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OFFICE OF SPECIAL INVESTIGATIONS
U.S. Department of Justice
Criminal Division
Neal M. Sher, Director

DIGEST OF CASES

May 24, 1985

I. DENATURALIZATION CASES

1. GUDAUSKAS, VYTAUTAS

Case Pending: U.S. District Court for the District of
of Massachusetts; Civil No. 84-0215-F.

Date Filed: June 4, 1984.

Date and Place of Birth: April 22, 1918, Seredziai, Kaunas
District, Lithuania.

Entry Date: October 2, 1951, under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized December 10, 1975 by the
Superior Court of Massachusetts.

Summary of Allegation: Defendant was a member of the
Lithuanian Schutzmannschaft from the fall of 1941 to
approximately December 1943. As a member, he assisted in
the persecution of Jews and other civilians by detaining
and murdering unarmed civilians. Defendant concealed this
fact when applying for entry and naturalization.

Progress to Date: The complaint was filed on June 4, 1984.
Discovery is continuing. Joint motion to change venue
denied April 25, 1985.

2. JUODIS, JURGIS

Case Pending: U.S. District Court for the Middle District of Florida; Civil Action No. 81-1013-CIV-T-17.

Date Filed: October 26, 1981.

Date and Place of Birth: October 22, 1911, Kebliskia, Kaunas District, Lithuania.

Entry Date: July 21, 1949, under the Displaced Persons Act of 1948.

Immigration Status: Naturalized February 8, 1955 by the U.S. District Court, Eastern District of New York.

Summary of Allegation: During the Nazi occupation of Lithuania and Byelorussia, from 1941 until 1944, defendant served in an SS-controlled Lithuanian Auxiliary Police ("Schutzmannschaft") Battalion, in which he ultimately was commissioned as an Oberleutnant. While so serving, defendant personally commanded and participated in the assault, arrest, detention, and murder of unarmed Jews and other civilians in Lithuania and Byelorussia. Defendant subsequently concealed and misrepresented his wartime activities when applying for entry to the United States and later when applying for naturalization as a United States citizen.

Progress to Date: On June 17, 1982 the court denied defendant's motion to dismiss the complaint. Depositions in Scotland and Lithuania were conducted in August 1982. On January 5, 1983, the court denied the government's motion to compel discovery, holding that defendant has a fear of foreign prosecution and therefore may invoke a Fifth Amendment privilege against self-incrimination.

Discovery is continuing, and no trial date has yet been set.

3. KAIRYS, LIUDAS

Case Pending: U.S. District Court for the Northern
District of Illinois; Civil Action No. 80-C-4302.

Date Filed: August 13, 1980.

Date and Place of Birth: December 24, 1920, Svilionys,
Lithuania (disputed by defendant, who claims December 20,
1924 as his date of birth).

Entry Date: May 28, 1949, under the Displaced Persons Act
of 1948.

Immigration Status: Naturalized July 16, 1957, by the U.S.
District Court, Northern District of Illinois. Ordered
denaturalized December 28, 1984, in the same court.

Summary of Allegation: From 1942 to 1944, defendant served
with the SS auxiliary guard units (SS Wachmannschaft) at
Trawniki, Poland, the SS Commando Lublin, and the SS
forced labor camp in Treblinka, Poland, where thousands
of Jewish civilian prisoners were murdered by the SS
Wachmannschaft. Defendant personally assisted in the
persecution of unarmed Jewish civilians while serving at
Treblinka and in the SS Commando Lublin. Defendant
concealed his wartime activities and his true birthdate
when applying for entry and for naturalization.

Progress to Date: Trial commenced on June 14, 1982, and
concluded on July 7, 1982. A decision in favor of OSI was
rendered on December 28, 1984 revoking defendant's
citizenship. Kairys has appealed; the appellate argument
should take place in the summer.

4. KATIN, MATTHEW (a/k/a Katinauskas, Motiejus)

Case Pending: U.S. District Court for the District of
Massachusetts; Civil No. 84-3601.

Date Filed: November 9, 1984.

Date and Place of Birth: September 25, 1914 in
Taurakiemis, Kaunas, Lithuania.

Entry Date: August 22, 1949 under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized June 6, 1966 by the U.S.
District Court, Boston, Massachusetts.

Summary of Allegations: Defendant was a member of the
Lithuanian Schutzmannschaft from the summer of 1941
and served until late 1943. As a member, he assisted
in the persecution of Jews and other civilians by
detaining and murdering unarmed civilians. Defendant
concealed this fact when applying for entry and
naturalization.

Progress to Date: The complaint was filed on November 9,
1984. Discovery is continuing. Defendant's Motion for
Protective Order pending.

5. KLIMAVICIUS, JONAS

Case Pending: U.S. District Court for the District of
Maine; Civil No. 84-0108 P.

Date Filed: May 30, 1984.

Date and Place of Birth: August 29, 1907 in Marijampole,
Lithuania.

Entry Date: May 14, 1949 under the Displaced Persons Act
of 1948.

Immigration Status: Naturalized December 16, 1954 by the
U.S. District Court at Brooklyn, New York.

Summary of Allegation: Defendant was a member of the
Lithuanian Schutzmannschaft from the summer of 1941
to November 1941. As a member, he assisted in the
persecution of Jews and other civilians by detaining
and murdering unarmed civilians. Defendant concealed
this fact when applying for entry and naturalization.

Progress to Date: The complaint was filed on May 30, 1984.
Discovery is continuing.

6. KOWALCHUK, SERGEI

Case Pending: U.S. Court of Appeals for the Third Circuit;
Docket No. 83-1571.

Date Filed: January 13, 1977.

Date and Place of Birth: March 15, 1920, Kremianec,
Poland.

Entry Date: February 2, 1950, under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized November 30, 1960, by the
U.S. District Court, Eastern District of Pennsylvania.
Ordered denaturalized July 1, 1983 by the U.S. District
Court, Eastern District of Pennsylvania.

Summary of Allegation: Defendant served as a member of the
Nazi-controlled Ukrainian Police in Luboml, Poland, during
the years 1941 and 1942. While serving in this capacity,
defendant participated in the persecution of, and the
commission of crimes or atrocities against, Jewish
civilians. Defendant concealed these facts when applying
for entry and for naturalization.

Progress to Date: Depositions of six witnesses were taken
in Lutsk, U.S.S.R in January 1981. Trial was held in
Philadelphia on October 19-28 and December 11, 1981.
Post-trial arguments were heard on January 18, 1982. On
July 1, 1983 the U.S. District Court for the Eastern
District of Pennsylvania handed down judgment in favor of
OSI, ordering that defendant's citizenship be revoked
(Civil No. 77-118). The court ruled that Kowalchuk had
assisted the Nazis in persecuting civilians while
serving as a member of the Lubomyl Schutzmannschaft, and
that he had willfully misrepresented his wartime
activities for the purpose of obtaining his United States
immigration visa.

On August 3, 1983, defendant filed a notice of appeal
in the U.S. Court of Appeals for the Third Circuit.
Defendant's appeal brief was filed on November 22, 1983.
OSI filed its brief on January 4, 1984. The U.S. Court
of Appeals, concluding the government failed to prove its
charges against Kowalchuk by the requisite degree of
certainty, reversed the decision of the District Court
for the Eastern District of Pennsylvania, and directed the
matter be remanded with a direction that judgment be
entered in behalf of appellant.

An en banc review was requested by the government
and granted on November 1, 1984. The Court of Appeals
decision was vacated and the District Court's decision was
reinstated. A decision is currently pending before the
Third Circuit Court of Appeals, en banc.

7. KUNGYS, JUOZAS

Case Pending: U.S. Court of Appeals for the Third Circuit, Docket No. 83-5884.

Date Filed: July 22, 1981. (Civil Action No. 81-2305, U.S. District Court for the District of New Jersey.

Date and Place of Birth: September 21, 1915, Reistru, Silales, Lithuania.

Entry Date: April 29, 1948, under the Immigration Act of 1924, as amended.

Immigration Status: Naturalized February 3, 1954, by the U.S. District Court, District of New Jersey.

Summary of Allegation: Defendant, in association with the armed forces of Nazi Germany, participated in the killing of approximately one hundred civilians in or near the village of Babences (Babenus), Lithuania in July 1941. In July or August 1941, defendant led an armed group of men which forced the approximately 3,000 Jewish civilian inhabitants of Kedainiai, Lithuania, from their homes into a ghetto and then confiscated their property. Later that year, defendant organized, led and participated in the killing of some 2,000 unarmed civilian Jewish men, women, and children at a mass grave site near Kedainiai. Defendant subsequently misrepresented and concealed his wartime activities and other material facts when applying for entry and for naturalization.

Progress to Date: Defendant's answer to OSI's complaint was filed on October 2, 1981. On October 14, 1981, the district court denied defendant's motion for a protective order against the taking of depositions in Lithuania. Depositions taken in Lithuania were concluded in April 1982.

On January 24, 1983, the court denied defendant's motion to dismiss the complaint. Trial commenced in U.S. District for the District of New Jersey on April 5, 1983, and closed on June 14 after two recesses. A decision was issued in favor of the defendant on September 28, 1983. On November 7, 1983 defendant filed a motion for payment of attorney fees under the Equal Access to Justice Act. The district court denied defendant's motion on December 20, 1983.

On December 7, 1983, OSI filed a Notice of Appeal in the U.S. Court of Appeals for the Third Circuit. OSI's brief was filed in the Third Circuit on March 6, 1984, Brief for Appellee was filed on April 19, and OSI's Reply Brief was filed on May 7, 1984.

Oral argument, which was scheduled for 7/17/84, was proposed by the court on 6/26/84. As of 4/30/85 it has not been re-scheduled.

8. SCHUK, MYKOLA

Case Pending: U.S. District Court for the Eastern
District of Pennsylvania; Civil Action No. 83-0612.

Date Filed: February 8, 1983.

Date and Place of Birth: December 20, 1909, Stolin,
Poland.

Entry Date: November 10, 1947, under the Immigration and
Nationality Act of 1924.

Immigration Status: Naturalized November 14, 1951 by the
Common Pleas Court of Lehigh County at Allentown,
Pennsylvania.

Summary of Allegation: During the period 1941-1944,
defendant served in a Nazi-affiliated police force in the
Gorodischche District of the Ukraine. While serving in
that capacity, defendant participated in the beating and
killing of unarmed Jews and other civilians. When
applying for entry and for naturalization, defendant
misrepresented and concealed his wartime activities and
other material facts from U.S. authorities.

Progress to Date: Depositions in this case were conducted
in the Soviet Union during the month of July 1983. Pre-
trial discovery continues.

9. SOKOLOV, VLZDIMIR (a/k/a Vladimir Samarin)

Case Pending: U.S. District Court for the District of Connecticut; Civil Action No. 82-56.

Date Filed: January 27, 1982.

Date and Place of Birth: March 2, 1913, Orel, Russia.

Entry Date: June 27, 1951, under the Displaced Persons Act of 1948, as amended.

Immigration Status: Naturalized May 21, 1957, by the United States District Court, Eastern District of New York.

Summary of Allegation: From approximately December 1942 until August 1944, defendant was employed by propaganda units of the armed forces of Nazi Germany in Nazi-occupied areas of the Soviet Union as a writer, literary editor, and deputy editor of the Russian-language newspaper, Rech. In writings authored by defendant and published in Rech, he urged that all Jews be physically persecuted and completely annihilated and that Nazi rule be extended to the United States and throughout the world. From approximately August 1944 until April 1945, defendant was employed in Berlin, Germany, as a writer for the Nazi government-sponsored Russian-language newspaper, Vola Naroda. Defendant misrepresented and concealed all of the above facts when applying for entry and for naturalization.

Progress to Date: Defendant's answer to OSI's complaint was filed on March 29, 1982. OSI's motion to compel answers to interrogatories and to strike defendant's jury demand was granted on February 8, 1983. The defendant asserted the Fifth Amendment at his deposition, but the court ordered on June 1, 1984 that he must testify. Discovery closed at the end of July and we are awaiting a status hearing.

On April 17, 1985, at a status hearing, the case has been scheduled for trial in September 1985.

10. SPROGIS, ELMARS

Case Pending: U.S. Court of Appeals for the Second Circuit; Docket No. 84-6223.

Date Filed: June 23, 1982.

Date and Place of Birth: November 26, 1914 at Jaunjelgava, Latvia.

Entry Date: November 1950, under the Displaced Persons Act of 1948, as amended.

Immigration Status: Naturalized April 16, 1962 by the U.S. District Court, Southern District of New York.

Summary of Allegation: Sprogis served as Assistant Chief of Police of the city of Gulbene, Latvia in 1941, during which time the Latvian Police assisted the Nazis in murdering Jews and confiscating their property. Sprogis personally ordered and assisted in the murder and arrest of Jews and the confiscation of their property. Sprogis was later the Police Chief of Madona, Latvia, where he supervised and took part in the killing of Soviet prisoners of war. He also participated in punitive expedition in Byelorussia in which villages were burned and innocent villagers arrested or shot.

Progress to Date: The defendant's answer to OSI's complaint was received on August 23, 1982. Depositions were taken in Latvia from November 15-19. OSI filed a motion for summary judgment on December 13, 1982. The court denied this motion on January 31, 1983. Trial commenced on October 4, 1983 and was completed on October 11, 1983. Post-trial briefs were filed on November 10, 1983. Reply briefs were filed on November 17. On May 21, 1984 the court ruled for the defendant, holding that OSI did not prove its case by clear, convincing, and unequivocal evidence.

Appeal briefs were filed by both parties and oral argument was held November 19, 1984. A decision is pending.

11. VIRKUTIS, ANTANAS

Case Pending: U.S. District Court for the Northern
District of Illinois; Civil Action No. 83 C 1758.

Date Filed: March 14, 1983.

Date and Place of Birth: December 10, 1913, Uzliekne,
Mazeikiai, Lithuania.

Entry Date: May 18, 1949, under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized November 11, 1954 by
the U.S. District Court, Northern District of Illinois.

Summary of Allegation: As warden of the Siauliai Prison
at Siauliai, Lithuania from approximately September 1941
until January 1944, defendant accepted civilians,
including Jews and others, for incarceration by the
armed forces of Nazi Germany, and assisted in the
supervision of this incarceration, which included
physical abuse, starvation, and execution. While under
guard by individuals in defendant's command, hundreds of
Allied prisoners-of-war from the U.S.S.R. incarcerated
at Siauliai Prison died from mistreatment, starvation,
and exposure.

Defendant concealed and misrepresented his service
as warden of the Siauliai Prison when applying for entry
to the United States and later when applying for
naturalization as a United States citizen.

Progress to Date: On March 14, 1983, OSI filed its
complaint. Pro bono counsel was appointed on August 1.
Defendant's answer to the complaint was filed on
December 5, 1983. Defendant was deposed February 24
and March 22-23, 1984, and redeposed on July 24, 1984.
Soviet depositions were taken August 10-13, 1984. A
snowstorm of discovery has been and is taking place.
Discovery has been extended to at least the end of June
1985. A magistrate was appointed in February 1985 by the
district court to referee the discovery disputes.

II. DEPORTATION CASES

1. ARTUKOVIC, ANDRIJA

Case Pending: U.S. Court of Appeals for the Ninth Circuit; Docket No. 81-7415.

Date Filed: May 9, 1951.

Date and Place of Birth: November 29, 1899, Klobuk, Herzegovina (now Yugoslavia).

Entry Date: July 16, 1948 as temporary visitor for pleasure, under the Immigration and Nationality Act of 1924, under the name Alois Anich.

Immigration Status: Overstayed visitor; File No. A7 095 961.

Summary of Allegation: Defendant was Minister of the Interior and Minister of Justice of the Nazi "Independent State of Croatia." In that capacity, he signed decrees authorizing executions and persecution and had direct complicity in massacres of hundreds of thousands of Serbs, Jews, Gypsies, and others.

