

CONFIDENTIAL
FOUO

DOCUMENT_ID: 34990483
INQNO: DOC26D 00165784
DOCNO: TEL 166215 93
PRODUCER: WASHDC
SOURCE: STATE
DOCTYPE: OUT
DOR: 19930602
TOR: 013726
DOCPREC: R
ORIGDATE: 199306020455
MHFNO: 93 2699562
DOCCLASS: C
CAVEATS: FOUO

HEADER
PP RUEAIIA
DE RUEHC #6215/01 1530500
ZNY CCCCC ZZH
P R 020455Z JUN 93
FM SECSTATE WASHDC
TO RUEHGV/USMISSION GENEVA PRIORITY 5638
INFO RUCNDT/USMISSION USUN NEW YORK 2651
RUEAIIA/CIA WASHDC 1021
RUEKJCS/SECDEF WASHDC 6937
RHEHNSC/NSC WASHDC 5610
BT

CONTROLS
CONFIDENTIAL

LIMITED OFFICIAL USE STATE 166215

E.O. 12356: N/A

TEXT
TAGS: UNHRC-1, PHUM, SOCI, US
COMBINE: COMPLETE

SUBJECT: RESPONSE TO 1503 COMMUNICATIONS: OFFICE OF
SPECIAL INVESTIGATION PROCEEDINGS AGAINST SCHIFFER,
TITTJUNG AND BREYER (NOS. 219, 220, 221, 223, 225, 226,
228, 229 AND 233)

REFS: (A) GENEVA 4791 AND PREVIOUS (B) KEELEY-STEELE FAXES

1. FOLLOWING IS THE RESPONSE OF THE USG, UNDER PROVISIONS
OF ECOSOC RESOLUTION 1503, TO A SERIES OF COMMUNICATIONS
CONCERNING DENATURALIZATION AND DEPORTATION PROCEEDINGS
BROUGHT BY THE DEPARTMENT OF JUSTICE AGAINST PERSONS
ASSOCIATED WITH THE FORMER NAZI REGIME IN GERMANY DURING
WORLD WAR II. THESE COMMUNICATIONS ALLEGE GENERALLY THAT
THE SUBJECTS OF THOSE PROCEEDINGS HAVE BEEN DENIED FAIR
TREATMENT AND DUE PROCESS AND ARE BEING PERSECUTED. THESE
COMMUNICATIONS WERE RECEIVED UNDER COVER OF UN SECRETARIAT
NOTES NO. G/SO 215/1 USA (219), (220) AND (221) DATED
FEBRUARY 23, 1993, (223) DATED MARCH 15, 1993, (225) DATED

STATE DEPT. DECLASSIFICATION REVIEW
 Retain class'n Change/classify to _____
 Declassify with concurrence of _____
after _____
EO 12958, 25X _____ Date 8/30/01
IPS/CR/IR by [Signature]

FOR COORDINATION WITH State

DECLASSIFIED AND RELEASED BY
CENTRAL INTELLIGENCE AGENCY
SOURCES METHODS EXEMPTION 3B2B
NAZI WAR CRIMES DISCLOSURE ACT
DATE 2001 2007

NAZI WAR CRIMES DISCLOSURE AC
2000

CIA HAS NO OBJECTION TO
DECLASSIFICATION AND/OR
RELEASE OF CIA INFORMATION
IN THIS DOCUMENT

CONFIDENTIAL
FOUO

MARCH 22, 1993, (226) DATED MARCH 23, 1993 (228) DATED APRIL 5, 1993. (229) DATED APRIL 13, 1991. AND (233) DATED MAY 6, 1993. MISSION IS REQUESTED TO TRANSMIT THIS RESPONSE IN FULL AS SOON AS POSSIBLE TO THE UN HUMAN

RIGHTS CENTER UNDER COVER OF A DIPLOMATIC NOTE FOR DISTRIBUTION IN ITS ENTIRETY TO THE WORKING GROUP ON COMMUNICATIONS OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES. PLEASE DELIVER A SEPARATE COPY OF THIS RESPONSE TO LINDA CHAVEZ, U.S. INDEPENDENT EXPERT.

2. BEGIN TEXT:

RESPONSE OF THE GOVERNMENT OF THE UNITED STATES TO UN SECRETARIAT NOTES NO. G/SO 215/1 USA (219). (220) AND (221) DATED FEBRUARY 23, 1993, (223) DATED MARCH 15, 1993, (225) DATED MARCH 22, 1993, (226) DATED MARCH 23, 1993, (228) DATED APRIL 5, 1993, (229) DATED APRIL 13, 1993, AND (233) DATED MAY 6, 1993, TRANSMITTING A SERIES OF COMMUNICATIONS CONCERNING DENATURALIZATION AND DEPORTATION PROCEEDINGS BROUGHT BY THE UNITED STATES DEPARTMENT OF JUSTICE AGAINST INDIVIDUALS ASSOCIATED WITH THE FORMER NAZI REGIME IN GERMANY DURING WORLD WAR II.

