEIR INTENTION TO TAKE ANY ACTION AND LEAVE US FREE TO PROCEED STOP UNLESS OTHERWISE ADVISED INTEND TO CONFIRM ROSS RECOMMENDATION TO ACCEPT TENDER RECEIVED STOP PLEASE WIRE YOUR OK"

You will doubtless give this matter your immediate attention so that we may be in a position to inform McMillan with regard to the acceptance of his offer of $93,000.00.

Yours very truly,

F. G. Shears

F. G. Shears,
Acting Director.

FGS/PMH

CANADIAN PACIFIC
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World Wide Communications

W. D. NEIL, GENERAL MANAGER OF COMMUNICATIONS, MONTREAL

NA107 43 DL GB GET REPLY

2-1775-8

VANCOUVER BC 28 148P

1943 MAY 28 PM 5 31

G W MCPHERSON 1025

CUSTODIANS OFFICE VICTORIA BLDG OTTAWA

STEWART ADVISES THAT WHILE KAGETSU WILL NOT AGREE TO SALE IT IS NOT THEIR INTENTION TO TAKE ANY ACTION AND LEAVE US FREE TO PROCEED STOP UNLESS OTHERWISE ADVISED INTEND TO CONFIRM ROSS RECOMMENDATION TO ACCEPT TENDER RECEIVED STOP PLEASE WIRE YOUR OK

OFFICE OF THE CUSTODIAN

PHONED
By MG To Ltd
Time 4.45

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 84

506 Royal Bank Building,
Vancouver, B.C.

27th May, 1943.

G.W. McPherson, Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Ottawa, Ontario.

Dear Mr. McPherson:

Re: Sale of Properties.

Please note the attached from which you will see "A Press Announcement of the sale is awaited as a signal for litigation to begin". We expect to be ready to advertise by the 15th June and my understanding is that we proceed to do so.

If it is possible for any proceedings to be taken by MacLennan which would immediately tie our hands or, if as a result of any action on the part of MacLennan or others, the Custodian decided to delay our policy pending any Court decision (unless the matter could be brought to a conclusion during the 30 day time allowed for submitting tenders) we might be placed in the position of having to advise the public to disregard our previous notice, or that a delay in considering tenders would be necessary.

If it reached this juncture our position would be somewhat embarrassing. However, I understand that the suggestion of advertising a few properties in order to make a Test case of the matter has been considered and that Dr. Coleman's decision was that we should proceed and ignore the possibilities referred to.

I called up Carl Stewart about an hour ago and he told me he would ring later. He has just 'phoned asking me to allow the matter to rest until noon to-morrow as he has a few things to complete in order to satisfy Kagetsu. He did inform me that he advised Kagetsu to let things rest asfar as any legal suit was concerned and that he was satisfied that nothing would be done, but that he would like us to wait until to-morrow before advising you.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No.....

G.W. McPherson, Esq.

As soon as I hear from him I will send you a wire.

Yours very truly,

F. G. Shears

F. G. Shears,
Acting Director.

FGS/PMH

C O P Y

CITY OF VANCOUVER

TREASURER'S OFFICE

Telephone: Fairmont 2711.

Jas. L. Armstrong
City Treasurer And
Collector of Taxes.

VANCOUVER, B.C.

Ref. #209.

April 27th., 1943.

to Mr Barron
Can. Int. Pharm

Department of the Secretary of State,
Office of the Custodian,
Room 45 A, Central Chambers,
OTTAWA, Canada.

Dear Sirs:

Re Notices to Enemy Countries

In accordance with regulations respecting trading with the enemy, I enclose herewith 1943 Tax Notices on various properties, the owners of which appear to reside in enemy occupied territory or are classed as alien enemies.