Progress to Date: An order of deportation has been outstanding against defendant since 1952. In 1953, the Board of Immigration Appeals upheld the order and specifically found that Artukovic was responsible for the mass persecution of Serbs, Jews, and others. In 1959, however, defendant was granted withholding of deportation, pursuant to §243(h) of the Immigration and Nationality Act of 1952, 8 U.S.C. §1253(h), upon a determination by an INS Special Inquiry Officer that defendant's deportation to Yugoslavia would subject him to "physical persecution." Efforts made during the 1950's to secure Artukovic's extradition to Yugoslavia were similarly unsuccessful.

In 1978, Congress amended Section 243(h) to make it unavailable to those who had taken part in persecution under the Nazi regimes of Europe (P.L. 95-549, 92 Stat. 2065). In October 1979, OSI moved to revoke the §243(h) order withholding deportation.

On July 1, 1981, the BIA decided in OSI's favor, revoking defendant's stay of deportation and ordering that he be deported. The Board specifically ruled that defendant had offered no new evidence sufficient to call into question the soundness of the BIA's 1953 determination that Artukovic had been a leader in the

Nazi puppet government in Croatia and that he had, in that capacity, participated in the persecution of Serbs, Jews, and others.

On July 1, 1981, defendant filed a petition with the U.S. Court of Appeals for the Ninth Circuit seeking a review of the decision of the Board of Immigration Appeals. Oral argument on the appeal was heard on January 4, 1982 in Los Angeles, California. On December 1, 1982, the Ninth Circuit ruled that the Government may not revoke Artukovic's stay of deportation without holding a new hearing at which it again proves his complicity in persecution. OSI's request for a rehearing was denied by the Ninth Circuit on March 21, 1983.

On February 6, 1984, OSI filed a motion to reopen the hearings before the Board of Immigration Appeals for the purpose of introducing evidence establishing that respondent's stay of deportation should be revoked. That motion was granted and a hearing is set for July 30, 1985.

On November 14, 1984, Artukovic was served with a demand for extradition by the Government of Yugoslavia for war crimes and the murder of civilians. He was taken into custody on November 14 and held without bond.

On May 1, 1985, following lengthy hearings on this extradition request, Artukovic was found extraditable for murder of several thousand civilians. He continues to be held in custody without bond pending action by the Secretary of State.

2. BENKUNSKAS, HENRIKAS

Case Pending: U.S. Immigration Court, Chicago, Illinois
File No. A7 340 910.

Date Filed: March 25, 1984.

Date and Place of Birth: April 5, 1920, Kaunas, Lithuania.

Entry Date: November 30, 1949 under the Displaced Persons
Act of 1948, as amended.

Immigration Status: Permanent resident alien.

Summary of Allegation: Respondent, while serving in the
Lithuanian Schutzmannschaft, participated in the
guarding and shooting of Lithuanian Jews in Kaunas,
Lithuania during the period July 1941 to October 1941.
Also, on or about October 6, 1941, while a member of the
Lithuanian SS, he detained and murdered unarmed Jews,
other civilians and Soviet prisoners of war in the
Minsk-Borisov-Slutsk area. Respondent willfully
misrepresented and concealed material facts to the
Displaced Persons commission relating to his residence
and employment in order to gain admission into the
United States.

Progress to Date: The Order to Show cause was served on
the respondent on March 25, 1984. Defendant's appeals of
pre-trial motion decisions pending.

3. BERNOTAS, ANTANAS

Case Pending: U.S. Immigration Court, Hartford,
Connecticut; File No. A7 255 565.

Date Filed: July 8, 1983.

Date and Place of Birth: January 2, 1908, Spadziai,
Siauliai, Lithuania.

Entry Date: August 7, 1949, under the Displaced Persons
Act of 1948.

Immigration Status: Permanent resident alien.

Summary of Allegation: Respondent, while serving between
1941 and 1944 as a wartime officer of the Lithuanian
Security Police at Siauliai, participated in the arrest,
confinement, forced labor, beating and/or killing of Jews
and suspected anti-Nazi political activists. Bernotas
willfully misrepresented his wartime activities to the
International Refugee Organization and the U.S.
Displaced Persons Commission in order to gain admission
into the United States.

Progress to Date: The Order to Show Cause was served on
the respondent on July 8, 1983. At a pre-hearing
conference on October 18, 1983, the government applied
for, and was granted, permission to conduct videotaped
depositions in the U.S.S.R. in the spring of 1984. The
depositions subsequently had to be postponed and they have
been rescheduled to commence on February 26, 1985.

Deposition held on February 28, 1985 in Vilnius,
Lithuania. No trial date has been scheduled as yet.

4. DEMJANJUK, JOHN

Case Pending: U.S. Immigration Court, Cleveland, Ohio;
File No. A8 237 417

Date Filed: August 25, 1977 (denaturalization); July 2,
1982 (deportation).

Date and Place of Birth: April 3, 1920, Dub Macharenzi
Ukraine.

Entry Date: February 9, 1952, under the Displaced Persons
Act of 1948, as amended.

Immigration Status: Naturalized November 14, 1958, by the
U.S. District Court, N.D. Ohio. Ordered denaturalized,
by the same court, on June 23, 1981.

Summary of Allegation: Defendant, while employed as a
uniformed guard with the German SS at the Nazi death
camps at Sobibor and Treblinka, Poland in 1942 and 1943,
assisted in the annihilation of thousands of Jewish
civilians. Defendant operated the gas chambers at
Treblinka and abused and persecuted Jewish prisoners.
Defendant misrepresented his background in applying for
entry and for naturalization.

Progress to Date: Trial was held in February and March
of 1981 before the U.S. District Court for the Northern
District of Ohio, in Cleveland (Civil Action No. C77-923).
On June 23, 1981, the court entered judgment for OSI,
revoking defendant's United States citizenship on the
grounds that it had been procured both illegally and by
willful misrepresentation of material facts. The court
found that defendant, when applying for entry and for
naturalization, had failed to disclose his wartime
service under the German SS at both the SS Training
Camp at Trawniki, Poland and the Treblinka death camp.
The court specifically concluded that the six eyewitness
identifications of defendant as a notorious guard who
operated the gas chambers at Treblinka were reliable.

On June 8, 1982, the Court of Appeals for the
Sixth Circuit affirmed the decision of the district court
(Docket No. 81-3415). A deportation action was filed on
July 2, 1982. On July 12, 1982, Demjanjuk failed to
appear for a hearing and a warrant was issued for his
arrest. OSI investigators located Demjanjuk and took
him into custody on July 14 and he remained incarcerated
until August 2, 1982, when he was released by the Board
of Immigration Appeals pending the filing of a petition
for certiorari with the U.S. Supreme Court.

Demjanjuk's petition for writ of certiorari to the Supreme Court was denied on November 29, 1982. (Docket No. 82-414). Deportation proceedings, originally scheduled to begin on January 10, 1983, were rescheduled for April 1983.

The government presented its case against defendant in Immigration Court in Cleveland, Ohio on April 11, 1983. On May 12, the defendant declined to designate a country to which he would be expelled if found deportable. The government thereupon named the Soviet Union as the desired site for Demjanjuk's deportation. Following these preliminaries, the defense informed the Immigration Court that it was unprepared to file its response to the government's pre-trial brief and to complete its own case. At that point, the Immigration Court recessed the proceedings until late summer 1983. Defendant's brief was received and rebutted by the government during mid to late summer 1983.

The defense presented its case on October 6, 1983, and January 16, 1984. The hearing resumed on February 6, 1984. On May 29, 1984, the Immigration Court denied Demjanjuk's application for asylum in the United States and ordered him deported to the Soviet Union. Demjanjuk's attorney filed a Notice of Appeal to the Board of Immigration Appeals on June 1, 1984. The issues were heard by the Board on December 12, 1984.

On February 14, 1985, the Board of Immigration Appeals unanimously affirmed Demjanjuk's deportability to the Soviet Union. Demjanjuk has petitioned the U.S. Court of Appeals for the Sixth Circuit to review the Board's decision.

Meanwhile, on April 15, 1985, the U.S. District Court in Cleveland, Ohio found Demjanjuk extraditable to Israel for trial on the charge of murdering Jews at Treblinka. The District Court's decision followed a hearing on Israel's request for Demjanjuk's extradition, which was made on the basis of Israel's extradition treaty with the United States.

Demjanjuk is currently in custody, and has petitioned for a writ of habeas corpus in order to undue the District Court's finding of extraditability.

5. KAMINSKAS, BRONIUS

Case Pending: U.S. Immigration Court, Hartford,
Connecticut; File No. A6 659 477.

Date Filed: October 13, 1976.

Date and Place of Birth: October 15, 1903, Kraziai,
Lithuania.

Entry Date: May 7, 1947, under the Act of May 22, 1918,
as amended.

Immigration Status: Resident alien.

Summary of Allegation: Defendant participated in the
shooting of approximately 200 Jews in Lithuania in
August, 1941 and in the selection of approximately 400
Jews for execution at another location in July/August
of 1941.

Progress to Date: Defendant was examined by a government-
appointed doctor, who concluded that defendant's ill
health precluded his participation in deportation
proceedings. The defense moved to dismiss the case on
the grounds of defendant's incompetency, and OSI moved
to adjourn indefinitely with periodic monitoring of
defendant's condition. On January 30, 1981, OSI and the
defendant stipulated that the case be adjourned sine
die, and that the defendant would submit to periodic
mental and physical examinations to determine his
fitness to stand trial. On November 25, 1981, and
again on November 22, 1982, a government-appointed
doctor found Kaminskas unable to stand trial.

As of May 16, 1985, no change in status of case.

6. KOZIY, BOHDAN

Case Pending: U.S. Court of Appeals for the Eleventh Circuit; Docket No. 79-6640-CIV-JCP.

Date Filed: October 20, 1979.

Date and Place of Birth: February 23, 1923, Pukasiwci, Ukraine.

Entry Date: December 17, 1949, under the Displaced Persons Act of 1948.

Immigration Status: Naturalized February 9, 1956 by the Supreme Court, State of New York, at Utica. Ordered denaturalized March 29, 1982, by the U.S. District Court, Southern District of Florida.

Summary of Allegation: During the period 1942-1944, defendant served as a Ukrainian policeman stationed in Lysiec, Ukraine, and participated in the murders of unarmed civilians. He concealed these facts when applying for entry and naturalization.

Progress to Date: Depositions were taken in Poland in January 1981, and additional depositions were taken in the Soviet Union in March. Trial in this case commenced on September 15, 1981 and ended October 2. A decision in favor of OSI was rendered on March 29, 1982 revoking defendant's citizenship.

Defendant filed post-trial motions for a new trial, to vacate the decision of the court, and to amend the court's decision. All were denied. On June 10, 1982, defendant filed a notice of appeal in the U.S. Court of Appeals for the Eleventh Circuit. Defendant's appeal brief was filed on January 5, 1983. OSI's brief was filed on February 25. On March 23, defendant filed a reply brief. The Eleventh Circuit heard oral argument on October 25, 1983. On November 2, 1983, defendant filed a motion for review which was denied by the Court on November 9, 1983. On February 27, 1984 the Court of Appeals of the 11th Circuit unanimously affirmed the decision of the U.S. District Court in all respects. Defendant's Petition for Rehearing to the 11th Circuit (filed March 21, 1984) was denied April 2, 1984.

On June 14, 1984, the District Court awarded to the government almost \$19,000 in costs to be paid by defendant. The Supreme Court denied his petition for Writ on October 1, 1984.

The Order to Show Cause, which was pending the outcome of the appeal since October 1982, was heard

March 18, 1985. Defendant failed to appear. A decision and Order of Deportation to the USSR was filed April 9, 1985. Koziy did not appeal, but is currently a fugitive. A warrant for his arrest was issued on March 18.

7. KULLE, REINHOLD

Case Pending: U.S. Immigration Court, Chicago,
Illinois; File No. A10 857 195.

Date Filed: December 3, 1982.

Date and Place of Birth: March 5, 1921, Jungfernsee,
Silesia, Germany (now a part of Poland).

Entry Date: November 7, 1957, under the Immigration and
Nationality Act of 1952.

Immigration Status: Resident alien (citizen of Germany)

Summary of Allegation: From approximately August 1942
until January 1945, defendant serve as an armed guard,
guard leader, and SS instructor with the SS Death's
Head Battalion at the Gross-Rosen Concentration Camp.
In that capacity, defendant participated in the
persecution of prisoners, including Russians, Poles,
Jews, and Jehovah's Witnesses. Defendant's duties
included the armed supervision of the slave labor squads
at Gross-Rosen.

Defendant willfully concealed his service in the
Waffen-SS from U.S. authorities when applying for his
immigration visa in 1957.

Progress to Date: At a preliminary hearing held in
U.S. Immigration Court in Chicago on January 17, 1983,
defendant formally answered the government's allegations
and charges.

Kulle admitted to serving in the SS during World
War II and specifically to working as a guard and guard
leader with the SS Death's Head Battalion at or near the
Gross-Rosen Concentration Camp. However, he denied that
his wartime activities constituted grounds for
deportation from the United States.

Defendant's motion to dismiss the case against him
was denied by the immigration judge, as was his request
for an indefinite delay in proceedings. Trial commenced
on August 10, 1983 at the U.S. Immigration Court in
Chicago. Defendant's defense began on November 15, 1983,
and was completed the following day. Both parties' briefs
were filed in March 1984.

On November 20, 1984, the Immigration Court ordered
Kulle's deportation to West Germany on the grounds that
he had participated in the persecution of concentration
camp prisoners because of race, religion, national origin,
or political opinion. Kulle appealed the Court's decision

to the Board of Immigration Appeals, where the case has been briefed and orally argued by both sides. The Board's decision in the case is pending.

8. LAIPENIEKS, EDGARS

Case Pending: U.S. Court of Appeals for the Ninth Circuit; Docket No. 83-7711.

Date Filed: June 2, 1981.

Date and Place of Birth: June 25, 1913, Rucava, Latvia.

Entry Date: March 9, 1960, under the Immigration and Nationality Act of 1952, as amended.

Immigration Status: Permanent resident (citizen of Chile).

Summary of Allegation: Between July 1941 and August 1943, during which time Latvia was under the occupation and occupation and control of Nazi Germany, defendant voluntarily served in the Nazi-affiliated Latvian Security Police. While assigned to duty at the Riga Prefecture and at the Riga Central Prison in Riga, Latvia, defendant participated in the persecution of civilians because of their race, religion, national origin, or political opinion; such conduct included participation in the beating and killing of unarmed inmates. Defendant was arrested in 1946 by French military authorities in Austria in connection with these activities. He concealed and misrepresented all of the above facts when applying for entry into the United States.

Progress to Date: On June 2, 1981, OSI commenced legal proceedings before the U.S. Immigration Court in San Diego, California seeking Laipenieks' deportation from the United States. (File No. A11 937 435). Depositions were taken in Latvia in November-December 1981. Deportation hearings were held in San Diego from January 26 to February 18, 1982. During these hearings, Laipenieks admitted that he had served in the Latvian Security Police and that he had beaten prisoners during interrogations at the Riga Central Prison. On June 9, 1982, the Immigration Court in San Diego found in favor of the defendant and ruled him not to be deportable. On June 17, 1982, OSI appealed the Immigration Court's decision to the Board of Immigration Appeals. OSI filed its brief on September 8; Laipenieks filed his brief on January 3, 1983. Oral argument before the Board of Immigration Appeals was heard on January 19, 1983. On September 8, 1983 the Board, by unanimous decision, reversed the judgment of the Immigration Court, and ordered Edgars Laipenieks deported to Chile (his country of naturalized citizenship). In ordering Laipenieks deported, the Board ruled that he had participated in the political persecution of persons in Riga during World War II while serving in the Nazi-controlled Latvian Political Police.