THE GOVERNMENT OF THE UNITED STATES WELCOMES THE OPPORTUNITY TO RESPOND TO UNITED NATIONS SECRETARIAT NOTES NO. G/SO 215/1 USA (219). (220) AND (221) DATED FEBRUARY 23, 1993. (223) DATED MARCH 15, 1993. (225) DATED MARCH 22, 1993, (226) DATED MARCH 23, 1993, (228) DATED APRIL 5, 1993, (229) DATED APRIL 13 1993, AND (233) DATED MAY 6 1993. WHICH TRANSMITTED A SERIES OF COMMUNICATIONS CONCERNING DENATURALIZATION AND DEPORTATION PROCEEDINGS BROUGHT BY THE UNITED STATES AGAINST INDIVIDUALS ASSOCIATED WITH THE FORMER NAZI REGIME IN GERMANY DURING WORLD WAR II: THE COMMUNICATIONS, WHICH WERE SUBMITTED BY RELATIVES, FRIENDS AND NEIGHBORS ON BEHALF OF THREE INDIVIDUALS WHO ARE CURRENTLY THE SUBJECTS OF SUCH PROCEEDINGS, ALLEGE THAT THESE INDIVIDUALS AS WELL AS OTHERS PREVIOUSLY SUBJECTED TO SUCH PROCEEDINGS HAVE BEEN DENIED DUE PROCESS AND FAIR TREATMENT, PARTICULARLY AS THE RESULT OF THE RETROACTIVE APPLICATION OF THE RELEVANT U.S. LEGISLATION.

AT THE OUTSET, THE GOVERNMENT OF THE UNITED STATES WOULD CITE THE PERTINENT SECTIONS BOTH OF ECOSOC RESOLUTION 1503 (XLVIII), UNDER WHICH GOVERNMENT COMMENTS ON THIS COMMUNICATION ARE BEING SOLICITED AS WELL AS SUB-COMMISSION RESOLUTION 1 (XXIV), IN WHICH THE STANDARDS FOR ADMISSIBILITY OF COMMUNICATIONS ARE LAID OUT:

- (THE WORKING GROUP SHOULD MEET) WITH A VIEW TO
- BRINGING TO THE ATTENTION OF THE SUB-COMMISSION THOSE

- COMMUNICATIONS, TOGETHER WITH REPLIES OF GOVERNMENTS,
- IF ANY, WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF
- GROSS AND RELIABLY ATTESTED VIOLATIONS OF HUMAN RIGHTS

CONFIDENTIAL
FOUO

- AND FUNDAMENTAL FREEDOMS.
- ECOSOC RESOLUTION 1503 (XLVIII)
- 1. STANDARDS AND CRITERIA
- COMMUNICATIONS SHALL BE ADMISSIBLE ONLY IF, AFTER
- CONSIDERATION THEREOF, TOGETHER WITH THE REPLIES
- OF ANY OF THE GOVERNMENTS CONCERNED, THERE ARE
- REASONABLE GROUNDS TO BELIEVE THAT THEY MAY
- REVEAL A CONSISTENT PATTERN OF GROSS AND RELIABLY
- ATTESTED VIOLATIONS OF HUMAN RIGHTS AND
- FUNDAMENTAL FREEDOMS.
- . . .
- 4. EXISTENCE OF OTHER REMEDIES
- (B) COMMUNICATIONS SHALL BE INADMISSIBLE IF
- DOMESTIC REMEDIES HAVE NOT BEEN EXHAUSTED. . . .
- ANY FAILURE TO EXHAUST REMEDIES SHOULD BE
- SATISFACTORILY ESTABLISHED.
- SUB-COMMISSION RESOLUTION 1 (XXIV)

THE UNITED STATES GOVERNMENT RESPECTFULLY STATES THAT THE COMMUNICATIONS IN QUESTION FAIL TO REVEAL THE REQUIRED CONSISTENT PATTERN OF GROSS AND RELIABLY ATTESTED VIOLATIONS OF HUMAN RIGHTS. THE COMMUNICATIONS CONCERN THE SITUATION OF ONLY A FEW INDIVIDUALS AND IN NO WAY SUBSTANTIATE THE ALLEGATIONS THAT TREATMENT OF THESE INDIVIDUALS CONSTITUTES PART OF A CONSISTENT PATTERN OF HUMAN RIGHTS VIOLATIONS OF ANY KIND.