Roll No.	Property Description	Amount	Name
A 1495	Block 77C / 36 & 51	$ 91.79	Walter H. Corsane.
B 5918	Lot 15/15/185	559.55	Letita A. Finlayson.
F 6334	Lot 10/C/16/391 & 392	38.00	Edith M. Eraut.
F 7476	Lot 120 Pt.A & Lots 5,6 & 7 & Pt. 3&4/2/393	76.25	Samuel Gray.
G 2753	Lot 1/2/15/526	337.43	Edward A. Ogle.
G 2754	Lot 2/2/15/526	303.99	Edward A. Ogle.
I 6301-3	Lot 9 E Centre pt. & A&B of 10&11 /11/541	1529.65	(Baron DeBiddle Cope & Edward H.DeR.Cope.
J 148	Lot B/14-15/5 & 6/632 W½	25.01	George Hammel.
K 6091-2	Lot 47 Ex.E. 49.4' & 48 Blk. 29/2027	132.96	Eikichi Kagetsu.
K 9424	Lot 32/H/2027	107.78	Paul Dutry.
L 2500	Lot 22/57/T.H.S.L.	904.93	Finnish Society.

11276

Yours faithfully,

Jas. L. ARMSTRONG.

CITY TREASURER.

Assigned letter put on H. Corsane file

Tax Notice sent to Vancouver office #6.

HDW/S
Encls.

21663

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario.

February 24, 1943.

F. G. Shears, Esq.,
Acting Director,
Office of the Custodian,
506 Royal Bank Bldg.,
Vancouver, B. C.

Dear Mr. Shears:

Re: Eikichi Kagetsu

I have your letter of February 22nd, with enclosure.

For the moment at least the Custodian will take no action to force a sale but Mr. Stewart should be encouraged to do so.

I am hopeful that when the policy of liquidation is definitely determined we will be able to do something with this timber.

Yours truly,

(G. W. McPherson)
Executive Assistant.

GWMcP/FC.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO FILE No. 12787

506 Royal Bank Building,
Vancouver, B.C.

22nd February, 1943.

G. W. McPherson Esq.,
Executive Assistant to the
Secretary of State of Canada,
Office of the Custodian,
Victoria Building,
Ottawa, Ontario.

Dear Mr. McPherson,

Re: Eikichi KAGETSU

I am enclosing copy of a letter received from the Assistant Timber Controller dated 19th February.

You are acquainted with this particular logging property as it is the one which was being purchased by Kagetsu from G. A. Tisdall c/o. J. H. Whittome & Co.,Ltd. of Duncan, presumably on behalf of the Mitsui interests. I believe there was some law suit in connection with this property but it was adjusted before bringing the Ocean timber deal to a conclusion.

My understanding is that Block 195 is owned by Kagetsu, subject to a balance due under an agreement of sale.

Carl Stewart advised this office on December 19th that he had received two good offers for the timber on Block 195, both of which Kagetsu had rejected. There have been some other enquiries for this property. Recently Mr. Hinton wrote on behalf of some person asking if the property was for sale.

The Timber Controller mentions 30 million feet, but there is some indication on our file that the amount may be considerably more.

I have acknowledged Mr. Roseberry's letter and upon receiving your reply will further this matter in the manner which you may suggest.

This being Kagetsu's own property and separate from Deep Bay and Ocean Timber, P.S. Ross & Sons are not at present in control of this

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

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ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

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G. W. McPherson Esq.

particular block. If Stewart is to be pressed for action or the property advertised for sale I presume that you might wish us to instruct P.S. Ross to take over this matter on our behalf.

Yours very truly,

F. G. Shears

F. G. Shears,
Acting Director.

FGS/PMH

encl.

DEPARTMENT OF MUNITIONS & SUPPLY

C
O
P
Y

410 Seymour Street,
Vancouver, B.C.

February 19, 1943.

Custodian of Alien Property,
Royal Bank Building,
Vancouver, B.C.

Dear Sir:

Attention Mr. F. G. Shears

It has come to the attention of this office that Block 195, Cowichan District, purchased in 1937 by Kagetsu, is being offered for sale by his attorney, Mr. Carl Stewart.

Inasmuch as there appears to be upwards of 30,000,000 feet of timber on this area, and it can be operated very soon if immediate steps are taken, it is suggested that in view of the urgent need for logs, definite measures be taken so that this timber may be released and so that it may be available in the early spring.