On September 19, 1983, Laipenieks filed an appeal from his order of deportation with the U.S. Court of Appeals for the Ninth Circuit. Laipenieks filed his appeal brief on December 28, 1983. The government's brief was filed February 27, 1984. Oral arguments were heard on May 9, 1984. The decision is pending.

In January 1985, by a two-to-one vote, a panel of the Ninth Circuit reversed the Board of Immigration Appeals and ruled that Laipenieks was not deportable. The Government has petitioned the Circuit Court for a rehearing of the case by all of its members. The Court is now considering the Government's request.

9. LEHMANN, ALEXANDER

Case Pending: U.S. Immigration Court, Cleveland, Ohio;
File No. A11 218 851.

Date Filed: November 23, 1981.

Date and Place of Birth: July 21, 1919, Zaporozhe,
Ukraine.

Entry Date: February 15, 1957, under the Refugee Relief
Act of 1953.

Immigration Status: Permanent resident (citizen of
Germany). Ordered deported on February 27, 1984 by the
U.S. Immigration Court, Cleveland, Ohio.

Summary of Allegation: From the fall of 1941 until
October 1943, defendant, while serving as Deputy
Chief of the First Section of the Ukrainian Police
at Zaporozhe, Ukraine, personally ordered and assisted
in the persecution and killing of hundreds of unarmed
Jewish civilians in and around Zaporozhe. Defendant's
wartime activities included his ordering, directing,
and participating in the mass execution by rifle fire of
between 300 and 350 Jewish men, women, and children in
the spring of 1942 at a trench near the Baranov Stadium
in Zaporozhe. Defendant concealed and misrepresented
all of these facts when applying for entry into the
United States.

Progress to Date: On November 23, 1981, OSI commenced
legal proceedings seeking Lehmann's deportation from the
United States. On December 9, 1981, a preliminary
hearing was held in Immigration Court in Cleveland on
OSI's Order to Show Cause. The government's motion to
permit the taking of depositions in the Ukraine was
granted. These depositions took place in July and
August 1982.

The deportation hearing began on October 24, 1983.
Lehmann entered into a written agreement with OSI thus
admitting his membership in the Ukrainian Police.
On February 27, 1984, the Immigration Court ordered that
Lehmann be deported to the Federal Republic of Germany.
Lehmann filed a request that his deportation be
postponed or barred because of ill health. A medical
examination determined that he was in ill health and
Lehmann's deportation has been postponed. Lehmann has
been re-examined. We are awaiting results of examination.

10. LINNAS, KARL

Case Pending: Board of Immigration Appeals, File No. A8 085 626.

Date Filed: June 25, 1982 (deportation); November 29, 1979 (denaturalization).

Date and Place of Birth: August 6, 1919, Tartu, Estonia.

Entry Date: August 17, 1951, under the Displaced Persons Act of 1948, as amended.

Immigration Status: Naturalized February 5, 1960 by the Supreme Court of New York at Suffolk County. Ordered denaturalized by U.S. District Court, E.D.N.Y., on July 30, 1981.

Summary of Allegations: Defendant commanded or was a member of the security forces of a concentration camp at Tartu, Estonia from 1941 to 1943, where he supervised and participated in the physical abuse and execution of civilian prisoners. He misrepresented his activities during this period when applying for entry to the United States and later when applying for naturalization as a United States citizen.

Progress to Date: Depositions were taken in Estonia in March-April 1981. Trial was held in Westbury, Long Island before the U.S. District Court for the Eastern District of New York in June 1981 (Civil Action No. 79 C 2966). On July 30, 1981, the court entered judgment in favor of OSI and ordered that defendant's citizenship be revoked. The court found that defendant had taken an active role in atrocities committed against men, women, and children at the concentration camp at Tartu and had subsequently procured his citizenship both illegally and by willful misrepresentation of material facts.

Defendant appealed the decision to the U.S. Court of Appeals for the Second Circuit (Docket No. 81-6165), and on January 25, 1982, the Court of Appeals unanimously affirmed the decision of the district court stripping Karl Linnas of U.S. citizenship.

On June 25, 1982, OSI filed deportation charges against Linnas. The U.S. Supreme Court denied Linnas' petition for writ of certiorari on October 4, 1982 (Docket No. 81-2336). Deportation proceedings were conducted on December 2, 1982 and January 17, 1983. A

decision to deport Linnas was rendered by the U.S. Immigration Court in New York City on May 19, 1983. The Respondent appealed to the Board of Immigration Appeals on July 8, 1983. Both the Government and Respondent filed appellate briefs with the Board and oral argument on the case was held before the Board of Immigration Appeals in September 1983. The Board rendered its decision on July 31, 1984. Linnas was found to be deportable for war crimes but the Board ordered the case "remanded to the immigration judge so that he may consider the implications of the United States' refusal to recognize the Soviet annexation of Estonia, designate a country of deportation pursuant to the appropriate provisions of section 243(a) of the Act, 8 U.S.C. 1253(a), and articulate the statutory basis for selecting whichever country is designated."

The Government applied for an order to deport Linnas to the U.S.S.R. on December 27, 1984. The immigration judge issued an order for Linnas to be deported to the U.S.S.R. on April 10, 1985. Appeal was taken to the Board of Immigration Appeals on April 17, 1985.

11. MAIKOVSKIS, BOLESLAVS

Case Pending: Board of Immigration Appeals; File No.
A8 194 566.

Date Filed: December 20, 1976.

Date and Place of Birth: January 21, 1904, Mesteri,
Rezekne District, Latvia.

Entry Date: December 22, 1951, under the Displaced
Persons Act of 1948, as amended.

Immigration Status: Permanent resident.

Summary of Allegation: During World War II, defendant was employed as chief of the Second Police Precinct in Rezekne, Latvia. As chief of police, defendant participated in assaults upon and murders of Jewish and other Latvian civilians, including arrests and execution of the inhabitants of Audrini, Latvia, and the burning of the village. Defendant also ordered the rounding-up of all Gypsies in his police precinct.

Progress to Date: Deportation hearings were held in October and December of 1977 before the U. S. Immigration Court in New York City. In April, 1978, the government sought an order from the Immigration Court permitting the taking of depositions of witnesses in Latvia. The Immigration Judge denied the government's motion, holding that fair depositions could not be taken in the U.S.S.R. OSI appealed this ruling to the Board of Immigration Appeals. On January 9, 1981, the BIA reversed the Immigration Judge's decision, holding that depositions may be taken in Soviet territories, and that their admissibility, and the evidentiary weight to be given them are to be determined by the Immigration Judge after they are taken.

Depositions were taken in Latvia in May 1981. Hearings resumed at the Immigration Court in Manhattan on July 20, 1981. The government completed the presentation of its case during that week. Defendant's presentation was completed on July 12, 1982. The U.S. Immigration Court in New York City held on July 30, 1983 that Maikovskis was not deportable. The Court found that Maikovskis had indeed participated in the mass arrest of the residents of Audrini and in the burning of their village. The Court also found that he had concealed his police employment in order to procure a U.S. immigration visa. However, the Court ruled that Maikovskis' participation in persecution had not been

adequately proved, and that his concealment had not been "material."

The government's appeal brief was filed with the Board of Immigration Appeals on August 18, 1983. Maikovskis filed his brief on October 21, 1983. Oral argument was held before the Board on January 31, 1984. On August 14, 1984, Maikovskis was ordered deported for having assisted in persecution and being about his police service.

Maikovskis appealed to the U.S. Court of Appeals 2nd Circuit, on October 11, 1984. Both sides filed briefs and oral argument was heard on March 4, 1985. A decision is pending.

12. ~~P~~ALCIAUSKAS, KAZYS

Case Pending: U.S. Immigration Court, Atlanta, Georgia;
File No. A7 149 053 (C7 400 934)

Date Filed: June 15, 1981 (Civil Action No. Civ-81-547-T-GC,
U.S. District Court for the Middle District, of Florida).

Date and Place of Birth: September 11, 1907, Zagare,
Siauliai, Lithuania.

Entry Date: April 19, 1949, under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized November 11, 1954, by the
U.S. District Court, Northern District of Illinois.
Ordered denaturalized on March 23, 1983 by the U.S.
District Court, Middle District of Florida.

Summary of Allegation: On June 25, 1941, German armed
forces occupied Kaunas (Kovno), the capital city of
Lithuania. From approximately that date until May 1,
1942, defendant served the Nazis as mayor of Kaunas.
While serving in that position, defendant assisted the
Nazis in persecuting civilians by ordering the internment
of the Jewish population of Kaunas (more than 20,000
persons) in a ghetto under inhumane conditions. In his
capacity as mayor, defendant promulgated orders
regulating the lives and activities of the Jewish
population. One such order required all Jews to wear a
conspicuous yellow Star of David symbol on their chests.
Defendant also was responsible for the confiscation of
Jewish-owned homes and the collection and counting of
Jewish-owned valuables. These homes and possessions
were then turned over to the German authorities and to
others. Defendant concealed and misrepresented these
facts when applying for entry and for naturalization.

Progress to Date: Trial commenced on December 6, 1982,
and concluded on December 10. On March 23, 1983 the
court entered judgment in favor of OSI and ordered that
defendant's citizenship be revoked. The court found that
the defendant's citizenship had been illegally procured
and procured by concealment of material facts and by
willful misrepresentation of his wartime service as
mayor of Kaunas under Nazi occupation.

The defendant filed a notice of appeal on May 19,
1983 in the U.S. Court of Appeals for the Eleventh
Circuit. Defendant submitted his appeal brief on
September 23, 1983. The government submitted its brief
on November 4, 1983. Oral argument was held on April 23,
1984. The Court of Appeals affirmed the decision on June
18, 1984 citing the same reasons as the district court.

On September 28, 1984, OSI commenced deportation proceedings against Palciauskas in the U.S. Immigration Court in Tampa, Florida. Trial is scheduled for February 18, 1985.

On December 28, 1985, the Immigration Judge advised that because he had been assigned 90 Cuban (Marielias) cases on an emergency basis, the Palciauskas case would be postponed for at least two months (until at least April 18, 1986).

As of April 30, 1986, no date for trial has been set.

13. PASKEVICIUS, MECIS (a/k/a Mike Pasker)

Case Pending: U.S. Immigration Court, Miami, Florida;
File No. A7 497 596.

Date Filed: June 24, 1980 (deportation); January 17, 1977
(denaturalization).

Date and Place of Birth: September 26, 1901, Ukmerge,
Lithuania.

Entry Date: June 15, 1950, under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized September 4, 1962, by
the U.S. District Court, Central District of California.
Denaturalized by the same court, pursuant to a consent
judgment, on August 23, 1979.

Summary of Allegation: While serving in the Lithuanian
Security Police from 1941 to 1944, defendant
participated in the murder, beating and extermination of
Jews and other Lithuanian and Russian civilians.

Progress to Date: A complaint seeking the revocation of
defendant's citizenship was filed by the government on
January 17, 1977. Defendant subsequently consented to
judgement revoking his citizenship, and on August 23,
1979, the U.S. District Court for the Central District
of California (Los Angeles) revoked the defendant's
citizenship. In consenting to this judgment, defendant
stipulated that he willfully and intentionally
misrepresented facts to U.S. officials concerning his
service as a member of the Lithuanian Security Police
from 1941 to 1944.

On June 24, 1980, OSI filed an Order to Show
Cause seeking defendant's deportation. The Immigration
Judge ordered that physical and mental examinations of
the defendant be conducted by a court-appointed doctor
to determine if defendant is competent to stand trial.
The court based this determination on the report of
the court-appointed doctor, on other submitted medical
reports, and on the court's own observations of the
defendant on two occasions in court. The matter was
thereupon adjourned sine die. However, defendant must
submit to periodic mental and physical examinations to
monitor his fitness to stand trial. He was re-examined
on November 22, 1982 and was found still unable to
stand trial. Defendant was re-examined in mid 1984.

On October 11, 1984 he was re-examined and was found
still unable to stand trial.

14. SCHELLONG, CONRAD

Case Pending: U.S. Immigration Court, Chicago, Illinois;
File No. A10 695 922.

Date Filed: March 17, 1981 (denaturalization);
December 8, 1983 (deportation).

Date and Place of Birth: February 7, 1910, Dresden,
Germany.

Entry Date: February 23, 1957, under the Immigration and
Nationality Act of 1952.

Immigration Status: Naturalized July 17, 1962, by the
U.S. District Court, N.D. Illinois. Denaturalized
September 7, 1982, by the same court, following trial.

Summary of Allegation: During the years 1934-1940,
defendant served in various Schutzstaffel ("SS")
guard companies at the Sachsenburg and Dachau
concentration camps in Germany. Defendant served
first as a guard and later as company commander of
these units. Defendant's duties at both camps included
the guarding of thousands of civilians interned there by
the Nazis because of their race, religion, or political
beliefs. At Dachau, where defendant rose to the rank of
SS-Hauptsturmführer (Captain), he was responsible
for the training of new SS recruits for concentration
camp guard duty. When applying for entry into the
United States, defendant concealed his activities
during that period at Sachsenburg and Dachau. When
later applying for naturalization, defendant falsely
swore that he had never served in a concentration
camp. Defendant also concealed the fact that, from June
through November, 1932, he had been a member of the
Sturmabteilung ("SA"), a paramilitary unit of the
German Nazi Party.

Progress to Date: Trial commenced before the U.S.
District Court for the Northern District of Illinois
on May 25, 1982 and concluded on June 4 (Civil Action
No. 81 C 1478). On September 7, 1982, the court handed
down judgement in favor of OSI, ruling that Schellong
had concealed his service at Dachau and Sachsenburg, and
revoking his citizenship. On October 6, the court
denied the defendant's motion for reconsideration and
new trial. Defendant filed a notice of appeal on
December 3, 1982. Oral argument in the Seventh Circuit
Court of Appeals was heard on May 11, 1983 (Docket
No. 82-2948). On August 24, 1983, the court of appeals
issued a unanimous decision in favor of the government.

On December 8, 1983, OSI filed deportation charges against Schellong. The U.S. Supreme Court denied Schellong's petition for writ of certiorari on January 23, 1984. Deportation proceedings were held in U.S. Immigration Court in Chicago on March 5, 1984. On July 26, 1984, a decision was rendered ordering that Schellong is deportable. A decision regarding discretionary relief and final orders deporting Schellong was issued on September 5, 1984.

Respondent filed a notice of appeal to the Board of Immigration Appeals on September 14, 1984. Appellant's brief was filed November 1, Brief of Appellee was filed December 28, and Appellant's response brief is due on January 28, 1985.

Oral argument was held on April 22, 1985 before the Board of Immigration Appeals. Decision reversed.

15. THEODOROVICH, GEORGE

Case Pending: U.S. Immigration Court, Baltimore, Md.
File No. A6 871 262 and U.S. Court of Appeals for the
D.C. Circuit, Case No. 84-5606

Date Filed: August 12, 1983.

Date and Place of Birth: April 30, 1922, Szuparka,
Poland.

Immigration Status: Naturalized June 16, 1960 by the
Supreme Court of New York at Albany, New York. Ordered
denaturalized by the U.S. District Court for the
District of Columbia on January 31, 1984.

Summary of Allegations: During the German occupation of
the Ukraine in World War II, defendant served as a
member of the Nazi-sponsored Ukrainian police force in
L'vov, Ukraine. In August 1942, in association with the
armed forces of Nazi Germany, defendant participated in
the persecution and murder of unarmed Jewish civilians
in L'vov.

Progress to Date: OSI filed its complaint on August 12,
1983. Defendant's answer was filed on October 19, 1983.
In that answer, defendant admitted that he had been "a
candidate for police school in L'vov in 1942."