IN ADDITION, THE COMMUNICATIONS DO NOT ESTABLISH THE EXHAUSTION OF DOMESTIC REMEDIES. OR ALLEGE THAT THE PURSUIT OF SUCH REMEDIES WOULD BE FUTILE. IN FACT. THE COMMUNICATIONS THEMSELVES REVEAL THAT, AT THE TIME THEY WERE SUBMITTED, JUDICIAL PROCEEDINGS AGAINST ALL THREE INDIVIDUALS IN QUESTION REMAINED PENDING.

FOR THESE REASONS, THE GOVERNMENT OF THE UNITED STATES REQUESTS THAT THESE COMMUNICATIONS BE DEEMED INADMISSIBLE.

THE GOVERNMENT OF THE UNITED STATES WOULD NEVERTHELESS LIKE TO TAKE THIS OPPORTUNITY BRIEFLY TO ADDRESS THE ISSUES RAISED IN THE COMMUNICATIONS IN QUESTION.

BACKGROUND

THESE COMMUNICATIONS CONCERN THE MECHANISMS UNDER U.S. LAW FOR THE IDENTIFICATION, DENATURALIZATION, DEPORTATION AND EXCLUSION FROM THE UNITED STATES OF PERSONS WHO, WHILE ACTING IN ASSOCIATION WITH THE FORMER NAZI REGIME IN GERMANY, PARTICIPATED OR ASSISTED IN PERSECUTION BECAUSE OF RACE, RELIGION. NATIONAL ORIGIN, OR POLITICAL OPINION.

CONFIDENTIAL
FOUO

1. U.S. LAW.

UNITED STATES IMMIGRATION LAW PROVIDES FOR THE EXCLUSION OF ANY ALIEN WHO ORDERED, INCITED, ASSISTED OR OTHERWISE PARTICIPATED IN THE NAZI PERSECUTION OF ANY PERSON BECAUSE OF RACE, RELIGION, NATIONAL ORIGIN OR POLITICAL OPINION DURING THE PERIOD BEGINNING MARCH 23, 1933 AND ENDING ON MAY 8, 1945. THIS PROHIBITION AGAINST ENTRY INTO THE UNITED STATES APPLIES TO ANY ALIEN WHO COMMITTED SUCH ACTS UNDER THE DIRECTION OF OR IN ASSOCIATION WITH THE NAZI GOVERNMENT OF GERMANY, ANY GOVERNMENT IN ANY AREA OCCUPIED BY THE MILITARY FORCES OF THE NAZI GOVERNMENT OF GERMANY, ANY GOVERNMENT ESTABLISHED WITH THE ASSISTANCE OR COOPERATION OF THE NAZI GOVERNMENT OF GERMANY, OR ANY GOVERNMENT WHICH WAS AN ALLY OF THE NAZI GOVERNMENT OF GERMANY. THIS PROVISION, INITIALLY KNOWN AS THE HOLTZMANN AMENDMENT WHEN IT WAS ADOPTED IN 1978, IS NOW CODIFIED AS SECTION 212(A) (3) (E) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1182(A) (3) (E).

THE SAME SECTION PROVIDES THAT ANY ALIEN WHO HAS ENGAGED IN CONDUCT THAT IS DEFINED AS GENOCIDE FOR PURPOSES OF THE INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE IS ALSO EXCLUDABLE.

THE LAW ALSO PROVIDES THAT ALIENS WHO ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE ARE DEPORTABLE FROM THE UNITED STATES. SECTION 241(A) (1) AND (4) OF THE IMMIGRATION AND NATIONALITY ACT. 8 U.S.C. SECTION 1251(A) (1) AND (4).

FINALLY, U.S. LAW PROVIDES FOR DENATURALIZATION PROCEEDINGS AGAINST U.S. CITIZENS WHOSE ORDER AND CERTIFICATE OF NATURALIZATION WERE ILLEGALLY PROCURED OR WERE PRODUCED BY CONCEALMENT OF A MATERIAL FACT OR BY

WILLFUL MISREPRESENTATION. SECTION 340(A) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1451(A).

