

## CLAIM OF TARO KENNETH TAKAHASHI

[No. 146-35-3516. Decided March 27, 1951]

## FINDINGS OF FACT

This claim, alleging a loss in the sum of \$905, was received by the Attorney General on May 9, 1949. It concerns a loss due to the sale of a Plymouth automobile, a Chevrolet automobile, garden tools and equipment, miscellaneous tools, seeds and flower bulbs, a washing machine, sewing machine, and miscellaneous items of household furniture and furnishings; and a loss due to the theft from storage of a set of silverware, a waffle iron, flat iron, dishes, and two Wilton rugs. The claimant and his wife were born in California of Japanese parents on August 3, 1903, and November 11, 1911, respectively. All of the aforementioned property, with the exception of the Chevrolet automobile which was the community property of the claimant's father-in-law, Jitsuzo Henry Goto, and mother-in-law, Tami Goto, was the community property of the claimant and his wife. The claimant's father-in-law has not filed a claim but specifically requested and authorized the claimant to claim on his behalf for the loss suffered on account of the sale of his Chevrolet automobile. The claimant's father-in-law and mother-in-law were born in Japan of Japanese parents. At no time since December 7, 1941, has the claimant, his wife, or his in-laws gone to Japan. On the aforementioned date and for some time prior thereto, the claimant, his wife, and his in-laws actually resided together at 2238 Bush Street, San Francisco, California, and they were living at that address when they were all evacuated on April 28, 1942, pursuant to military orders issued under authority of Executive Order No. 9066, dated February 19, 1942. They

were sent to the Tanforan Assembly Center and from there to the Central Utah Relocation Center at Topaz, Utah. Unable to take the aforementioned property with him, the claimant acted reasonably in selling the aforementioned articles, including his father-in-law's Chevrolet automobile, for the sum of \$535 although the fair and reasonable value thereof at the time of the sale was \$1,041.31. The remainder of his property he stored in the basement of a Caucasian neighbor's house located at 2248 Bush Street, San Francisco.

On his return the claimant reclaimed the property so stored with the exception of the articles hereinbefore mentioned as having been stolen therefrom which articles had a value at the time of storage of \$79.50. None of the aforementioned losses have been compensated for by insurance or otherwise.

#### REASONS FOR DECISION

The evidence of the claimant's loss consists principally of the sworn statements of himself, his wife, and his father-in-law and investigation has generally corroborated claimant's allegations. Losses of the type hereinbefore described have heretofore been held to be allowable. *Toshi Simomaye, ante*, p. 1; *Akiko Yagi, ante*, p. 11.

The only question remaining is whether, under the Act, a claim may be filed by an agent on behalf of the real person in interest. Resort to the legislative history of the Act reveals little as to the intent of Congress on this point. However, even stronger evidence of any intention which might be inferred from the legislative history is the specific language of the Act itself. Section 2 (b) of the Act provides that the "Attorney General shall not consider any claim (1) *by or on behalf of* any person who after December 7, 1941, was voluntarily or involuntarily deported from the United States to Japan or *by and on behalf of* any alien \* \* \*." [Emphasis ours.] This language clearly indicates that Congress was aware that

claimants, due to some disability, such as inability to read or write English, or for some other reason, would necessarily require an agent to file for them. The conclusion to be drawn is that claims may be filed by duly authorized agents on behalf of claimants otherwise jurisdictionally eligible. In the instant case, claimant's father-in-law specifically authorized and requested the claimant to claim on his behalf for the loss suffered by reason of the sale of his automobile. He would have been jurisdictionally eligible to claim had he filed the claim himself and it is therefore permissible for the claimant to file on his behalf. Inasmuch as the Chevrolet automobile had a value of \$270 at the time of sale and was sold for \$150, the loss incurred on account thereof was \$120.

A husband may claim on account of damage to or loss of community property. *Tokutaro Hata, ante*, p. 21. The loss as to such Chevrolet automobile in the sum of \$120 is paid to the claimant on behalf of and as agent for his said father-in-law, Jitsuzo Henry Goto, and is included as a part of the amount herein awarded to the claimant.