On December 1, 1983, the defendant failed to appear
for a duly noticed deposition. On December 15, the
court ordered Theodorovich to appear and be deposed on
December 28. Despite the court's order, the defendant
again failed to appear for a deposition. On
January 10, 1984, OSI filed a motion for sanctions under
Rule 37 of the Federal Rules of Civil Procedure which
gives the court authority to render judgment against a
disobedient party.

On January 27, 1984, the district court, acting
on OSI's motion for sanctions, granted judgment in
favor of the government and stripped Theodorovich of
his U.S. citizenship on January 31, 1984.

The Order to Show Cause was served on respondent
on April 9, 1984. A hearing was held on May 17.
Respondent's new counsel filed a motion for Relief
from Default Judgment on May 23 in District Court. That
motion was denied on August 2. Respondent's counsel
promptly appealed the District Court's denial of his
motion for relief to the U.S. Court of Appeals for the
D.C. Circuit. Respondent's counsel then filed a motion
for stay of judgment pending appeal in the District

Court and in the Court of Appeals. Respondent's motions were denied by both courts.

The deportation hearing began in Immigration Court in Baltimore, Md. on March 4, 1985 and concluded on March 14. OSI filed its brief on May 15; respondent's brief is due June 15.

On April 26, 1985, the Court of Appeals heard oral argument on respondent's appeal of the denial of his motion relief. A decision by the Court of Appeals is pending.

III. CASES NO LONGER ACTIVE

1. ARTISHENKO, BASIL

Case Filed: U.S. Court for the District of New Jersey;
Civil No. 82-3822 (J.W.B.).

Date Filed: November 12, 1982.

Date and Place of Birth: April 3, 1923, Klivy, Choiniki
Region, Gomel Province, Byelorussian Soviet Socialist
Republic.

Entry Date: December 13, 1949, under the Displaced Persons
Act of 1948.

Immigration History: Naturalized November 17, 1954 by the
County Court of Middlesex County, New Brunswick, New
Jersey.

Summary of Allegation: During the Nazi occupation of the
Choiniki Region, Gomel Province, Byelorussia, defendant
served as a member of the Zagal'skaya Village Police
Force which was headquartered in the Village of Zagale,
Byelorussia and was incorporated into the Choiniki
Regional Police Force. While so serving, defendant
personally participated in the execution and persecution
of unarmed Gypsies and other civilians, including women
and children, residing in Omen'kovschina, Dubrovka,
Mikhalevo and Gnoyev, Byelorussia. Defendant
subsequently concealed and misrepresented his wartime
activities when applying for entry to the United States
and later when applying for naturalization as a United
States citizen.

Litigation History: OSI filed its complaint on November 12,
1982. Defendant was served November 15, 1982. The
deposition of the defendant was conducted on January 13,
1983. Defendant's answer was served on February 3, 1983.
Interrogatories and responses thereto have been served by
between June 20 and June 30, 1983.

On October 11, 1984, an agreement was entered into
between the United States Department of Justice and
Artishenko. Pursuant to that agreement, Artishenko has
surrendered his Certificate of Naturalization. In return
for his cooperation and testimony in other investigations,
the United States agreed not to commence deportation
proceedings.

2. AVDZEJ, JOHN

John Avdzej relinquished his United States citizenship on March 2, 1984, and permanently departed the United States in accordance with an agreement he signed with the Office of Special Investigations.

Under the terms of the January 5, 1984 Agreement, Avdzej was required to leave the United States permanently by February 28, 1984. In exchange for Avdzej's permanent departure from the United States and his renunciation of citizenship, the Government agreed to refrain from taking legal action against Avdzej charging that he was subject to revocation of citizenship and deportation because of his activities in Nazi occupied Byelorussia during the Second World War.

Avdzej and his attorney had been apprised of the Justice Department's allegations that while serving as the Nazi installed "Rayonburgermeister" (Regional Mayor) of Stolpce Rayon, Byelorussia, he participated in the persecution of unarmed Jewish and Polish civilians. These allegations included Avdzej's participation in the registration of the Jewish inhabitants and their internment under inhumane conditions in ghettos. In the Agreement, Avdzej admitted that during the period he served as Regional Mayor, virtually all of the Jews of Stolpce Rayon were murdered, as were many Polish civilians.

When Avdzej applied to immigrate to this country under the Displaced Persons Act, he concealed his wartime activities by claiming that he spent the war years employed as a farmer and a tradesman in Vilno, Poland.

In the Agreement reached, Avdzej acknowledged that he was familiar with the Justice Department allegations and conceded that he was subject to denaturalization and deportation because of his misrepresentations and concealments regarding his wartime activities.

3. DERCACZ, MICHAEL

Case Filed: U.S. Immigration Court, Eastern District of New York; File No. A7 159 289.

Date Filed: July 7, 1980 (denaturalization); August 4, 1982 (deportation).

Date and Place of Birth: February 22, 1909, Zheldec, Ukraine.

Entry Date: May 18, 1949, under the Displaced Persons Act of 1948.

Immigration History: Naturalized November 11, 1954 by the U.S. District Court, E.D.N.Y. Ordered denaturalized, by the same court, on February 2, 1982.

Summary of Allegation: From September 1941 through August 1943, defendant was a uniformed police officer in the Ukrainian Police Command in L'vov, Ukraine, and was stationed in Nazi-occupied Jaryzow-Nowy, Ukraine. Defendant actively participated in beatings and executions of unarmed Jewish civilians in Jaryzow-Nowy. He concealed and misrepresented these facts when applying for entry and for naturalization.

Litigation History: OSI filed a denaturalization complaint against Dercacz on July 7, 1980. Depositions were taken in the Soviet Union in March, 1981. On February 2, 1982, the U.S. District Court for the Eastern District of New York granted the summary judgment motion, and ordered that defendant's citizenship be revoked (Civil Action No. 80 Civ. 1854). The court found that Dercacz had persecuted civilian Jews while serving as an armed member of the Ukrainian Police in Nowy Yarchev. The court further found that defendant had procured his citizenship both illegally and by willful misrepresentation of material facts. Defendant's time for filing a notice of appeal subsequently expired, and deportation proceedings against him were filed in New York City on August 4, 1982.

The final deportation hearing originally scheduled for December 7, 1982 was rescheduled for August 12, 1983. However, Dercacz died early in the week of August 8, 1983, before that hearing could be held.

4. DETLAVS, KARLIS

Case Filed: U.S. Immigration Court at Baltimore,
Maryland; U.S. Board of Immigration Appeals; File No.
A7 925 159.

Date Filed: Order to Show Cause filed with the
Immigration Court, Baltimore on October 1, 1978.

Date and Place of Birth: June 27, 1911, Latvia.

Entry Date: December 20, 1950, under the Displaced Persons
Act of 1948, as amended.

Immigration Status: Permanent resident alien.

Summary of Allegation: While serving, from 1941 to
1943, as a member of the Latvian Auxiliary Security
Police, defendant participated in assaults upon and
murders of unarmed civilians, primarily Jews, in Latvia.
From 1943, defendant served in the Latvian Legion. In
1950, when applying for admission to the U.S., defendant
falsely swore that he had been employed as a technician
in the Forestry Department in Riga, Latvia from October
1941 to 1944.

Litigation History: Deportation hearings were held during
January and February, 1979, prior to the creation of OSI.
In February 1980, the Immigration Judge ruled in favor
of defendant, and refused to order his deportation. The
court held that the government had failed to prove by
clear, convincing, and unequivocal evidence that
defendant had engaged in persecution. The court further
found that defendant's admitted misrepresentations were
not "material." OSI appealed this decision to the
Board of Immigration Appeals, and the appeal was argued
before the Board on August 4, 1980. On October 15, 1981,
the BIA dismissed OSI's appeal, holding that government
had not established the materiality of defendant's
misrepresentations by clear, convincing, and unequivocal
evidence. Detlavs died in Baltimore, Maryland on July 22,
1983.

5. DEUTSCHER, ALBERT

Case Filed: U.S. District Court for the Northern
District of Illinois; Civil Action No. 81C-7043.

Date Filed: December 17, 1981.

Date and Place of Birth: August 18, 1920, Worms, Odessa
District, Ukraine.

Entry Date: March 29, 1952, under the Displaced Persons
Act 1948, as amended.

Immigration History: Naturalized September 10, 1957 by the
United States District Court, Southern District of
Illinois.

Summary of Allegation: On several occasions during
January and February of 1942, defendant, while serving
in the Selbstschutz, a Nazi-sponsored paramilitary
organization, participated in the mass execution by
shooting of hundreds of unarmed Jewish civilians,
including women and children, near Worms, Odessa Region,
Ukraine. Prior to execution, these civilians had been
unloaded from the railroad freight car within which they
had been forcibly transported to the Worms area from
Nazi-occupied territories in Eastern Europe and the
Soviet Union. Defendant concealed and misrepresented
all of these facts when applying for entry and for
naturalization.

Litigation History: On December 18, 1981, one day after
OSI filed suit seeking the revocation of his United
States citizenship, defendant was struck and killed by
a train in Chicago. The coroner has ruled the death a
suicide. The case was formally dismissed by the district
court on January 5, 1982.

6. FEDORENKO, FEODOR

Case Filed: U.S. Immigration Court, Hartford,
Connecticut; File No. A7 333 468.

Date Filed: March 5, 1981 (deportation); August 15, 1977
(denaturalization).

Date and Place of Birth: September 17, 1907, Sivasch,
Ukraine.

Entry Date: November 5, 1949, under the Displaced
Persons Act of 1948.

Immigration Status: Naturalized April 23, 1970 by the
Superior Court of New Haven County, Connecticut.
Citizenship ordered revoked by U.S. Supreme Court on
January 21, 1981. Denaturalized by order of the U.S.
District Court, S.D. Florida, Ft. Lauderdale Division,
on March 11, 1981. Ordered deported on February 23,
1983.

Summary of Allegation: In applying to immigrate to the
United States, defendant misrepresented his wartime
service as an armed guard at the Treblinka death camp in
Poland during the years 1942-1943, and his commission
there of atrocities against prisoners.

Progress to date: On August 15, 1977, the government filed
suit seeking defendant's denaturalization. On July 25,
1978, the U.S. District Court for the Southern District
of Florida entered judgment in favor of defendant (Civil
Action No. 77-2668-Civ-NCR), despite defendant's
admitted service at Treblinka and subsequent misrepre-
sentation of his wartime activities.

On June 28, 1979, the U.S. Court of Appeals for the
Fifth Circuit reversed the decision of the district
court (Docket No. 78-2879). The court of appeals held
that the district court had applied an incorrect test of
"materiality," and that applying the proper test to the
evidence revealed that Fedorenko's misrepresentations
had in fact been material. The court of appeals further
ruled that the district court erred as a matter of law
in concluding that it had authority to enter a
judgment for defendant based upon "equitable
considerations." The court of appeals directed the
district court to cancel defendant's certificate of
naturalization.

On February 19, 1980, the U.S. Supreme Court
granted Fedorenko's petition for a writ of certiorari,
and on October 15, 1980, the Attorney General argued the
case for the United States (Docket No. 79-5602). On
January 21, 1981, the Supreme Court, in a 7-2 affirmance

of the decision of the court of appeals, held that Fedorenko's citizenship had been illegally procured and therefore must now be revoked. The Court ruled that Fedorenko's misrepresentation's were clearly material. The court also held that section 2(b) of the Displaced Persons Act of 1948 (which prohibited the granting of visas to persons who "assisted the enemy in persecuting civil[ians]") required that visas be denied even to individuals who might have "involuntarily" assisted the Nazis in persecuting civilians; hence, the district court's finding that Fedorenko acted involuntarily was irrelevant. Additionally, the Court ruled that once it is determined that an individual's citizenship was procured illegally or through misrepresentation, courts have no discretion to excuse the conduct and allow the defendant to retain his citizenship; hence, Fedorenko's good conduct subsequent to entering the United States was irrelevant.

On March 5, 1981, the government filed suit seeking Fedorenko's deportation from the United States. On May 4-5 and July 7, 1981, OSI and defense counsel completed presenting their respective cases, including submission of materials pertaining to defendant's application for discretionary relief from deportation under §244 of the Immigration and Nationality Act, as amended (however, in December 1981, the Act was amended to provide that §244 relief is now unavailable to persons who persecuted civilians on behalf of the Nazis and their allies).

On February 23, 1983, the U.S. Immigration Court in Hartford, Connecticut ordered Fedorenko deported to the Soviet Union. The court found that Fedorenko had willfully misrepresented and concealed material facts for the purpose of gaining admission into the United States. The court held that Fedorenko was deportable under Section 241(a)(19) of the Immigration and Nationality Act for having voluntarily assisted the enemy regime of Nazi Germany in persecuting civilians because of race or religion. The court specifically found that Fedorenko had "assisted[ed] in thousands of murders" and had "demonstrat[ed] an immense lack of humanity".

On March 8, 1983, Fedorenko filed a motion to appeal the Immigration Court's decision to the Board of Immigration Appeals. At the same time, he requested an extension to file the brief, which was granted. Arguments were heard on August 29, 1983.

On April 17, 1984 the BIA affirmed the immigration judge's decision and dismissed respondent's appeal for reversal of the deportation order and for suspension of deportation. The decision of the BIA was based in substantial part on the doctrine of collateral estoppel. The Government ordered Fedorenko's surrender on May 30, 1984. On May 28, Respondent filed his notice of appeal in the U.S. Court of Appeals, Third Circuit, thus staying his deportation. The appeal was withdrawn on August 20, 1984.

Fedorenko was arrested on a warrant of deportation on December 16, 1984. Subsequently, several petitions for a Writ of Habeas Corpus were filed in the U.S. District Court in Philadelphia and on appeal to the U.S. Court of Appeals, Third Circuit, all without success. On December 21, 1984, Fedorenko was deported to the U.S.S.R.

7. HAZNERS, VILIS

Case Filed: Board of Immigration Appeals; File No.
A10 305 336.

Date Filed: Defendant was served with an Order to Show
Cause on January 28, 1977.

Date and Place of Birth: July 23, 1905, Latvia.

Entry Date: August 23, 1956, under the Refugee Relief Act
of 1953, as amended.

Immigration Status: Permanent resident alien.

Summary of Allegation: As an officer in the Latvian Self
Defense Group and later the Schutzmannschaft (a police
organization under German supervision and control),
defendant directed and participated in the arrests and
beatings of Jews, and in their internment in ghettos at
Riga, Latvia.

Litigation History: Deportation hearings commenced on
October 25, 1977, and continued on various dates until
their conclusion on May 18, 1979, prior to the creation of
OSI. On February 27, 1980, the immigration judge
terminated the proceedings, concluding that the
government's evidence was insufficient to prove
defendant's deportability. OSI appealed this decision
to the Board of Immigration Appeals on March 5, 1980 and
oral argument before the Board was held on September 4,
1980. On July 15, 1981, the BIA dismissed OSI's appeal
and motion to reopen, holding that the record did not
contain clear, convincing, and unequivocal evidence of
Hazners' deportability.

8. HRUSITZKY, ANATOLY

Case Pending: U.S. District Court for the Middle District of Florida; Civil No. 83-579-ORL-CIV-11 (J.A.R., Jr.).

Date Filed: August 9, 1983.

Date and Place of Birth: October 17, 1917, Sevastopol, Russia.

Entry Date: September 3, 1959, under the Immigration and Nationality Act of 1952.

Immigration Status: Naturalized June 20, 1975 by the Supreme Court of Nassau County, New York.

Summary of Allegations: During the German occupation of the Ukraine in World War II, defendant served as a member of the police force in Cherny Ostrov, Ukraine, and, in association with the armed forces of Nazi Germany, participated in the persecution and murder of unarmed Jewish men, women and children living in and around Cherny Ostrov.

