

Exhibit A.

Office Board of Police Commissioners.

San Francisco, July 6, 1907.

To Hon. Robert T. Devlin,

United States Attorney,

Post Office Building, 7th and Mission Sts. City.

Dear Sir:

I beg to acknowledge receipt of your communication dated July 3, 1907, requesting information concerning the refusal of permits to keepers of Japanese Intelligence Offices in this city which were refused by the Board of Police Commissioners on June 27, 1907, at which meeting the following proceedings were had:

Commissioner Hagerty, President of the Board:

"I want to say Mr. Walker, that we have given this question of granting these privileges to your clients considerable investigation, and the position of the Board relative to saloon licences has been to deny saloon licenses to anybody who was not a citizen of the United States and who was not a resident of the city. We are protected in that by Ordinance of the Board of Supervisors. We believe that the intention of the Board of Supervisors in doing that was to grant these privileges to our citizens in preference to those who are not citizens, or could not become citizens. We don't want to do your clients any injustice, and we want to abide by anything that concerns your clients and that obligates us alike in the Treaties between the two nations.

Upon investigation we feel that there is cause for us to think we have the right to deny. We don't want to do it arbitrarily. Our position is that we want to favor citizens in preference to persons who are not citizens. It may be possible that we are wrong, and your clients can take the matter to the proper court and have a decision set for us as to their rights in the premises and the Commissioner's rights in the premises, and the Commissioners will gladly act in accordance

with it. Here are our findings:

"In the matter of the application of Henry Fraya, S/E Cor. Fillmore and Sacramento Streets, for a permit to keep an Intelligence Office:

Petitioner has filed his application for a permit to keep an Intelligence Office at the S.E. Cor. Fillmore and Sacramento streets, in the City and County of San Francisco, State of California. The granting of such permits is confided to this Board by the Charter of this State. Section 7, Chapter 4, Article 8, of the Charter, reads as follows:

"The Chief of Police shall have powers of general inspection, supervision and control over all pawn-brokers, peddlers, junk shop keepers, dealers in second-hand merchandise, auctioneers and intelligence officer keepers. All persons engaged in ~~the~~ such callings must ^{first} procure permits from the Commissioners."

It is evident that the granting of such permits and the conduct of business thereunder, concerns proper police regulation and should be exercised with great care. This Board has been given practically unlimited powers with respect to such matters and may ~~reject~~ reject any and all applications for such permits. It is doubtful if the action of the Board could be subject to review.

The granting of such permits involves an inquiry into the character of the applicant, the location of the office, matters of sanitation, the number of such permits already issued, and many other things which go to the propriety of granting such permits when considering the peace, morals, and good order of the community.

But it is urged in support of the application that the petitioner is a subject of the Emperor of Japan, and as such is entitled to the privilege or right which he now seeks by virtue of the treaty ~~with~~ which exists between this country and Japan.

We have carefully examined the Treaty referred to and find that there are no provisions in it which give to the petitioner any such right or privilege. As we construe the Treaty, it is one simply of commerce and navigation, and gives to the subjects of Japan the right of residence and travel, and the right to trade etc., but no right is specifically given to carry on such a business as is contemplated by the application we are considering. But even if it were conceded that such a right or privilege is guaranteed by the Treaty, such right or privilege is still subject to and controlled by the laws which have been enacted or which may be enacted under the ^{police} general powers of the State concerning the proper police and sanitary regulations. The Treaty specifically so provides, for it is said in the concluding portion of Article 2 of said Treaty, as follows:

'It is however, understood that the stipulations contained in this and the preceding Article do not in any way affect the laws, ordinances and regulations with regard to trade, the immigration of laborers, police or public security which are enforced or which may hereafter be enacted in either of the two countries.

We do not understand that the Japanese Government has at any time ever considered this Treaty so as to give American citizens such rights and privileges as are demanded by the subjects of Japan. We do not think that the Japanese authorities would grant to an American subject the right to open an Intelligence Office as an absolute right under this Treaty in any of the localities in that country.

We are of the opinion that the Charter provision referred to is not in any way affected or controlled by any of the provisions of the Treaty.

In exercising the powers entrusted to us by the Charter, we are of the opinion that the permit should not be granted, and it is so ordered.

This action of the Board will enable the applicant to apply to the Courts where a judicial determination can be had concerning

concerning his rights under the Treaty, This is the most orderly proceedings to be taken, and this Board will facilitate in every way any steps taken in that direction.

AYES: Commissioners Moore, Wallen, Finn, Hagerty.

ATTORNEY WALKER.

"Inasmuch as former Boards have granted these clients licenses, what about the renewals of their licenses?"

COMMISSIONER HAGERTY, PRESIDENT OF THE BOARD:

"I believe the whole matter should be decided, because the Board rests in this uncertain position. We feel like granting privileges to our own citizens in preference to persons who cannot become citizens; but if there is anything in the Treaty provisions whereby they are entitled to that right of a citizen, we certainly disposed to grant them the same privilege, and everything contained in that Treaty. If it is not so, then the Board, I presume, will feel as it does now, and will continue to feel, that the addition of employment offices makes competition keener in the business and we don't like to have those competing in this business. We will be pleased, as stated, to give you any assistance in hurrying this matter up so as to have it decided by the courts."

ATTORNEY WALKER.

"So all the applications are denied?"

COMMISSIONER HAGERTY.

"Yes, sir".

The applications of K. Oda, 1721 Post St., Yataro Samejimo, 1908 Bush St., D. B. Mukai, 2985 Sacramento st., O. T. Hatsame. 1513 Goary st., Tora Kichi Tamuri, 1612 Laguna st., and Aiziro Hori, 1748 Sutter st., were also denied under the same ruling.

Respectfully,

Chas. F. Skelly, Secretary.

The Board of Police Commissioners.