I may add that the people negotiating for this timber are known to this office, and they are prepared to start operations on this area immediately just as soon as definite arrangements can be made.

I trust that there is some way in which this can be expedited.

Very truly yours,

(signed) D.D. Rosenberry.

Assistant Timber Controller
for British Columbia.

D.D. Rosenberry/S

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No.....

501 Royal Bank Bldg.,
Vancouver, B.C.,
May 20, 1942.

F.X.A. Biron,
Victoria Bldg.,
7 O'Connor St.,
Ottawa, Ont.

Dear Sir:

Re: Eikichi Kagetsu.

I have your letter of May 18, with enclosure, and wish to thank you for same.

Yours truly,

(G.W. McPherson)
Authorized Deputy of the Secrerary
of State and/or Custodian.

FC:DB

File F.X.-Civ.

Deep Bay Logging
16700
17276

55/43
~~17276~~

Legal Section
FXAB/P

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario,
May 18th, 1942.

Dear Mr. McPherson,- re Eikichi Kagetsu

This matter was referred to you on the 26th of January last.

I enclose herewith Statement of taxes due to the City of Vancouver by the above mentioned.

Yours truly,

(F.X.A. Biron)
For Assistant Deputy Custodian

G.W. McPherson, Esq.,
501 Royal Bank Building,
Vancouver, B.C.

(COPY-FT)

CITY OF VANCOUVER

TREASURER'S OFFICE

Jas. L. Armstrong,
City Treasurer and
Collector of Taxes

VANCOUVER, B.C.

6th May, 1942.

Ref.No.253

Department of the Secretary of State,
Office of the Custodian,
Room 45A, Central Chambers,
OTTAWA, Ontario.

Dear Sirs:

RE: NOTICES TO ENEMY COUNTRIES

In accordance with regulations respecting trading with the emmey, I enclose herewith 1942 Tax Notices on various properties, the owners of which appear to reside in enemy occupied territory or are classed as alien enemies.

Property Description	Amount	Name
Lot 47Ex.E49.4' & 48/ 29/2027	$134.20	Eikichi Kagetsu.

etc.,.....

Yours faithfully,

(Sgd.) Jas. L. Armstrong

CITY TREASURER.

HW/S
Encls.

55163
~~17276~~

Legal Section
FXAB:MJL

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario,
February 4th, 1942.

Dear Sir:- re Eikichi Kagetsu

I acknowledge receipt of your letter of January 29th.

I regret I cannot give you any further information as the only document I have in the file is the Assessment Notice for Taxes due for 1942 on the property owned by the above and described in my letter of January 26th.

Yours very truly,

(F.X.A. Biron)
For Assistant Deputy Custodian

G. W. McPherson, Esq.,
1409 Royal Bank Building,
Vancouver, B. C.

VIA AIR MAIL

CANADA

DEPARTMENT OF THE SECRETARY OF STATE

OFFICE OF THE CUSTODIAN

ADDRESS ALL COMMUNICATIONS TO THE CUSTODIAN'S OFFICE

PLEASE REFER TO

FILE No. 136

1404 Royal Bank Bldg.,
Vancouver, B. C.,
January 29, 1942.

F.X.A. Biron, Esq.,
7 O'Connor Street,
Ottawa, Ontario.

Yours reference - Legal Section-FXAB:MJL

File No. 17276

Dear Sir:

Re: Eikichi Kagetsu

I have your letter of January 26th. I am very much interested in the above party and the title to Block 195. I have been negotiating for two weeks in a deal involving this block and have at the moment $150,000.00 in the bank under my control. Mr. Kagetsu has not been interned and resides here.

Yours truly,

(G. W. McPherson)
Authorized Deputy of the
Secretaryof State and/or
Custodian.

GWMcP/FC.

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 31 1942
PASS TO.....
TRANSFER TO.....
ANS'D BY | FILE

55125
~~17276~~

Legal Section
FXAB:MJL

Victoria Building,
7 O'Connor Street,
Ottawa, Ontario,
January 26th, 1942.