Litigation History: On August 9, 1983 OSI filed and served its complaint. On August 31, 1983 plaintiff served upon defendant a first set of interrogatories and requests for documents, a notice to take defendant's deposition on October 24, 1983, and a notice to take the depositions of twenty Soviet citizens on December 5, 1983. On August 31, 1983 plaintiff filed and served a motion for an order that the Soviet depositions be recorded audiovisually. On September 20, 1983 the motion to take videotaped deposition was granted. Defendant's answer to OSI's complaint was received on October 13, 1983. In that answer defendant admitted serving in the Ukrainian Police in Cherny Ostrov during World War II.

On June 29, 1984, Hrusitzky, Anatoly permanently left the United States and renounced his U.S. citizenship at the American Embassy in Caracas, Venezuela. The case was dismissed as moot by the court on September 12, 1984.

9. KARKLINS, TALIVALDIS

Case Filed: U.S. District Court, Central District of California; Civil Action No. CV 81 0460 LTL.

Date Filed: January 29, 1981.

Date and Place of Birth: June 16, 1914, Madona, Latvia.

Entry Date: July 23, 1956, under the Refugee Relief Act of 1953.

Immigration History: Naturalized January 25, 1963 by the U.S. District Court, Central District of California.

Summary of Allegation: While serving as a member of the Madona (Latvia) District Police, in July and August, 1941, defendant assisted in the persecution and murder of unarmed Jewish civilians and committed crimes including murder and assault. From September 1, 1941, until the fall of 1942, defendant was the Commandant of the Madona Concentration Camp, which was operated under the command of the chief SS officer in Latvia. During defendant's tenure as Commandant of this camp, unarmed inmates of the camp were starved, beaten, tortured, murdered and otherwise brutalized by defendant and/or by persons acting under his direction and control. Defendant subsequently misrepresented and concealed his the United States citizen.

Litigation History: Defendant's answer to OSI's complaint was filed on March 30, 1981. Defendant's deposition was taken on April 9, 1981, at which time he refused to answer any questions relating to his wartime activities or to his entry or naturalization. On August 4, 1981, the judge ruled that defendant did not have to answer questions about his background or about his activities during World War II. Defendant was ordered, however, to answer questions relating to his immigration and naturalization. Depositions were taken in Latvia in November 1981. Trial had been set for March 15, 1983. Defendant died in a hospital in Monterey Park, California on February 9, 1983. OSI filed a motion with the district court on April 6, 1983 requesting that the case be formally dismissed.

10. KISIELAITIS, JUOZAS

Case Pending: U.S. Immigration Court, Boston,
Massachusetts; File No. A13 272 941.

Date Filed: May 19, 1984.

Date and Place of Birth: November 23, 1920 in Virbalis,
Vilkaviskis, Lithuania.

Entry Date: August 20, 1963 as a Lithuanian quota
immigrant.

Immigration Status: Permanent resident alien (citizen
of Canada).

Summary of Allegation: Respondent was a member of the
Lithuanian Schutzmannschaft beginning in the summer
of 1941. While serving, he assisted in the arrest,
detention, and murder of civilians in Kaunas during the
summer and fall of 1941 and in Minsk-Borisov-Slutsk
during the fall and winter of 1941-1942.

Progress to Date: The Order to Show Cause was served on
the respondent on May 19, 1984. Government's Motion To
Dismiss granted on grounds of mootness because defendant
fled from the United States.

11. KOWALCHUK, MYKOLA

Case Filed: U.S. District Court for the Eastern District of Pennsylvania.

Date Filed: January 13, 1977.

Date and Place of Birth: December 19, 1925; Kremianec, Poland.

Entry Date: May 9, 1950 under the Displaced Persons Act of 1948.

Immigration Status: Naturalized November 29, 1966 by the U.S. District Court for the Eastern District of Pennsylvania.

Summary of Allegation: It was alleged that defendant had served with the the Ukrainian Police in Lubomyl, Poland, during the years 1941 and 1942, and had taken part in persecution of the Nazi occupation forces of that area. The lawsuit also alleged that defendant had concealed his background in entering the United States and in applying for citizenship.

Litigation History: On January 13, 1977, the U.S. Attorney for the Eastern District of Pennsylvania filed a complaint against defendant. After the suit was filed a number of developments occurred. A potential eyewitness died before being deposed by the United States or the defendant. Also, an original document pertaining to the defendant could not be located. In light of these developments it was concluded that the available, admissible evidence was insufficient to prove the allegation clearly and convincingly, as required by law. Accordingly, the Director of OSI and the U.S. Attorney requested that the U.S. District Court for the Eastern District of Pennsylvania dismiss the complaint against defendant. The complaint was dismissed in June 19, 1981.

12 . LIPSCHIS, HANS J. (a/k/a Antanas Lipsys)

Case Filed: U.S. Immigration Court, Chicago Illinois;
File No. A10 682 861.

Date Filed: June 8, 1982.

Date and Place of Birth: November 7, 1919 at Kretinga,
Lithuania.

Entry Date: October 29, 1956, under the Refugee Relief
Act of 1953, as amended.

Immigration Status: Formerly Permanent Resident Alien
(citizen of West Germany) (deported on April 14, 1983).

Summary of Allegation: As a member of the SS-Totenkopf
Sturmabteilung (SS-Death's Head Battalion), Lipschis served
at the Auschwitz and Birkenau death camps from
approximately October 23, 1941 until January 1945. These
camps were operated by and on behalf of the Nazi
Government of Germany for the purpose of systematically
exploiting and murdering millions of people, principally
Jews, because of their race, religion, political beliefs,
and other characteristics. While serving as an SS-
Rottenführer at Auschwitz and Birkenau, Lipschis
ordered, incited, assisted, or otherwise participated in
the persecution of these persons. In the fall of 1946,
U.S. military forces in Germany placed Lipschis on a
"List of Perpetrators" of war crimes, but he avoided
apprehension.

Litigation History: On December 23, 1982, 10 days before
trial was to commence, defendant consented to the entry of
an order of deportation, conceding that the charges
against him "are not contested." Lipschis was thereupon
ordered deported to West Germany on all charges and
given 120 days to leave the United States, never to return
again.

On April 14, 1983, Lipschis' deportation was carried
out, when he flew by commercial airliner to West Germany.
He thus became the first person deported from the U.S. on
Nazi war crimes charges in more than 30 years.

The West German government has requested the
assistance of U.S. authorities in its investigation of
Lipschis, and the Justice Department has made available to
West German prosecutors all of the evidence in its
possession.

13. OSIDACH, WOLODYMYR

Case Filed: U.S. District Court, Eastern District of Pennsylvania; Civil Action No. 79-4212.

Date Filed: November 20, 1979.

Date and Place of Birth: July 12, 1904, Wetlina, Galicia, Poland.

Entry Date: July 29, 1949, under the Displaced Persons Act of 1948, as amended.

Immigration History: Naturalized August 7, 1963 by the U.S. District Court, Eastern District of Pennsylvania. Ordered denaturalized, by the same court, on March 17, 1981.

Summary of Allegation: When applying for entry into the United States and for naturalization, defendant concealed his wartime service as Commandant in the Ukrainian Police in Rawa-Ruska, Ukraine, and his involvement in the persecution and murder of unarmed Jewish civilians (specifically, his participation, directly and through subordinates, in the roundup and transport to extermination sites of Jewish civilians residing in Rawa-Ruska).

Litigation History: Trial was held in Philadelphia before the U.S. District Court for the Eastern District of Pennsylvania, in September and October of 1980. On March 17, 1981, the court entered judgement for OSI and ordered that defendant's citizenship be revoked. The court found that Osidach had taken an active part in persecution and thus had illegally procured his U.S. citizenship. On May 12, 1981, defendant filed a notice of appeal of the denaturalization order with the Third Circuit Court of Appeals (Docket No. 81-1956). However, defendant died on May 26, 1981, before that appeal could be heard. On July 6, 1981, OSI filed a motion requesting that defendant's appeal be dismissed on the grounds of mootness. On July 22, 1981, that motion was granted.

14. POPCZUK, MICHAEL

Case Filed: U.S. District Court for the District of
Massachusetts, Civil Action No. 83-1886-K.

Date Filed: June 28, 1983.

Date and Place of Birth: September 2, 1919, Pidliashiki,
Antoniny Rayon, Ukraine.

Entry Date: October 28, 1954 under the Immigration and
Nationality Act of 1952, as amended.

Immigration History: Naturalized March 10, 1961 by the
Superior Court of Massachusetts.

Summary of Allegation: Defendant served as a policeman in
the Antoniny Rayon district police. Popczuk participated
in the degradation of the Jewish civilians, including
harnessing Jews to carts as if they were horses, beating
the drivers while ordering them to beat the Jews, and
then forcing the Jews to haul loads between villages.
Popczuk also participated in the round-up of 600
Jewish men, women and children and their forced to march
to the cattle pens in the village of Manivtsy.

Litigation History: On July 6, 1983, eight days after OSI
filed suit seeking the revocation of his United States
citizenship, defendant was found shot to death. The
coroner has ruled the death a suicide.

13. OSIDACH, WOLODYMYR

Case Filed: U.S. District Court, Eastern District of Pennsylvania; Civil Action No. 79-4212.

Date Filed: November 20, 1979.

Date and Place of Birth: July 12, 1904, Wetlina, Galicia, Poland.

Entry Date: July 29, 1949, under the Displaced Persons Act of 1948, as amended.

Immigration History: Naturalized August 7, 1963 by the U.S. District Court, Eastern District of Pennsylvania. Ordered denaturalized, by the same court, on March 17, 1981.

Summary of Allegation: When applying for entry into the United States and for naturalization, defendant concealed his wartime service as Commandant in the Ukrainian Police in Rawa-Ruska, Ukraine, and his involvement in the persecution and murder of unarmed Jewish civilians (specifically, his participation, directly and through subordinates, in the roundup and transport to extermination sites of Jewish civilians residing in Rawa-Ruska).

Litigation History: Trial was held in Philadelphia before the U.S. District Court for the Eastern District of Pennsylvania, in September and October of 1980. On March 17, 1981, the court entered judgement for OSI and ordered that defendant's citizenship be revoked. The court found that Osidach had taken an active part in persecution and thus had illegally procured his U.S. citizenship. On May 12, 1981, defendant filed a notice of appeal of the denaturalization order with the Third Circuit Court of Appeals (Docket No. 81-1956). However, defendant died on May 26, 1981, before that appeal could be heard. On July 6, 1981, OSI filed a motion requesting that defendant's appeal be dismissed on the grounds of mootness. On July 22, 1981, that motion was granted.

14. POPCZUK, MICHAEL

Case Filed: U.S. District Court for the District of
Massachusetts, Civil Action No. 83-1886-K.

Date Filed: June 28, 1983.

Date and Place of Birth: September 2, 1919, Pidliashiki,
Antoniny Rayon, Ukraine.

Entry Date: October 28, 1954 under the Immigration and
Nationality Act of 1952, as amended.

Immigration History: Naturalized March 10, 1961 by the
Superior Court of Massachusetts.

Summary of Allegation: Defendant served as a policeman in
the Antoniny Rayon district police. Popczuk participated
in the degradation of the Jewish civilians, including
harnessing Jews to carts as if they were horses, beating
the drivers while ordering them to beat the Jews, and
then forcing the Jews to haul loads between villages.
Popczuk also participated in the round-up of 600
Jewish men, women and children and their forced to march
to the cattle pens in the village of Manivtsy.

Litigation History: On July 6, 1983, eight days after OSI
filed suit seeking the revocation of his United States
citizenship, defendant was found shot to death. The
coroner has ruled the death a suicide.

15. RUDOLPH, ARTHUR L.H.

Arthur L.H. Rudolph, a German-born former United States citizen and resident, relinquished his United States citizenship on May 25, 1984, and permanently departed the United States on October 17, 1984. The relinquishment of his citizenship and subsequent departure was in accordance with an agreement Mr. Rudolph signed with the Department of Justice in November 1983.

The Agreement stipulated that in exchange for Rudolph's departure and voluntary renunciation of citizenship, the Government would give him four months to depart permanently from the United States, and refrain from filing suit charging that he was subject to denaturalization and deportation for his wartime activities in Nazi Germany.

Rudolph, while serving as Chief Operations Director for V-2 missile production at the Mittelwerk underground rocket factory in central Germany from September 1943 until April 1945, participated in the persecution of forced laborers who were employed there under inhumane conditions. The Dora/Nordhausen concentration camp complex supplied forced laborers to the Mittelwerk projects, one of which was the V-2 missile fabrication site.

16. SOOBZOKOV, TSCHERIM

Case Filed: U.S. District Court for the District of New Jersey, Civil Action No. 79-3468.

Date Filed: December 5, 1979.

Date and Place of Birth: January 1, 1918, Tachtamukai, Caucasus, Russia.

Entry Date: June 25, 1955, under the Immigration and Nationality Act of 1952.

Immigration History: Naturalized April 17, 1961 by the Passaic County Court of Paterson, New Jersey.

Summary of Allegation: Defendant had been a member of the Waffen-SS, a member of the police force in his native town of Tachtamukai in the Caucasus region of the Soviet Union, and, finally, a member of the so-called North Caucasian Legion, a military unit affiliated with the German forces. It was alleged that defendant had concealed his connection with these three organizations when he applied for a visa, and again when he applied for naturalization in 1960.

Litigation History: OSI filed its complaint on December 5, 1979. On July 9, 1980, the Director of the Office of Special Investigations requested that the U.S. District Court for the District of New Jersey dismiss the lawsuit. This request came about because additional evidence received from the Central Intelligence Agency after the lawsuit was initiated compelled the conclusion that the defendant had indeed disclosed his affiliations with the above-mentioned organizations when he applied to enter the United States.

17. TRIFA, VALERIAN

Case Filed: U.S. Immigration Court, Detroit, Michigan;
File No. A7 819 396.

Date Filed: October 29, 1980 (deportation); May 16, 1975
(denaturalization).

Date and Place of Birth: June 28, 1914, Transylvania,
Romania.

Entry Date: July 17, 1950, under the Displaced Persons
Act of 1948.

Immigration Status: Naturalized May 13, 1957 by the
Circuit Court for Jackson County, Michigan, at Jackson.
Denaturalized, pursuant to a consent judgement, on
September 3, 1980 by the United States District Court
for the Eastern District of Michigan. Ordered deported
on October 7, 1982.

Summary of Allegation: During World War II, Archbishop
Trifa served in Romania as a member of the fascist "Iron
Guard" and as president of the National Union of Romanian
Christian Students. Defendant also served as editor of
the newspaper LIBERTATEA, which openly identified itself
with the Iron Guard and which advocated its anti-Semitic
policies. From 1936 to 1941, defendant advocated the
persecution of the Jews of Romania, and aligned the
National Union of of Romanian Christian Students with
the policies and politics of the Iron Guard. On
January 20, 1941, he issued a manifesto which advocated
the replacement of all "Judah-like Masons" in the
government and the establishment of an "Iron Guard"
government; and in consequence, a rebellion took place
in which hundreds of innocent civilians were killed.
As an Iron Guard member, defendant was given sanctuary,
protection, and care by the German SS in Romania and in
Germany from January 1941 until August 1944.

Progress to Date: Defendant consented to denaturalization
on September 3, 1980, and his certificate of natural-
ization was thereupon cancelled by the U.S. District
Court for the Eastern District of Michigan.

Defendant filed an appeal of the consent judgment
revoking his citizenship on October 31, 1980. On
November 3, 1981, the Sixth Circuit affirmed defendant's
denaturalization, and on May 17, 1982 the Supreme Court
denied his petition for certiorari.

On December 15, 1981, OSI requested that the Immigration Court remove the previously-imposed stay on the commencement of deportation proceedings, and schedule the deportation trial for March 1982.

Trial actually commenced October 4, 1982 and after the third day, Trifa conceded deportability under the laws of the United States. He admitted concealing his Iron Guard activities and was ordered deported. He waived all appeals.