2. THE OFFICE OF SPECIAL INVESTIGATIONS

WITHIN THE UNITED STATES DEPARTMENT OF JUSTICE, THE OFFICE OF SPECIAL INVESTIGATIONS ("OSI") WAS ESTABLISHED BY ORDER OF THE ATTORNEY GENERAL IN SEPTEMBER 1979. IT IS RESPONSIBLE FOR SEEKING THE IDENTIFICATION DENATURALIZATION, DEPORTATION AND EXCLUSION FROM THE UNITED STATES OF PERSONS WHO FALL WITHIN THE ABOVE CATEGORIES OF THE IMMIGRATION AND NATIONALITY ACT. IT IS ALSO RESPONSIBLE FOR ASSISTING IN THE EXTRADITION OF ALLEGED NAZI WAR CRIMINALS FOR THEIR CRIMINAL PROSECUTION OVERSEAS. SUCH EXTRADITION IS RARE: ONLY THREE SUCH EXTRADITION REQUESTS HAVE BEEN MADE UPON THE UNITED STATES SINCE OSI'S CREATION, AND NONE OF THE PRESENT PETITIONS CONCERNS THE QUESTION OF EXTRADITION.

CONFIDENTIAL
FOUO

ALTHOUGH OSI IS PART OF THE CRIMINAL DIVISION OF THE JUSTICE DEPARTMENT, ITS LITIGATION IS CIVIL. THE DENATURALIZATION PROCEEDINGS ARE ACCORDINGLY SUBJECT TO THE FULL PANOPLY OF CIVIL DISCOVERY. THE CASES ARE TRIED BY JUDGES WITHOUT JURIES. OSI DEFENDANTS HAVE ROUTINELY CHALLENGED THIS ASPECT OF THE PROCEEDINGS, BUT THE COURTS HAVE WITHOUT EXCEPTION DENIED DEMANDS FOR JURY TRIALS. HOWEVER, IN DENATURALIZATION ACTIONS. THE GOVERNMENT IS REQUIRED TO PROVE ITS CASE BY "CLEAR, UNEQUIVOCAL, AND CONVINCING EVIDENCE WHICH DOES NOT LEAVE THE ISSUE IN DOUBT", A STANDARD WHICH THE SUPREME COURT HAS HELD "VIRTUALLY IDENTICAL" TO THE CRIMINAL STANDARD. KLAPPROTT V. UNITED STATES, 335 U.S. 601. 602 (1949).

THE SPECIFIC PETITIONS

EACH OF THE THREE PENDING CASES WHICH ARE THE SUBJECT OF THE VARIOUS PETITIONS ADDRESSED IN THIS RESPONSE INVOLVES A NATURALIZED U.S. CITIZEN WHO SERVED AS A MEMBER OF THE WAFFEN-SS AND AS A CONCENTRATION CAMP GUARD DURING THE RELEVANT TIME PERIOD. IN TWO OF THE CASES, DENATURALIZATION PROCEEDINGS ARE CURRENTLY PENDING BEFORE THE FEDERAL COURTS; IN THE THIRD. THE INDIVIDUAL IN QUESTION HAS BEEN DENATURALIZED AND IS NOW IN DEPORTATION PROCEEDINGS. IN NONE OF THE CASES HAVE AVAILABLE DOMESTIC REMEDIES BEEN EXHAUSTED. IN ALL THREE CASES, DEFENDANTS HAVE BEEN AND CONTINUE TO BE REPRESENTED BY COUNSEL OF THEIR OWN CHOOSING.

MOREOVER, IT IS IMPORTANT TO STRESS AT THE OUTSET THAT, UNDER THE RELEVANT LAW, INDIVIDUALS WHO SERVED IN THE WAFFEN-SS ARE NOT FOUND TO BE DEPORTABLE SOLELY ON THE BASIS OF THE WAFFEN-SS SERVICE BUT BECAUSE THEY PARTICIPATED AND/OR ASSISTED IN NAZI-SPONSORED PERSECUTION BASED ON RACE, RELIGION, NATIONAL ORIGIN OR POLITICAL OPINION.

1. NIKOLAUS SCHIFFER

NIKOLAUS SCHIFFER, WHO WAS BORN IN THE UNITED STATES IN 1919, SERVED VOLUNTARILY IN THE ROMANIAN ARMY FROM 1941 TO JULY 28, 1943, AT WHICH TIME HE VOLUNTARILY JOINED THE WAFFEN-SS AND SWORE AN OATH OF ALLEGIANCE TO **ADOLF HITLER**. HE SERVED IN THE WAFFEN-SS TOTENKOPF BATTALION FROM JULY 1943 TO MAY 1945 AS AN ARMED GUARD OF PRISONERS AT THE SACHSENHAUSEN CONCENTRATION CAMP, THE TRAWNIKI LABOR CAMP. THE MAJDANEK CONCENTRATION CAMP AND THE HERSBRUCK OUT-CAMP OF THE FLOSSENBURG CONCENTRATION CAMP. ADDITIONALLY. HE SERVED AS AN ARMED GUARD OF PRISONERS WHEN PRISONERS WERE EVACUATED FROM THE MAJDANEK CONCENTRATION CAMP TO THE AUSCHWITZ CONCENTRATION CAMP AND AGAIN DURING EVACUATIONS OF PRISONERS FROM THE HERSBRUCK OUT CAMP TO THE DACHAU CONCENTRATION CAMP.