Dear Sir:- re Eikichi Kagetsu

The Custodian has received from the Provincial Collector of Taxes at Duncan, B.C. a Statement of Taxes for 1942, amounting to $852.00, due by one Eikichi Kagetsu, of 335 Princess Avenue, Vancouver, for land designated as Block 195, Certificate of Title No. G 87630, Land District of Cowichan Lake. The land is situated in the Registration District of Victoria and is of 979 acres.

As we have no information concerning the owner of this land and do not know if he is still a resident of Vancouver or if he has been interned, I shall appreciate it if you will investigate and, if necessary, have a Certificate of Vesting registered.

Yours very truly,

(F.X.A. Biron)
For Assistant Deputy Custodian

G. W. McPherson, Esq.,
1409, Royal Bank Building,
Vancouver, B. C.

Victoria Bldg., 7 O'Connor St.,

Ottawa, January 19th, 1942.

55765
~~16700.~~

Administration.

AHM/C

Dear Sirs,-

Re: Eikichi Kagetsu.

I am in receipt of your letter of January 8th advising that your client, Mr. G. A. Tisdall sold a timber limit to the above noted which property has now been taken over by the Custodian.

This would be a matter coming under the jurisdiction of the Custodian's office at Vancouver, and I would suggest that you communicate immediately with Mr. G. W. McPherson, c/o P. S. Ross & Sons, Royal Bank Building, Vancouver, who will be in a position to explain to you your client's position in the matter.

Yours very truly,

(A. H. Mathieu)
Assistant Deputy Custodian.

J. H. Whittome & Company Limited,
Whittome Building,
Duncan, B.C.

Established 1898

J. H. Whittome & Co., Limited

Real Estate, Financial and Insurance Agents
Bonds and Stocks

VICTORIA BRANCH
118-119 PEMBERTON BUILDING

Whittome Building.
Duncan, B. C.

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 10 1942
TRANSFER TO
ANS'D BY

January 8th, 1942

Custodian of Enemy Property,
Ottawa, Ontario.

Re Block 195, Cowichan Lake District

Dear Sir:

We act as agents for a Mr. G. A. Tisdall, who in 1937 sold the above described property, which is a timber limit, to Eikichi Kagetsu, a Japanese, whose address is given as 335 Princess Avenue, Vancouver, B. C.

We have been given to understand from the local Provincial Assessor that he has been served notice by the Registrar of the Land Registry Office in Victoria that this block has been taken over by you.

Would you kindly advise us what our client's position is, as there is a balance due to him from the Japanese of $16,000.00 principal, plus interest of $240.00 as of January 11th next. Although the principal sum of $16,000.00 is long overdue, it was arranged verbally that Kagetsu could stand over the principal payments until such time as our client required the money; provided interest on the unpaid balance was paid quarterly, the next quarterly interest payment being due on January 11th.

In the usual course, we would notify Kagetsu that interest would be due on January 11th next, but since hostilities have commenced, we have not done so, and we would appreciate it very much, if you would advise us exactly what our position is in the matter.

Yours faithfully,

J. H. WHITTOME & CO. LIMITED

Manager

16700
16706
16705

RWW/LM

OFFICE OF THE CUSTODIAN
RECEIVED
JAN 19 1942
PASS TO ..... Tx. 35
TRANSFER TO .....
ANS'D BY | FILE

ASSESSMENT NOTICE, 1942.. Folio 1183

REAL PROPERTY AND SCHOOL ASSESSMENT.

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA

COWICHAN ASSESSMENT DISTRICT.

ORIGINAL

Owner's name and last-known address:

KAGETSU EIKICHI
~~335 PRINCESS AVE~~
~~VANCOUVER B C~~
c/o Custodian Officer,
Dept.of Secretary of State, Ottawa.

TISDALL G A
C/O J.H.WHITTOME C♦
DUNCAN B C

LAND DISTRICT } COWICHAN LAKE

Date of Mailing Notice Jan.15,1942

Description of Property: BLOCK 195

Number of acres 979., more or less, save and except public highway or right-of-way.