Trifa filed an appeal to suspend his deportation on May 29, 1984 and OSI answered his appeal on June 8. A decision was rendered in OSI's favor on November 9, 1984. Trifa filed another appeal with the Board of Immigration Appeals on November 21, 1984, and the Government responded on December 18, 1984.

On August 13, 1984, Trifa departed the United States for Portugal.

18. TRUCIS, ARNOLDS

Case Filed: U.S. District Court, Eastern District of Pennsylvania; Civil Action No. 80-2321.

Date Filed: June 20, 1980.

Date and Place of Birth: September 20, 1909, Valka, Latvia.

Entry Date: April 27, 1951, under the Displaced Persons Act of 1948, as amended.

Immigration History: Naturalized December 18, 1956 by the U.S. District Court, Eastern District of Pennsylvania, at Philadelphia.

Summary of Allegation: Between July 1941 and November 1943, defendant was a member of the Latvian Auxiliary Security Police, an organization which participated in the persecution of Latvian Jews. Defendant personally assisted in such persecution by guarding and abusing civilians. Between approximately October 1943 and October 1944, defendant held the German Schutzstaffel (SS) rank of Hauptscharführer (Master Sergeant), and served with the Sicherheitspolizei (Security Police), and the Sicherheitsdienst (or SD [Security Service of the SS]), which organizations participated in the persecution of Latvian Jews.

Litigation History: Defendant's answer was filed on July 19, 1980. At his deposition on September 22, 1980, defendant refused to answer any questions, invoking a claimed privilege under the Fifth Amendment. On October 31, 1980, OSI filed a motion to compel defendant to answer questions, and oral argument on this motion was heard on February 5, 1981. On April 16, 1981, the court ruled that defendant has a privilege under the Fifth Amendment to refuse to answer questions concerning his wartime activities. Defendant was ordered, however, to answer all questions concerning both his entry into the U.S. and his naturalization as an American citizen. Depositions of witnesses have been taken in the United States and, in May 1981, in Latvia. Defendant's deposition was taken in Philadelphia on July 1, 1981 at which time he answered questions regarding his immigration and naturalization but again refused to answer questions concerning his wartime activities. Depositions were taken in Latvia in November 1981. However, defendant died on December 6, 1981, before his case could be brought to trial. The court formally dismissed the case on December 14, 1981.

19. VON BOLSCHWING, OTTO ALBRECHT ALFRED

Case Filed: U.S. District Court, Eastern District of California; Civil Action No. 81-308 MLS.

Date Filed: May 27, 1981.

Date and Placed of Birth: October 15, 1909, Schoenbruck, Germany.

Entry Date: February 1954, under the Immigration and Nationality Act of 1952, as amended.

Immigration History: Naturalized April 6, 1959 by the U.S. District Court, Southern District of New York. Denaturalized, pursuant to a consent judgment, on December 22, 1981 by the U.S. District Court for the Eastern District of California.

Summary of Allegation: When applying for naturalization, defendant concealed and willfully misrepresented his membership in the German Nazi Party and his role as an officer in the Allgemeine SS (where he ultimately rose to the rank of Hauptsturmführer) and in the SD (the security service of the SS) from 1934 until at least 1941. While serving in the SS and SD, defendant devised and advocated specific proposals for executing the SD's program of persecution and forced emigration of Jews from areas under Nazi control. From at least 1937 until 1939, defendant served in the "Jewish Affairs" office of SD (Office II 112), where he provided information and advice to officials of that office, including Adolf Eichmann, on Jewish organizations and on forced emigration of Jews. In 1940-41, defendant served as head of the SD in Romania, where he encouraged and aided the fascist "Iron Guard" movement in its anti-Semitic pogrom of January 1941 and in other acts of persecution.

Litigation History: On December 22, 1981, von Bolschwing voluntarily surrendered his United States citizenship, admitting that he had been a member of the Nazi Party, the SS, and the SD prior to and during World War II. Under the terms of a consent judgment entered on December 22 by the U.S. District Court for the Eastern District of California, von Bolschwing was required to submit to annual examinations by a court-appointed doctor. Pursuant to the consent judgment, the government agreed to refrain from instituting deportation proceedings so long as, in the opinion of that doctor, the progressive neurological disease from which von Bolschwing suffered persisted. Von Bolschwing died in a hospital in Sacramento, California in early March 1982.

20. WALUS, FRANK (FRANCISZEK)

Case Filed: U.S. District Court, Northern District of Illinois, Eastern Division, Civil Action No. 77 C 279; U.S. Court of Appeals for the Seventh Circuit (Nos. 78-1732, 79-1140, 79-1587, and 79-1629).

Date Filed: January 26, 1977.

Date and Place of Birth: July 29, 1922; Hof-Wendorf, Germany.

Entry Date: January 16, 1959, pursuant to an immigration visa issued to him as a national of Poland for permanent residence. In December 1959, he returned to Poland. On January 16, 1963, he was re-admitted for permanent residency, under the Immigration and Nationality Act of 1952.


Immigration History: Naturalized August 18, 1970 by the U.S. District Court, Northern District of Illinois.

Summary of Allegation: It was alleged that defendant had been a member of the German Gestapo during the years 1940-1943. It was also alleged that defendant committed or participated in the commission of atrocities against civilians in Czestochowa and/or Kielce, Poland.

Litigation History: On January 26, 1977, the U.S. Attorney for the Northern District of Illinois, Eastern Division, filed a complaint against defendant. On May 30, 1979, the District Court issued a decision against the defendant, and ordered that his U.S. citizenship be revoked. Defendant appealed that decision to the U.S. Court of Appeals for the Seventh Circuit. On February 13, 1980, the Court of Appeals held that certain newly discovered evidence advanced by the defendant following his trial cast some doubt on the district court's verdict. The Court of Appeals vacated the judgment and remanded the case to the district court for possible retrial. Following the Seventh Circuit's decision, OSI ordered that a thorough re-investigation of defendant's activities during World War II be conducted. After a lengthy investigation, it was decided that OSI would not go forward with a retrial.

October 11, 1985

TO: M. B. Oglesby
Assistant to the President
for Legislative Affairs

FROM: Phillip D. Brady 
Acting Assistant Attorney General
Office of Legislative and
Intergovernmental Affairs

SUBJECT: Weekly Legislative Report

COMPLETED HEARINGS

<u>DATE</u>	<u>SUBJECT</u>	<u>COMM. & SUBCOMM.</u>	<u>WITNESS</u>
Oct. 7	Alternative Programs for Troubled Youth	S. Labor & Human Resources Comm.	Alfred Regnery, Dir., Office of Juvenile Justice & Delinquency Prevention
Oct. 8	Habeas Corpus Reform	S. Judiciary Comm.	Stephen S. Trott, AAG, Criminal
Oct. 8	Legal Fees Equity Act - S. 1580	S. Jud. Comm., Subc. on Constitution	D. Lowell Jensen, Deputy Attorney General
Oct. 9	Antidiscrimination Provisions of H.R. 3080 - Immigration Reform	H. Jud. Comm., Subc. on Immigration, Refugees and International Law <u>and</u> S. Jud. Comm., Subc. on Immigration & Refugee Policy	Wm. Bradford Reynolds, AAG, Civil Rights
Oct. 9	Intercircuit Tribunal	S. Jud. Comm., Subc. on Courts	James M. Spears, Acting AAG, OLP
Oct. 9	Motor Fuel Competition - S. 1140	S. Judiciary Comm.	Charles F. Rule, DAAG, Antitrust

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Oct. 10	INS Census Statistics	H. Comm. on Post Office and Civil Service, Subc. on Census and Population	John E. Nahan, Dir., Office of Plans and Analysis, INS
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UPCOMING HEARINGS

Oct. 16	Prohibiting Mailing of Martial Arts Weapons/S. 1363	S. Judiciary Comm.	Victoria Toensing, DAAG, Criminal
Oct. 16 (Closed)	Middle East Terrorism	S. Select Comm. on Intelligence	Victoria Toensing, DAAG, Criminal; Wayne Gilbert, Deputy Asst. Dir., Crim. Investigative Div., FBI
Oct. 17	Liability for Maritime Claims	H. Merchant Marine and Fisheries Comm., Subc. on Merchant Marine	Robert Willmore, DAAG, Civil
Oct. 17	Rewards for Narcotics Informers/H.R. 2768, H.R. 2013 & S. 630	H. Jud. Comm., Subc. on Crime	Victoria Toensing, DAAG, Criminal
Oct. 17	GAO Report on Nazi War Criminals	H. Jud. Comm., Subc. on Immigration, Refugees and International Law	Neal Sher, Dir., Office of Special Investigations, Criminal
Oct. 17	Postal Inspection Service	H. Post Office & Civil Service Comm., Subc. on Postal Personnel and Modernization	Joseph diGenova, U.S.A., District of Columbia
Oct. 18	Columbia and Peru Narcotics Trafficking	H. Foreign Affairs Comm., Task Force on International Narcotics Control	David Westrate, Asst. Adm. for Operations, DEA

HIGHLIGHTS

Military Medical Care Liability. On October 7 the House passed under suspension of the rules a bill, H.R. 3714, which would allow active duty military personnel to sue the federal government for injuries caused by improper medical care. Despite the Department's opposition, the bill has enjoyed broad support. The House vote on final passage was 317-90.

On the Senate side the Department is exploring the possibility of stopping this legislation in Senator Grassley's Judiciary Subcommittee on Administrative Practice and Procedure. (AAG Richard Willard is scheduled to meet with Senators Grassley and Thurmond to discuss this issue.) In the meantime, the Senate Armed Services Subcommittee on Manpower and Personnel has already held oversight hearings highlighting the "military malpractice" problem.

Mar - See what this is about

Superfund. The House Judiciary Committee approved by voice vote on October 8 its version of the Superfund bill (H.R. 2817). As amended, this legislation would set strict cleanup deadlines and requires the use of permanent cleanup remedies where the technology exists. In addition, the bill provides a private cause of action by individuals against the EPA and polluters which can force cleanup of sites that present an "imminent" danger. The bill also requires companies to report releases of hazardous chemicals.

The House Public Works Water Resources Subcommittee approved a substitute to this bill containing a \$10 billion reauthorization for superfund toxic waste cleanup to extend for 5 years.

Bank Bribery. The Bank Bribery Amendments Act of 1985 (H.R. 3511) passed the House Judiciary Committee by voice vote on October 8 with no amendments. There remains some concern still regarding the mens rea element of "corruptly".

Nominations. The Senate Judiciary Committee met on October 10 to consider the nomination of Laurence H. Silberman for the D.C. Circuit. Due to reservations stemming from Mr. Silberman's position as an officer of Crocker National Bank, Senator Simon requested further FBI investigation. The vote is rescheduled for next Thursday, October 17. Chairman Thurmond asserted that the Attorney General's letter clearing Mr. Silberman of any charges of wrongdoing in the Crocker National Bank matter, negated the need for any further FBI investigation. Senator Simon made no allegations against Mr. Silberman while insisting upon further investigation.

The Legal Fees Equity Act. On October 8 D. Lowell Jensen, Deputy Attorney General, testified before the Senate Subcommittee on the Constitution on S. 1580, the Legal Fees Equity Act.

Intercircuit Panel. On October 9 James M. Spears, Acting Assistant Attorney General, Office of Legal Policy, testified before the Subcommittee on Courts of the Senate Committee on the Judiciary on the nature and causes of the workload crisis now faced by the federal courts and possible solutions to that problem including the Intercircuit Panel proposed in S. 704.

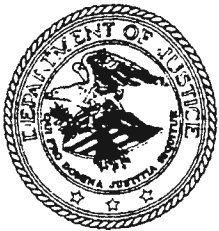
Immigration. On October 9 William Bradford Reynolds, Assistant Attorney General, Civil Rights, testified before a joint session of the House Subcommittee on Immigration, Refugees and International Law and the Senate Subcommittee on Immigration and Refugee Policy. The hearing focused on the anti-discrimination provisions of H.R. 3080, the Immigration Control and Legalization Amendments Act.

On October 10 John Nahan, Director, Office of Plans and Analysis, Immigration and Naturalization Service, testified before House Subcommittee on Census and Population of the Committee on Post Office and Civil Service. The hearing was on the census bureau and immigration statistics.

Gasoline Competition. On October 9 Charles Rule, Deputy Assistant Attorney General, Antitrust Division, appeared before the Senate Judiciary Committee to testify on S. 1140, the Motor Fuel Sales Competition Improvement Act.

Comparable Worth. H.R. 3008, Congresswoman Oakar's legislative attempt to recognize and endorse the unsound concept of "comparable worth", was passed by the House on October 9, 1985 by a vote of 259-162. 222 Democrats and 37 Republicans voted in favor of the legislation and 23 Democrats and 139 Republicans voted against it.

Crime Legislation. On Tuesday, October 8, Assistant Attorney General Stephen S. Trott testified before the Senate Judiciary Committee in support of habeas corpus reform legislation, S. 238. This completes Senate hearings on the three anti-crime measures endorsed by the President in his State of the Union Address: capital punishment, S. 239; habeas corpus reform, S. 238; and exclusionary rule reform, S. 237.



Office of the Attorney General
Washington, D. C. 20530

051

23 July 1985

Jerris Leonard, Esq.
Suite 1020
900 Seventeenth Street, N.W.
Washington, D.C. 20006

Dear Jerry:

Thank you for your recent letter on behalf of the Estonian American National Council concerning the use of Soviet-source evidence by the Office of Special Investigations (OSI) in the prosecution of Nazi war criminals residing in this country.

We are very much aware that many American citizens have concerns based upon their perception of OSI's investigations and prosecutions. This issue, especially for those who have been touched by the ruthless oppression of Soviet communism, is not an easy one.

I have personally reviewed this situation since I assumed the Office of Attorney General and have also had Lowell Jensen, my Deputy, and Steve Trott, an outstanding lawyer who heads the Criminal Division, review the procedures of OSI. I am satisfied that they are exercising great care with respect to evidence formulated by the Soviet Union.

While the overwhelming majority of East European Displaced Persons who came to the United States in the years following the Second World War were law-abiding and decent people (and often themselves victims of persecution), a few have been exposed as Nazi collaborators who engaged in persecution. Most of these latter persons are accused of engaging in acts of persecution in territory now under the control of the U.S.S.R. Any effective investigation of these cases would require examining documents held in the Soviet archives.

The Soviet Government has and does provide us with certified copies of captured German documents and, where relevant, copies of documents produced by local authorities under occupation. All documents are supplied to defense counsel on request well in advance of trial and, of course, defense counsel has every right to question their accuracy, reliability and veracity.

OSI continues to be mindful of the sensitivities and potential problems which might flow from the use of Soviet evidence. Indeed, defendants have many times relied heavily, and in some instances exclusively, on the Soviet-evidence issue in challenging our proof during litigation. OSI has gone to great lengths to ensure the legitimacy of all of its evidence, including that received from the Soviet Union. For example, the Soviets have provided original wartime documents and have allowed them to be subjected to scientific testing to determine authenticity. Expert handwriting and document examiners scrutinize the evidence looking for any signs of fabrications or inauthenticity. In not one instance has an expert concluded that any such document has been forged nor has any court made such a finding.

Soviet evidence used by OSI is, in fact, closely scrutinized and evaluated by both the government and the courts. American procedures and laws provide ample opportunity to uncover fabricated or tainted evidence. Our rules of evidence and procedure provide the safeguards to prevent miscarriages of justice. The overwhelming majority of courts which have faced these issues have confirmed that OSI's reliance on Soviet evidence is proper.

I appreciate your bringing this issue to my attention and hope that this information will be of help to you. If you should obtain any evidence which indicates a problem with the prosecutions conducted by OSI, please be sure to let me know and we will look into it.