CONFIDENTIAL
FOUO

THE ARMED GUARDS OF THE WAFFEN-SS TOTENKOPF BATTALION IN THE SACHSENHAUSEN, TRAWNIKI, MAJDANEK AND HERSBRUCK CAMPS PARTICIPATED IN AND ASSISTED THE NAZI PROGRAM OF PERSECUTING VARIOUS CIVILIAN GROUPS, INCLUDING JEWS, GYPSIES AND POLES. THIS PROGRAM INCLUDED THE CONFINEMENT, CORPORAL PUNISHMENT, TORTURE, FORCED LABOR AND MURDER OF PRISONERS INCARCERATED AT THESE CAMPS. PRISONERS WERE TORTURED AND DIED AT THE CAMPS AS THE RESULT OF BEATING, SHOOTING, GASSING, HANGING, STARVATION, FORCED LABOR, MEDICAL EXPERIMENTS AND OTHER METHODS OF KILLING EMPLOYED BY THE WAFFEN-SS TOTENKOPF BATTALION.

IN MAY 1945, SCHIFFER WAS CAPTURED BY ALLIED TROOPS AND HELD AS A PRISONER OF WAR UNTIL JULY 1946, WHEN HE WAS ARRESTED AS A SUSPECTED WAR CRIMINAL. SUBSEQUENTLY HE WAS TRANSFERRED TO THE JURISDICTION OF A GERMAN CIVILIAN COURT.

IN 1952, THE DEPARTMENT OF STATE ISSUED A CERTIFICATE OF LOSS OF NATIONALITY TO SCHIFFER BASED UPON HIS ROMANIAN ARMY SERVICE. HE SUBSEQUENTLY APPLIED FOR AND WAS ISSUED A VISA, ENTERED THE UNITED STATES, AND PETITIONED FOR NATURALIZATION AS A U.S. CITIZEN. HIS APPLICATION STATED THAT HE HAD NEVER BEEN ARRESTED' WHEN IN FACT HE HAD BEEN

DETAINED AS A SUSPECTED WAR CRIMINAL; HE DID NOT LIST HIS MEMBERSHIP IN THE WAFFEN-SS TOTENKOPF BATTALION; AND HE STATED THAT HE WAS A PERSON OF GOOD MORAL CHARACTER AND HAD NOT GIVEN FALSE TESTIMONY IN CONNECTION WITH HIS APPLICATION. HE WAS NATURALIZED IN 1958.

IN SEPTEMBER 1991, THE U.S. GOVERNMENT BEGAN DENATURALIZATION PROCEEDINGS AGAINST MR. SCHIFFER IN THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA ON THE GROUNDS OF HIS SERVICE IN THE ROMANIAN ARMY AND THE WAFFEN-SS TOTENKOPF BATTALION. AND BECAUSE HIS NATURALIZED CITIZENSHIP HAD BEEN PROCURED ILLEGALLY AND BY CONCEALMENT OF A MATERIAL FACT AND BY WILLFUL MISREPRESENTATION. TRIAL OF THE CASE WAS CONCLUDED ON APRIL 1, 1993; THE COURT HAS NOT YET RENDERED ITS DECISION.

IF THE COURT FINDS THAT SCHIFFER SHOULD BE DENATURALIZED. HE WILL BE ENTITLED TO APPEAL TO THE COURT OF APPEALS FOR THE THIRD CIRCUIT AND, IF UNSUCCESSFUL THERE, TO SEEK REVIEW BY THE SUPREME COURT. IF A FINAL ORDER OF DENATURALIZATION IS ENTERED, THE GOVERNMENT MAY INSTITUTE DEPORTATION PROCEEDINGS BEFORE AN IMMIGRATION JUDGE, FROM WHOSE DECISION HE COULD THEN APPEAL TO THE BOARD OF IMMIGRATION APPEALS AND ULTIMATELY TO THE FEDERAL COURTS.