Certificate of Title No. G 87630

Take notice that you have been assessed as below:— O T SMYTHE DEP ASSESSOR DUNCAN B C

TIMBER LAND ASSESSMENT AND TAXES. RATE, 1½%.

Number of Acres Logged.	Number of Acres Timber.	Total Assessed Value. $	Total of Land and School Taxes. $ c.
	979	35,475	532.12

Tax on Land upon which no School Tax is payable. Rate, ⅕ of 1%.

LIBRARY & SCHOOL TAXES.

SCHOOL DIST.	Amount Requisitioned.	Real Property.	Personal Property.	Total Taxable Value.	School Rate in Mills.	
Cow. Lake	8820	35,475			9.	319.88

Total Taxes levied for 1942, due April 1st, 1942 Delinquent after June 30th, 1942

DELINQUENT TAXES.

	19	19	19	19
LAND - - -				
LAND, ⅛ OF 1%				
SCHOOL - - -				

Interest must be added to Delinquent Taxes. *See* overleaf for rates.

Total Taxes Due - - - - - (EXCLUSIVE OF INTEREST.) 852.00

PAYMENTS.

	19	19	19	19	Current.
LAND - - -					
LAND, ⅛ OF 1%					
SCHOOL - - -					
INTEREST - -					
TOTAL - - -					

TOTAL PAID, $.....

OFFICIAL RECEIPT No.....

DATE.....

Make all remittances payable *at par* to PROVINCIAL COLLECTOR, Duncan, B. C., B.C.

DO NOT SEPARATE THESE FORMS.
PLEASE RETURN BOTH WITH YOUR REMITTANCE.
ORIGINAL WILL THEN BE RETURNED DULY RECEIPTED.

1276.
55165

INFORMATION FOR THE GUIDANCE OF TAXPAYERS.

....., *Provincial Assessor,*

TO THE TAXPAYER: Take notice that you have been assessed as overleaf. ....., B.C.

Notice of Assessment.

No further notice will be given; taxpayers are requested to see that their taxes are promptly paid.

If remitting by mail, please use post-office or express money-orders, or, if using cheque, see that same is marked by the bank and includes exchange.

Sec. 42, chap. 282, R.S.B.C. 1936.

All land which is situate in unorganized territory and is not comprised in any school district, and all lands situate within any rural school district in which the school has been closed, shall, in addition to all taxes otherwise imposed thereon, be assessed and taxed annually, and the rate of taxation shall be one-fifth of one per centum upon its assessed value.

Due dates.

All taxes shown on this notice are due and payable on April 1st of the year of assessment, and if unpaid on June 30th of that year are deemed to be delinquent.

DELINQUENT TAXES FOR THE YEARS 1935 AND PREVIOUS ARE SUBJECT TO INTEREST AT THE RATE OF 8 PER CENTUM PER ANNUM FROM THE DATE OF DELINQUENCY IN EACH YEAR TO MAY 31ST, 1936; AFTER THAT DATE AT THE RATE OF 4½ PER CENTUM PER ANNUM. DELINQUENT TAXES FOR THE YEARS 1936 AND SUBSEQUENT ARE SUBJECT TO INTEREST AT THE RATE OF 4½ PER CENTUM PER ANNUM FROM THE DATE OF DELINQUENCY UNTIL PAID.

Neither the giving of a notice of appeal by any taxpayer, nor any delay in the hearing of the appeal by the Court of Revision or the Court of Appeal, shall in any way affect the due date, the delinquency date, the penalties, or any liability for payment provided by this Act in respect of any tax which is the subject-matter of the appeal; but in the event of the tax being set aside or reduced by the Court of Revision or Court of Appeal, on appeal, the Minister shall refund to the taxpayer the amount of the tax or excess tax paid by him, and of any penalty imposed and paid on such tax or excess.

Liability and recovery of delinquent taxes.