It was good to hear from you. Best personal wishes,

Sincerely,



EDWIN MEESE III
Attorney General

JERRIS LEONARD

SUITE 1020
900 - 17th STREET N.W.
WASHINGTON, D.C. 20006
(202) 872-1095

May 21, 1985

RECEIVED
OFFICE OF THE
ATTORNEY GENERAL
MAY 22 9 11 AM '85
EXECUTIVE
DEPARTMENT
HAND DELIVERED

PERSONAL AND CONFIDENTIAL

Honorable Edwin Meese, III
Attorney General
Department of Justice
10th & Constitution Avenues
Washington, D.C. 20530

Dear Ed:

I have been asked by Mrs. Mari-Ann Rikken of the Estonian American National Council to assist, pro bono, with their very deep concerns in the Linnas as well as other cases, which have been prosecuted by your Office of Special Prosecutions.

Because of a myriad of other pro bono commitments, most recently the Nicaraguan Freedom Fund, I am unable to do more than urge you to read this letter.

I have reviewed materials in the past relating to O.S.P. prosecutions in the Linnas and other cases and have, together with many others, formed a deep concern with respect to the credibility of evidence formulated by the Russians. I readily admit that I am not schooled sufficiently to reach a conclusion, but one must have serious doubts with respect to such evidence.

My request to you is that you choose someone of integrity and honor to review these prosecutions, the evidence presented, and the important policy question of whether or not evidence supplied by the Russians should be given credence in our system.

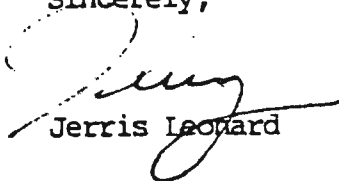
Most assuredly, the enormous effort made by the Russians at disinformation must raise serious questions as to the credibility. Another imperative issue is the precedent that is set by the acceptance of evidence generated in a communist totalitarian country.

Would we, for example, afford the same full faith and credit to such evidence coming from Libya, Angola, Cuba, and the list goes on. 146-2-417

This matter deserves your personal attention.

With warm regards.

Sincerely,


Jerri Leonard

RECEIVED
MAY 23 1985
S. J. B.
DEPARTMENT OF JUSTICE
OFFICE OF INSPECTION
Dec. Unit 10
Office of Enforcement Operations
O.S.I.

JL/ch

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE IMMIGRATION JUDGE

651

FILE: A7 347 878- Miami

April 9, 1985

IN THE MATTER OF

BOHDAN KOZIY

RESPONDENT.

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)
)
)
)

IN DEPORTATION PROCEEDINGS

CHARGE: Section 241(a)(1), I&N Act [8 U.S.C. §1251(a)(1)] -
Excludable at entry under sections 2, 10, and 13 of
the Displaced Persons Act of 1948.

Section 241(a)(2), I&N Act [8 U.S.C. §1251(a)(2) -
In the United States in violation of sections 2, 10,
and 13 of the Displaced Persons Act of 1948.

Section 241(a)(19), I&N Act [8 U.S.C. §1251(a)(19)] -
Participation in Nazi persecution.

APPLICATION: Termination of proceeding.

ON BEHALF OF RESPONDENT:

Philip Carlton, Esquire
19 West Flagler Street, Suite 220
Miami, Florida 33130

ON BEHALF OF SERVICE:

Michael Wolf, Deputy Director,
and
Jovi Tenev, Trial Attorney,
Office of Special Investigations,
Criminal Division,
United States Department
of Justice

DECISION OF THE IMMIGRATION JUDGE

Background

The respondent, a stateless person, was born on February 23, 1923, in the town of Pukasiwci which was located in the Stanislaw region in the Ukraine, now a part of the U.S.S.R. He immigrated to the United States in 1949 under the Displaced Persons Act of 1948, Pub. L. No. 80-774, ch. 647, 62 Stat. 1009, as amended ("the DPA"). Congress enacted the DPA to enable European refugees driven from their homelands by World War II to immigrate to the United States. In 1956 respondent became a naturalized citizen of the

United States. Respondent changed his given name, Bogdanus Kosij, to Bohdan Koziy when he was naturalized in 1956.

In 1979 the Government, pursuant to 8 U.S.C.A §1451(a), brought a denaturalization action against respondent in the United States District Court for the Southern District of Florida. See United States v. Koziy, 540 F.Supp. 25 (S.D. Fla. 1982). Section 1451(a) provides that a naturalized citizen who procured naturalization "illegally," or "by concealment of a material fact or by willful misrepresentation . . . "shall have the order admitting such person to citizenship revoked and set aside, and the Certificate of Naturalization cancelled." The Government alleged that respondent illegally procured his citizenship in violation of sections 2(b), 10, and 13 of the DPA.

Section 2(b) of the DPA provides that anyone who "assisted the enemy in persecuting civil populations of countries . . . or voluntarily assisted the enemy since the outbreak of the second World War in their operations against the United Nations" is of no concern to the Displaced Persons Commission. An individual of no concern to this Commission was ineligible for a visa under section 2(b). The district court found that Koziy assisted enemy forces and persecuted civilians and was ineligible for a visa under section 2(b) of the DPA.

Section 10 of the DPA precludes the issuance of a visa to any person who "willfully make[s] a misrepresentation for the purpose of gaining admission into the United States." The district court found that at the times of his admission and naturalization Koziy

concealed or willfully misrepresented material facts, i.e., that he was a member of the Ukrainian police, and was involved in the Organization of Ukrainian Nationalists (OUN), and the Bandera group--all organizations hostile to the United States. Thus, Koziy was also found ineligible for a visa under this provision.

Section 13 of the DPA prohibits the issuance of a visa to anyone who was a "member of, or participated in, any movement hostile to the United States or the form of government of the United States". The district court found that the Ukrainian police, the OUN, and the Bandera group were all hostile movements within the meaning of section 13; that Koziy was a member or participant in these movements; and, that Koziy was therefore barred from receiving a visa under this section of the DPA. The district court also ruled that Koziy lacked the good moral character required for admission into the United States by 8 U.S.C.A. §1427(a)(3), because of his failure to disclose his wartime activities.

The district court found that the Government proved the foregoing allegations, revoked the order admitting Koziy to citizenship, and cancelled his Certificate of Naturalization. The court's findings of fact are discussed below. The United States Court of Appeals for the Eleventh Circuit affirmed the order of the district court. United States v. Koziy, 728 F.2d 1314 (11th Cir. 1984), and the United States Supreme Court denied certiorari. 105 S. Ct. 130 (October 1, 1984).

Charges of deportability

On October 19, 1982, the Immigration and Naturalization Service

("the Service") commenced this deportation proceeding against respondent alleging, among other things: that he assisted Nazi Germany in the persecution of civilians; was a member or participant in movements hostile to the United States; had lied in his visa application about his wartime activities, and consequently had been ineligible for a visa and inadmissible to the United States under the DPA. On the basis of these allegations the Service charged respondent with being deportable under sections 241(a)(1); 241(a)(2), and 241(a)(19) of the Immigration and Nationality Act of 1952 ("the Act"); [8 U.S.C. §1251(a)]. Section 241(a)(1) provides for the deportation of any alien who was at the time of entry into the United States "excludable by the law existing at the time of such entry." Section 241(a)(2) provides for the deportation of any alien who "entered the United States without inspection . . . or is in the United States in violation of this Act or in violation of any other law of the United States." Section 241(a)(19) provides for the deportation of an alien who:

"during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with--

- (A) the Nazi government of Germany,
 - (B) any government in any area occupied by the military forces of the Nazi government of Germany,
 - (C) any government established with the assistance or cooperation of the Nazi government of Germany, or
 - (D) any government which was an ally of the Nazi government of Germany,
- ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion."

Specifically, the Government, in the seven count Order to Show Cause, charges that respondent is deportable pursuant to: [1] section 241(a)(1) as an alien excludable at entry under section 2 of the DPA because he assisted the enemy regime of Nazi Germany in persecuting civilian populations; [2] section 241(a)(1) as an alien excludable at entry under section 10 of the DPA because he willfully misrepresented material facts for the purpose of gaining entry to the United States; [3] section 241(a)(1) of the Act, as an alien excludable at entry under section 13 of the DPA because he was a member or participant in a movement or movements hostile to the United States; [4], [5] and [6] section 241(a)(2) as an alien who is in the United States in violation of sections 2, 10 and 13 of the DPA; and [7] pursuant to section 241(a)(19) of the Act, as an alien who assisted the Nazi government of Germany in the persecution of persons because of their race or religion during the period beginning on March 23, 1933, and ending on May 8, 1945.

Respondent's failure to appear, and his attorney's motion to terminate.

The respondent failed to appear at the deportation hearing that commenced at 9:00 a.m. on the 18th of March, 1985, at the Immigration Court in Miami, Florida. Counsel for respondent stated that he did not know where respondent was, but that there was "reason to believe" that respondent was no longer in the United States. However, no evidence was presented to support this claimed departure. Respondent's counsel moved to terminate or dismiss the charges against respondent, arguing that the effort to deport respondent was rendered

moot because of this departure. In the alternative, respondent's counsel moved for a continuance of 60 days so that evidence confirming respondent's departure could be obtained. There was no indication of what evidence counsel intended to obtain, or why it was not secured prior to the hearing. For the reasons that follow the Court finds that the deportation hearing should proceed because no reasonable cause has been shown explaining respondent's absence.

Section 242(b) of the Immigration and Nationality Act [8 U.S.C. §1252(b)] provides in pertinent part: "If any alien has been given a reasonable opportunity to be present at a [deportation] proceeding . . . and without reasonable cause fails or refuses to attend . . . the special inquiry officer may proceed to a determination in like manner as if the alien were present." See also Matter of Charles, 16 I&N Dec. 241 (BIA 1977); Matter of Marallag, 13 I&N Dec. 775 (BIA 1971).

On March 29, 1982, the United States District Court entered an order and judgment revoking Koziy's citizenship and cancelling his Certificate of Naturalization. United States v. Koziy, 540 F. Supp. 25 (S.D. Fla. 1982). On October 22, 1982 Mr. Koziy and his counsel in this proceeding, Mr. Carlton, were each served with the Order to Show Cause instituting this deportation proceeding. Respondent and his attorney appeared before this Court on November 10, 1982, and acknowledged that they had been served with the Order to Show Cause. However, at the November 10 hearing respondent moved to dismiss or continue on the grounds that the district court's order was on appeal. The motion to continue was granted pending the decision of

the court of appeals. The appeals from the district court order have now been exhausted. See 728 F.2d 1314 (11th Cir. 1984), cert. denied, 105 S. Ct. 130 (1984). Prior to the Supreme Court's denial of certiorari this deportation proceeding was calendared for May 16, 1984. However, Mr. Carlton filed another motion to continue on behalf of respondent on the grounds that Mr. Carlton had a scheduling conflict, and because, among other things, respondent was filing a Petition for Writ of Certiorari to Supreme Court. As indicated above, the Supreme Court denied certiorari on October 1, 1984. This Court contacted counsel for the Government and counsel for respondent to firmly set a trial date in this case. After considerable discussion to accommodate the schedules of counsel, respondent, and the Court, in January of this year this case was scheduled for trial to commence on March 18, 1985, at the normal court time, i.e., 9:00 a.m. The trial setting was agreed to by both counsel in this case. This history clearly shows that respondent has long been aware that this deportation hearing was pending and would be conducted after the grounds for his requests for continuance no longer existed. Counsel for respondent represents that Mr. Koziy has not communicated with him in some time and that he cannot say that respondent received actual notice of this deportation proceeding. However, the Court notes that respondent's counsel knew of the time, date and place of this hearing. In any event, respondent knew that he had a duty to remain in communication with his attorney to learn the exact time of this trial. Therefore, the Court must conclude that respondent willfully and without excuse chose not to appear at this proceeding.

It cannot be reasonably assumed that a respondent who fails to appear at a scheduled hearing has departed the United States. To the contrary, it must be presumed that the respondent continues to be in the United States absent clear evidence proving a claimed departure. Were this not the case the "in absentia" hearings expressly provided for by statute would seldom, if ever, be conducted. Also, if a respondent's unexcused failure to appear placed the burden on the Government to show that he was still in the United States, this would enable respondents to have proceedings against them terminated by absconding. Such a result would not only undermine §242(b), it would fly in the face of reason and common sense. Accordingly, the Court finds that it is proper to proceed with this hearing "in like manner as if the [respondent] were present."

Respondent's counsel declined to apply for any relief in lieu of deportation because he maintained that respondent was out of the United States and any such application would be academic. For this same reason, counsel declined to designate a country of deportation in the event deportability were found. However, respondent's counsel challenged the Government's offer into evidence the record of the denaturalization proceeding. Counsel's objection was overruled and the record was admitted into evidence. See Master Exhibit 2. It was claimed that respondent, in the denaturalization proceeding, had been denied unspecified out of court statements of witnesses. However, counsel conceded that he had raised these claims in the denaturalization proceeding and that the court ruled against him. The record of the denaturalization proceeding makes clear the nature

of counsel's assertion, and shows it to be without merit. At pages 1040 to 1045 of Master Exhibit 2, the videotaped testimony of Anna Frankivna Snigur, which was recorded in the Soviet Union, was played into evidence. At page 1043 witness Snigur indicated that she had previously testified regarding Koziy. At this point Mr. Carlton moved that the Court direct the Government to provide him with the transcript of any prior testimony of the witness, and of all other witnesses. Id. Further discussion revealed that respondent had simply failed to pursue available pretrial discovery to seek such prior testimony or statements. Id. at pp. 1043-1044. Accordingly, the court denied the motion as being untimely. Id. at 1045. The court's ruling was clearly correct. Indeed, not only had respondent failed to seek pretrial discovery of the prior statements, he made this belated request after the testimony of several witnesses had been given. Thus, it is clear that respondent had no right to any prior testimony or statements.

Moreover, whether the record of the denaturalization proceeding is admissible in this case depends on whether the proffered evidence is "relevant, probative, and fundamentally fair." Matter of Ramirez-Sanchez, 17 I&N Dec. 503 (BIA 1980); Matter of Toro, 17 I&N Dec. 340 (BIA 1980). The objection to the introduction of the record of the denaturalization proceeding is that its admission would somehow be unfair. Thus, the issue is whether allowing this material into evidence would be fundamentally unfair. The Board has ruled that evidence is always fundamentally fair if it is admissible in a federal judicial proceeding-- a proceeding governed by the Federal Rules of Evidence. Matter of DeVera, 16 I&N Dec. 266 (BIA 1977). See also 8 C.F.R. §242.14(c). The challenged

material was, under the Federal Rules of Evidence, admitted into evidence in the denaturalization proceeding. Accordingly, this Court finds that counsel's objection is baseless. Therefore, the record of the denaturalization proceeding is admitted into evidence.

The Government maintains that the denaturalization judgment and the attendant findings of fact resolve the significant issues in this case and, under the doctrine of collateral estoppel, establish respondent's deportability on all of the charges. Additionally, the Government requests that this Court review the record of the denaturalization proceeding, and make a finding, independent of the collateral estoppel ground, that respondent is deportable as charged. The Government proposes that the U.S.S.R. be designated as the country of deportation. For the reasons that follow, the Court finds that respondent is deportable as charged, and orders that respondent be deported from the United States to the U.S.S.R.

THE LEGAL EFFECT OF THE JUDGMENT IN THE
DENATURALIZATION PROCEEDING

Collateral Estoppel--essential prerequisites

Factual findings by the district court in the prior denaturalization proceeding are conclusive in this proceeding to the extent the doctrine of collateral estoppel applies. The Supreme Court has explained collateral estoppel, and the broader doctrine of res judicata as follows:

under the doctrine of "res judicata", a judgment "on the merits" in a prior suit involving the same parties on their privies bars a second suit based on the same cause of action. Under the doctrine of collateral estoppel, on the other hand, such a judgment precludes relitigation of issues actually litigated and determined in the prior suit, regardless of whether it was based on the same cause of action as the second suit. Lawlor v. National Screen Service, 349 U.S. 322, at 326 (1955).