THE UNITED STATES TAKES SPECIFIC ISSUE WITH A NUMBER OF STATEMENTS IN THE RELEVANT PETITIONS. SCHIFFER WAS NEVER FORCED TO JOIN THE GERMAN ARMY OR THE WAFFEN-SS; INDEED HE WAS NEVER IN THE GERMAN ARMY AND HE JOINED THE WAFFEN-SS VOLUNTARILY. NOR IS IT ACCURATE TO SAY THAT HE WAS FOUND

CONFIDENTIAL
FOUO

INNOCENT OF WAR CRIMES BY ALLIED FORCES; HE WAS HELD BY AMERICAN FORCES AS A SUSPECTED WAR CRIMINAL AND TRANSFERRED TO THE GERMANS WITH THE EXPECTATION THAT HE WOULD BE TRIED FOR THOSE CRIMES. SCHIFFER NEVER DISCLOSED HIS MEMBERSHIP IN THE WAFFEN-SS ON HIS NATURALIZATION APPLICATION, AS TESTIMONY AT HIS TRIAL ESTABLISHED HE WAS REQUIRED TO DO.

2. ANTON TITTJUNG

ANTON TITTJUNG JOINED THE WAFFEN-SS IN OCTOBER 1942. HE WAS A MEMBER OF THE TOTENKOPF-STURMBANN BATTALION AND SERVED AS AN ARMED GUARD AT THE MAUTHAUSEN CONCENTRATION CAMP AND ITS SUBCAMP GROSS RAMING. HIS DUTIES INCLUDED GUARDING PRISONERS AS THEY PERFORMED FORCED LABOR, ON FORCED MARCHES FROM THE MAIN CAMP TO THE SUBCAMPS, AND FROM THE CAMP WATCHTOWERS AND PERIMETER. WHILE PERFORMING SUCH DUTIES, HE ASSISTED OR OTHERWISE PARTICIPATED IN THE

PERSECUTION OF PRISONERS BECAUSE OF THEIR RACE, RELIGION, NATIONAL ORIGIN OR POLITICAL OPINION, INCLUDING THROUGH FORCIBLE CONFINEMENT, SLAVE LABOR, DEPRIVATION, PHYSICAL AND EMOTIONAL ABUSE, TORTURE AND EXTERMINATION.

AMONG THE PRISONERS INCARCERATED AT MAUTHAUSEN AND GROSS RAMING DURING THE RELEVANT PERIODS WERE JEWS; RUSSIAN, BRITISH AND AMERICAN PRISONERS OF WAR; AND POLITICAL OPPONENTS OF THE NAZIS, INCLUDING CITIZENS OF YUGOSLAVIA, FRANCE, POLAND, THE SOVIET UNION, SPAIN AND MANY OTHER EUROPEAN COUNTRIES. DURING TITTJUNG'S SERVICE AT THESE CAMPS, THOUSANDS OF PRISONERS DIED AS THE RESULT OF SHOOTING, GASSING, HANGING, ELECTROCUTION, STARVATION, FORCED LABOR, LETHAL INJECTION AND OTHER FORMS OF KILLING.

TITTJUNG WAS ADMITTED TO THE UNITED STATES FOR PERMANENT RESIDENCE IN 1952 AND BECAME A NATURALIZED U.S. CITIZEN IN 1973 ON THE BASIS OF APPLICATIONS WHICH CONCEALED HIS SERVICE AS AN SS GUARD AT MAUTHAUSEN AND GROSS RAMING, STATING INSTEAD THAT HE HAD SERVED IN THE "GERMAN ARMY" WITHOUT REFERENCE TO THE WAFFEN-SS.

AS A RESULT OF PROCEEDINGS BROUGHT BY OSI, TITTJUNG WAS DENATURALIZED BECAUSE HE HAD BEEN INELIGIBLE FOR A VISA UNDER THE DISPLACED PERSONS ACT BASED ON HIS ASSISTANCE IN PERSECUTION AS A GUARD IN THE MAUTHAUSEN CONCENTRATION CAMP SYSTEM. THE DECISION OF THE DISTRICT COURT WAS UPHOLD ON APPEAL. UNITED STATES V. TITTJUNG, 753 F. SUPP. 251 (E.D. WIS. 1990), AFF.D. 948 F.2D 1292 (7TH CIR. 1991), REH'G DENIED, 1992 U.S. APP. LEXIS 427 (7TH CIR. 1992). CERT. DENIED, 112 S. CT. 3035 (1992). DEPORTATION PROCEEDINGS WERE BEGUN AGAINST TITTJUNG ON MAY 11, 1992, BECAUSE OF HIS PARTICIPATION IN NAZI PERSECUTION AND HIS MISREPRESENTATIONS OF HIS WARTIME ACTIVITIES TO GAIN ENTRY

CONFIDENTIAL
FOUO

INTO THE UNITED STATES. THE MATTER IS STILL IN LITIGATION BEFORE AN IMMIGRATION JUDGE. IF HE IS FOUND DEPORTABLE, HE MAY APPEAL TO THE BOARD OF IMMIGRATION APPEALS AND THEREAFTER TO THE FEDERAL COURTS.