There is a personal liability for all taxes, and the amount due may be recovered by distress proceedings or by action.

Land upon which taxes are delinquent will be offered at Tax Sale between July 15th and October 15th following the date of delinquency, and the date of the said Tax Sale will be advertised in the Gazette previous to the day of sale. Land sold at Tax Sale may be redeemed within ONE YEAR from the date of sale by tendering to the Collector the amount for which the land was sold, with interest at 12 per cent., together with the taxes due since date of sale. Lands unsold at Tax Sale are forfeited to the Crown at the expiration of twelve months from date of Tax Sale, unless the amount due with interest is sooner paid. Lands forfeited to the Crown may be purchased on written application to the Minister of Lands.

Rectification of errors.

If the taxpayer discovers any error in his notice, which the Assessor is able to correct before the Court of Revision, he is requested to write to the Assessor giving particulars of the error.

RIGHT of appeal.—Every person assessed has the right of appeal, as provided in the "Taxation Act," against the assessment to the Court of Revision and to the Court of Appeal, but such right ceases if the notice of appeal is not given within fourteen days after the date on which this notice of assessment was mailed: Provided, however, that the Surveyor of Taxes may extend that time if it is proved to his satisfaction that the taxpayer was unable to appeal within the fourteen days. No appeal against the assessment of School Taxes is allowed where the assessed value is the same as in the last revised Assessment Roll of the Assessment District.

If you intend to appeal to the Court of Revision fill up the following form and return this notice to the Assessor within the fourteen days allowed by law.

TO THE ASSESSOR: Take notice that I intend to appeal to the Court of Revision against the assessment for the following reasons:—

.....

.....

.....

.....

..... (Signature) .....

Dated at....., this.....day of....., 19.....

N.B.—Do not detach or alter this form in any particular. If there are any errors return for correction. **(See over.)**

Tx. 35

DO NOT SEPARATE THESE FORMS.
PLEASE RETURN BOTH WITH YOUR REMITTANCE.
ORIGINAL WILL THEN BE RETURNED DULY RECEIPTED.

REAL PROPERTY AND SCHOOL ASSESSMENT, 19 42
THIS FORM FOR USE OF THE COLLECTOR ONLY.

Folio 1183

DUPLICATE

Owner's name and last-known address:

KAGETSU EIKICHI
~~335 PRINCESS AVE~~
~~VANCOUVER B C~~
c/o Custodian Officer,
Dept.of Secretary of State, Ottawa.

TISDALL G A
C/O J.H.WHITTOME C♦
DUNCAN B C

COWICHAN ASSESSMENT DISTRICT.

LAND DISTRICT } COWICHAN LAKE

Date of Mailing Notice Jan.15,1942

Description of Property: BLOCK 195

Number of acres 979., more or less, save and except public highway or right-of-way.

Take notice that you have been assessed as below:— O T SMYTHE DEP ASSESSOR DUNCAN B C

Certificate of Title No. G 87630

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		$	$ c.
	979	35,475	532.12

Tax on Land upon which no School Tax is payable. Rate, ⅕ of 1%.

LIBRARY & SCHOOL TAXES.

SCHOOL DIST.	Amount Requisitioned.	Real Property.	Personal Property.	Total Taxable Value.	School Rate in Mills.	
Cow. Lake	8820	35,475			9.	319.88

Total Taxes levied for 19 42, due April 1st, 19 42 Delinquent after June 30th, 19 42

DELINQUENT TAXES.

	19	19	19	19
LAND - - -				
LAND, ⅛ OF 1%				
SCHOOL - - -				

Interest must be added to Delinquent Taxes. *See* overleaf for rates.

Total Taxes Due - - - - - - (EXCLUSIVE OF INTEREST.) 852.00

PAYMENTS.

	19	19	19	19	Current.
LAND - - -					
LAND, ⅛ OF 1%					
SCHOOL - - -					
INTEREST - -					
TOTAL - - -					

TOTAL PAID, $.....

OFFICIAL RECEIPT No.....

DATE.....

2,100-541-2702