THE UNITED STATES TAKES SPECIFIC ISSUE WITH A NUMBER OF STATEMENTS IN THE RELEVANT PETITIONS. IT IS NOT TRUE, FOR EXAMPLE. THAT TITTJUNG WAS NOT ASKED ABOUT HIS WARTIME SERVICE WHEN HE IMMIGRATED; UNREBUTTED DOCUMENTARY EVIDENCE SUBMITTED DURING THE DENATURALIZATION CASE PROVES THAT HE WAS. NOR IS IT ACCURATE TO DESCRIBE HIS WAFFEN-SS SERVICE WAS INVOLUNTARY; THE COURT.S OPINION IN THE DENATURALIZATION CASE CHARACTERIZED THE EVIDENCE AS PROVIDING "STRONG SUPPORT FOR THE GOVERNMENT'S POSITION

THAT TITTJUNG VOLUNTARILY JOINED THE WAFFEN-SS." TITTJUNG, 753 F. SUPP. AT 253 N. 2. HIS ACTIONS AS A CONCENTRATION CAMP GUARD WERE FOUND BY THE DENATURALIZATION COURT TO CONSTITUTE PARTICIPATION IN PERSECUTION. FINALLY, THE AUTHENTICITY OF A DUTY ROSTER SHOWING THAT TITTJUNG HAD SERVED AT MAUTHAUSEN WAS NOT QUESTIONABLE; ON THE CONTRARY, THE COURT FOUND IT CREDIBLE.

MORE GENERALLY THE UNITED STATES NOTES THAT IT IS MISLEADING TO STATE, AS SEVERAL PETITIONS DO, THAT OSI HAS BEEN UNSUCCESSFUL IN PROVING GUILT IN CRIMINAL TRIALS. THE OSI HAS NEVER PROSECUTED A CRIMINAL TRIAL; AS INDICATED ABOVE, ITS PROCEEDINGS ARE CIVIL IN NATURE. IT IS ALSO ERRONEOUS TO STATE THAT NO RULES OF EVIDENCE APPLY IN THESE CASES; IN FACT, THE FEDERAL RULES OF CIVIL PROCEDURE AND OF EVIDENCE APPLY IN ALL DENATURALIZATION CASES AND WERE APPLIED BY THE JUDGE IN THE DENATURALIZATION ACTIONS AGAINST TITTJUNG AND SCHIFFER.

WITH REGARD TO THE CLAIM THAT SOME DEFENDANTS HAVE BEEN UNLAWFULLY DENIED INCOME FROM SOCIAL SECURITY. THE UNITED STATES NOTES THAT SOCIAL SECURITY BENEFITS ARE TERMINATED PURSUANT TO STATUTE AND ONLY IN CASES OF NON-CITIZENS WHO ARE DEPORTED. UNDER SECTION 202(N)(3) OF THE SOCIAL SECURITY ACT. BENEFITS ARE TERMINATED WHEN A FINAL ORDER OF DEPORTATION HAS BEEN ISSUED BASED ON A CHARGE OF ASSISTANCE IN PERSECUTION ON ACCOUNT OF RACE, RELIGION, NATIONAL ORIGIN, OR POLITICAL OPINION, UNDER THE DIRECTION OF OR IN ASSOCIATION WITH THE NAZI GOVERNMENT. THIS IS JUST ONE OF A NUMBER OF DEPORTATION CHARGES THAT CAN RESULT IN TERMINATION OF SOCIAL SECURITY BENEFITS.

3. JOHANN BREYER

JOHANN BREYER WAS AN SS TOTENKOPF GUARD AT THE BUCHENWALD CONCENTRATION CAMP FROM FEBRUARY 1943 TO MAY 1944, WHEN HE WAS TRANSFERRED TO THE AUSCHWITZ DEATH CAMP, WHERE HE

CONFIDENTIAL
FOUO

REMAINED UNTIL AT LEAST AUGUST 1944.

DURING THE PERIOD OF HIS SERVICE AT BUCHENWALD, THOUSANDS OF PRISONERS WERE SUBJECTED TO CONFINEMENT, FORCED LABOR, MALNOURISHMENT AND STARVATION, EXPOSURE TO UNSANITARY CONDITIONS, CORPORAL PUNISHMENT, TORTURE AND THE CONSTANT THREAT OF EXECUTION. MANY PRISONERS DIED AS THE RESULT OF THESE CONDITIONS, AS WELL AS FROM PSEUDO-MEDICAL "EXPERIMENTATION" ON NON-VOLUNTEER PRISONER-SUBJECTS, HANGING, SHOOTING, INJECTION, BEATING AND OTHER MEANS OF KILLING. SIMILAR CONDITIONS PREVAILED AT AUSCHWITZ, WHERE

PRISONERS WHO WERE SPARED IMMEDIATE DEATH IN THE GAS CHAMBERS DIED SLOWLY FROM MALNUTRITION, EXHAUSTION DISEASE. AND OTHER CAUSES. ALTHOUGH BREYER CONTENDS THAT AT BOTH CAMPS HE WAS ONLY A PERIMETER GUARD, HE ADMITS THAT ENORMOUS NUMBERS OF PEOPLE DIED IN THE CAMPS DURING HIS SERVICE.

BREYER WAS ADMITTED TO THE UNITED STATES ON AN IMMIGRANT VISA IN 1952 AND HIS PETITION FOR NATURALIZATION WAS GRANTED IN 1957.

THE UNITED STATES INSTITUTED DENATURALIZATION PROCEEDINGS AGAINST BREYER IN APRIL 1992 BECAUSE OF HIS SERVICE AS AN SS TOTENKOPF GUARD AT BUCHENWALD AND AUSCHWITZ AND BECAUSE HE MISREPRESENTED AND CONCEALED THAT SERVICE WHEN HE APPLIED FOR A VISA UNDER THE DISPLACED PERSONS ACT AND WHEN APPLYING FOR NATURALIZATION. THE MATTER REMAINS IN ACTIVE LITIGATION BEFORE THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA; TRIAL IS NOW SCHEDULED TO BEGIN SEPTEMBER 7, 1993.

IF THE COURT FINDS THAT BREYER SHOULD BE DENATURALIZED, HE WILL BE ENTITLED TO APPEAL THAT DECISION TO THE COURT OF APPEALS AND ULTIMATELY TO SEEK REVIEW BY THE SUPREME COURT. SUBSEQUENT TO DENATURALIZATION, THE GOVERNMENT MAY INITIATE DEPORTATION PROCEEDINGS BEFORE AN IMMIGRATION JUDGE. IF THE IMMIGRATION JUDGE FINDS HIM DEPORTABLE, BREYER COULD APPEAL THAT DECISION TO THE BOARD OF IMMIGRATION APPEALS AND ULTIMATELY TO THE FEDERAL COURTS.

THE UNITED STATES TAKES SPECIFIC ISSUE WITH A NUMBER OF STATEMENTS IN THE RELEVANT PETITIONS. THE IMPLICATION THAT BREYER'S SERVICE AT BUCHENWALD AND AUSCHWITZ WAS NOT PARTICIPATION IN PERSECUTION IS INCORRECT, AS ARE THE STATEMENTS THAT HIS SERVICE WAS INVOLUNTARY AND THAT HE WOULD HAVE BEEN SHOT OR IMPRISONED FOR REFUSING TO SERVE. MOREOVER, THE GOVERNMENT DID NOT HAVE IN ITS POSSESSION DOCUMENTS REGARDING BREYER'S BUCHENWALD SERVICE AT THE TIME OF HIS IMMIGRATION OR HIS NATURALIZATION; IT DID

CONFIDENTIAL
FOUO

HOWEVER HAVE FALSE INFORMATION SUPPLIED BY BREYER TO THE EFFECT THAT HE SERVED WITH THE WIKING DIVISION ON THE EASTERN FRONT. THESE AND OTHER INCONSISTENCIES AND INACCURACIES WILL BE CONTESTED AT TRIAL. FINALLY, THE UNITED STATES EMPHATICALLY REJECTS THE CONTENTION THAT OSI HAS USED THE POSSIBILITY OF LITIGATION AGAINST A FAMILY MEMBER TO INFLUENCE A SETTLEMENT AGREEMENT; OSI HAS NEVER BROUGHT AND WILL NEVER BRING AN ACTION AGAINST A DEFENDANT'S FAMILY MEMBER BASED ON A DEFENDANT'S WAR-TIME ACTIVITIES.

IN CONCLUSION, THE GOVERNMENT OF THE UNITED STATES RENEWS ITS REQUEST THAT THE SUB-COMMISSION DECLARE THESE COMMUNICATIONS TO BE INADMISSIBLE FOR THE REASONS DISCUSSED ABOVE. END TEXT. CHRISTOPHER

ADMIN
END OF MESSAGE

CONFIDENTIAL

FOUO
CONFIDENTIAL