The Board of Immigration Appeals has addressed the specific issue of the collateral estoppel effect of a prior denaturalization proceeding on the factual and legal issues in a deportation proceeding. Matter of Fedorenko, Interim Decision 2963 (BIA 1984). The three prerequisites for the application of collateral estoppel are: (1) the issue at stake must be identical to that in the prior litigation; (2) the issue must have been actually litigated in the prior litigation; and (3) determination of the issue in the prior litigation must have been a critical and necessary part of the judgment. French v. Jinright & Ryan, P.C., 735 F.2d 433 (11th Cir. 1984). See also, Parklane Hosiery Co. Inc. v. Shore, 439 U.S. 322, 326 n.5 (1979). In the prior action, the court's finding on the factual issue must be "at least alternatively, necessary to the judgment rendered." 1B J. Moore, Federal Practice and Procedure, ¶0.443 [5.--1] at 781 (2nd Ed. 1983). Otherwise stated, the "issue of

evidentiary fact that was raised, litigated, and adjudged in a prior action" must be relevant to the proposition sought to be established, and the proposition itself material to the outcome of the action. 1B J. Moore, supra, at 789.

The facts establishing respondent's deportability under each charge meet the essential prerequisites of the doctrine of collateral estoppel. In the denaturalization proceeding the court found that the respondent's citizenship should be revoked because of the following necessary findings on issues identical to those in this case. Koziy, supra, 540 F.Supp. 25.

Findings in the denaturalization proceeding

In 1939 the region of Stanislau--now known as Ivano-Franckovsk--was incorporated into the U.S.S.R. Before this incorporation, Stanislau was part of Poland. In September of 1939 Poland was invaded by Germany. Subsequently, Germany and the U.S.S.R. partitioned Poland. Germany controlled western Poland and the U.S.S.R. controlled eastern Poland, which was known as the Ukraine or Galicia. The Ukraine encompassed the Stanislau region. The towns of Lisets and Stanislau are in the Stanislau region.

From 1939 until 1941 the Jews in German occupied Poland were moved to ghettos and their property was confiscated. In June of 1941 Nazi Germany invaded the Soviet Union and installed its own civil and military administration in, among other places, the Ukraine. By the middle of 1941 the German policy of requiring the emigration of all Jews changed to seeking the complete annihilation of Jews.

Consistent with the policy of enlisting the aid of local citizens in the occupied territories, the Germans used Ukrainians to assist the German police units in the Ukraine. In German occupied

areas the activity and rights of Jews were restricted. Jews were required to wear arm bands bearing the Star of David. Their property was forfeited. They could not use the sidewalks, but were required to walk in the streets. These restrictions were enforced by the indigenous police, who in Galicia were Ukrainians.

In the latter part of 1941, the Germans and their collaborators proceeded to murder Jews in and around Stanislau. By the end of 1941 ghettos to contain Jews were established in Galicia. Jews were to be taken to the nearest ghetto. A ghetto in Stanislau was established in October of 1941. Jews were forced into that ghetto, among others, and kept there involuntarily. They were guarded by Jews inside the ghetto. Outside the ghetto the guards were Germans and Ukrainian police. Many Jews died of starvation and disease in these ghettos. The Stanislau ghetto closed in June of 1943--thirteen months before the Soviets assumed control of the territory.

The Ukrainian police served the Germans voluntarily and exercised considerable autonomy. They performed most of the functions of the German police. The Ukrainian police assisted in transporting Jews from their homes to the ghettos. They also participated, with German police, in security sweeps and in rounding up Jews for transport to Belzec--the mass extermination camp nearest to Stanislau.

Respondent was born on February 23, 1923 in the town of Pukasiwci in the Stanislau region of Galicia. Respondent changed his given name Bogdanus Kosij to Bohdan Koziy when he was naturalized as a United States citizen. In 1939 Koziy commenced participation in the Organization of Ukrainian Nationalists (OUN). He also joined the Bandera faction. In 1942 respondent began employment as a

Ukrainian policeman. In the summer of 1942 the Jews of Lisets were rounded up by the Ukrainian Police and forcibly relocated to the Stanislau ghetto. Respondent participated in this round up.

Respondent, while in the Ukrainian Police "personally and single-handedly murdered" by shooting at point blank range, a young girl because she was Jewish. He also actively participated in the murder of Bernard Kandler, a Jew.

In January of 1944 respondent left the Ukrainian Police and stepped up his participation in the OUN. Respondent left the Ukraine in July of 1944 and moved to Germany. There he worked as a farmer until Germany's surrender in 1945.

After Germany's surrender, respondent and his family became residents of several displaced person's camps operated in Germany by the International Refugee Organization (IRO), an agency of the United Nations. Sometime before October 27, 1949, respondent applied to the IRO for certification as a refugee and displaced person under the IRO's Constitution. That certification was granted.

The Displaced Persons Commission (DPC) was an agency of the United States responsible for processing visa applicants under the Displaced Persons Act of 1948. That Act, among other things, precluded the issuance of visas to persons who were members of, or participants in movements hostile to the United States. The DPC was responsible for identifying such movements and screening out their adherents. The OUN, the Bandera Group and the Ukrainian Police were found by the DPC to be hostile movements under the DPA. Known members and participants in such movements could not qualify as displaced persons under the DPA.

After receiving the IRO certification, respondent applied to the DPC for displaced person status which would entitle him to admission to the United States under the DPA. In interviews with officials of the DPC, respondent was required to provide information concerning his wartime activities. In these interviews respondent misrepresented or concealed material facts. Among these are: the respondent's claim that he worked as a tailor's apprentice during the war and the concealment of his employment with the Ukrainian Police; respondent's concealment of his membership or participation in the OUN and the Bandera Group; and respondent's misrepresentation that he had been "evacuated by order of the German authorities" from the Ukraine to Germany.

Displaced person status was accorded respondent in a DPC Report dated October 27, 1949, and in November of 1949, he filed a visa application with the State Department consulate in Wentorf, Germany. The DPC Report was attached to and made a part of the visa application. Respondent swore under oath that all information in the visa application and attached Report was true. On November 29, 1949, respondent received a visa, and on December 17, 1949, he and his family entered the United States at New York City.

In April of 1955 respondent filed for naturalization as a United States citizen, and in a July 25, 1955 naturalization examination he swore to the truth of the information provided in connection therewith. In this application respondent again concealed or misrepresented material facts. On July 25, 1955, respondent filed his petition for naturalization, and he was admitted to citizenship on February 9, 1956.

As noted above, the United States District Court for the Southern District of Florida, on March 29, 1982, revoked and set aside the Order admitting respondent to citizenship, and cancelled his Certificate of Naturalization. United States v. Koziy, 540 F.Supp. 25 (S.D. Fla. 1982). This decision was affirmed by the court of appeals at 728 F.2d 1314 (11th Cir. 1984), and the Supreme Court denied certiorari on October 1, 1984. As a result of these findings, the district court, in conclusions of law, ruled that Koziy was in the United States in violation of §2(b), 10 and 13 of the DPA.

The foregoing findings of the district court were clearly necessary to the judgment in the denaturalization case. In connection with §2(b) of the DPA, the district court had to make findings to support the charge that respondent "assisted the enemy in persecuting civil populations . . . or voluntarily assisted the enemy since the outbreak of the second world war in their operations against the United Nations." To find that respondent assisted the enemy in persecuting civilians, it must first be determined how Nazi Germany persecuted civil populations. As the district court found, the enemy--Nazi Germany-- followed the loathsome policy of murdering and otherwise persecuting Jews. The district court further makes findings showing how the respondent assisted Nazi Germany in this undertaking. Thus, the findings relating to respondent's cold blooded murder of a young Jewish girl, his participation in the murder of members of another Jewish family, his participation in rounding up Jews to be sent to ghettos, are all relevant and necessary to demonstrate how respondent assisted Nazi Germany in its policy of persecuting elements of the civilian population, i.e., Jews.

The district court, in connection with §10 of the DPA, had to make findings to support the charge that respondent made willful misrepresentations for the purpose of gaining admission to the United States. Concerning this charge, the district court found that respondent willfully misrepresented or concealed that he was a member of the Ukrainian Police, a participant in the OUN and the Bandera Group--all organizations hostile to the United States.

Finally, in connection with §13 of the DPA the district court was required to make findings to support the charge that respondent was a member of, or participant in movements hostile to the United States. These are essentially the same facts found in connection with §10 of the DPA.

Fairness of applying collateral estoppel in this case

As noted above, the Board of Immigration Appeals (BIA) in Matter of Fedorenko, Interim Decision 2963 (BIA 1984), thoroughly discussed the collateral estoppel effect of a prior denaturalization proceeding on the factual and legal issues in a deportation proceeding. In addition to the three essential prerequisites to the application of collateral estoppel, the Board in Fedorenko discussed other considerations that must be weighed to ensure that the application of that doctrine is fair.

First, the prior judgment between the parties must be sufficiently firm to be accorded conclusive effect. See Lummus Co. v. Commonwealth Oil Refining Co., 297 F.2d 80, 89 (2d Cir. 1961), cert. denied, 368 U.S. 986 (1962); see also 1B J. Moore, supra, ¶0.441(4), at 744-47. Further, the parties must have had a full and fair opportunity to litigate the issues in the prior suit. 1B J. Moore, supra, ¶0.441(2), at 725. See generally Matter of McMullen, 17 I&N Dec. 542, 548 (BIA

1980), rev'd on other grounds, 658 F.2d 1312 (9th Cir. 1981). Finally, the use of collateral estoppel must not be unfair to the parties. 1B J. Moore, supra, ¶0. 441(a), at 725.

In the instant case, as in Fedorenko, a consideration of these factors shows that it is fair to apply collateral estoppel. The judgment in the denaturalization action is final. As noted above, the district court's judgment was affirmed by the circuit court, and the Supreme Court denied certiorari. The respondent and the United States, parties in the denaturalization proceeding, are also the parties in this deportation proceeding. See Matter of McMullen, supra, at 548. The Government as well as the respondent had a "full and fair opportunity" to litigate the material issues resolved by the denaturalization judgment. There was no impediment to a full presentation of the issues and the district court's judgment was thoroughly reviewed on appeal. It is noted that the district court barred the testimony of two of the respondent's proposed witnesses in the denaturalization proceeding. United States v. Koziy, 728 F.2d 1314 (11th Cir. 1984). This was because the respondent had willfully and without excuse failed to comply with the district court's deadline for listing witnesses. Id. The court of appeals held that the district court did not abuse its discretion in precluding the testimony of these belatedly proposed witnesses. Id. Accordingly, the respondent had a "full and fair opportunity" to litigate the material issues in the denaturalization proceeding. The fact that he might have chosen not to avail himself of this opportunity does not detract from the conclusive effect of the findings concerning which the witnesses might have provided testimony.

Also, the Government's burden of persuasion in the denaturalization proceeding was the same as its burden in this proceeding. See INS v. Woodby, 385 U.S. 276, 285-86 (1966). Further, both parties should have reasonably foreseen that the issues raised in the denaturalization proceeding might be raised in a subsequent deportation proceeding. In Evergreens v. Nunan, 141 F.2d 927 (2nd Cir. 1944), cert. denied, 323 U.S. 720 (1944), Judge Hand commented that it may be unfair to apply collateral estoppel in some situations because:

The stake in the first suit may have been too small to justify great trouble and expense in its prosecution or defense; and the chance that a fact decided in it, even though necessary to its result, may later become important between the parties may have been extremely remote. Id. at 929.

However, respondent had a large stake in the denaturalization proceeding. The charges, which included murder, were extremely serious. Moreover, a great number of the issues necessary to the resolution of the denaturalization judgment also pertain to grounds of deportability under the Act. For example, if the respondent were found inadmissible under the DPA at the time he entered the United States, or if he were found to have assisted the Nazis in persecuting others, these findings also relate to grounds of deportation under the Act. See, §§241(a)(1); 241(a)(2); and 241(a)(19). Indeed, respondent undoubtedly was aware that his deportation would be sought if the allegations against him in the denaturalization action were proved. See e.g. Master Exhibit 2, at page 3082, where respondent's "Motion for Protective Order", filed in connection with certain depositions noticed to be conducted in Poland, stated that he was aware that "deportation proceedings would follow if he were denaturalized." Respondent was, in fact, served with the Order to Show Cause in

this case shortly after the district court's decision. Thus, he was on actual notice during each stage of the appeal from that decision that the Government sought his deportation. Therefore, respondent had every reason to vigorously refute the allegations in the denaturalization proceedings.

The BIA in Fedorenko distinguished that case from the situation in Title v. INS, 322 F.2d 21 (9th Cir. 1963). In Title the court ruled it error for an immigration judge in a deportation proceeding to give collateral estoppel effect to a prior judgment of denaturalization. For the reasons fully explicated by the BIA in Fedorenko, the holding in Title does not preclude the application of collateral estoppel in this case. In summary, it is noted that in Title a Supreme Court decision was rendered between the denaturalization decision and the deportation proceeding which, if rendered before or during the denaturalization proceedings, might have caused the respondent to proceed differently in that case. Id. at 24. Thus, the court held that the use of collateral estoppel in such a situation was unfair. Id. In Mr. Koziy's case however, he should have been on notice as to the relevant issues raised in this proceeding. There were no significant unanticipated legal developments subsequent to the denaturalization case.

As explained in Fedorenko, §242(b)'s requirement that "[n]otwithstanding any other law" a deportation proceeding "shall be the sole and exclusive procedure for determining" deportability does not preclude the use of collateral estoppel in such a proceeding. This conclusion is consistent with Congress' clear intent in enacting §242(b), and well established precedent. See Fedorenko, supra.

For the foregoing reasons it is clear that application of collateral estoppel in this deportation case is appropriate and fair under any standard.

The findings, as conclusively established under the doctrine of collateral estoppel, show that respondent is deportable as charged under §241(a)(1) because he was excludable at entry as an immigrant barred from entering this country under each of the three separate provisions of the DPA, i.e., §§2(b), 10 and 13. They prove as well that respondent is in the United States in violation of each of these provisions of the DPA, and thus is deportable under §241(a)(2). They also prove the charge of deportability under §241(a)(19), i.e., that respondent between March 23, 1933 and May 8, 1945, "assisted the Nazi government of Germany in the persecution of persons because of their race or religion." All of these charges are proved by clear, convincing and unequivocal evidence.

Independent review of the record of the denaturalization proceeding

The Government requested that this Court review the record of the denaturalization proceeding and, independent of the collateral estoppel effect of the findings in that proceeding, render a finding of deportability on the basis of that record. Preliminarily, it should be noted that the Court is authorized to make such an independent review of transcripts or other evidence from prior proceedings. Section 242.14(c) of 8 C.F.R. provides that the Court:

... may receive in evidence any oral or written statement which is material and relevant to any issue in the case previously made by the respondent or any other person during any investigation, examination, hearing, or trial.

However, the weight, i.e., probative value to be given such material, must comport with fundamental fairness. Matter of Martinez,

16 I&N Dec. 723 (BIA 1979). In Matter of Martinez, the Board ruled that it was unfair to find a respondent deportable solely on the basis of a transcript of his brother's earlier deportation proceeding. The Board reasoned that the deportation proceeding involving the respondent's brother did not have at issue the respondent's deportability. And, significantly, the respondent was not present at that prior proceeding to challenge statements made about him. Thus, it was ruled unfair to find deportability solely on statements in that transcript. As fully discussed above, Koziy was a party to the denaturalization proceeding and the issues there resolved were material and relevant to the court's decision. Consequently, no reasonable claim of unfairness can be made as a result of this Court's independent review of the record of that earlier proceeding.

After carefully reviewing that record this Court finds that the findings of the district court are supported by clear, convincing and unequivocal evidence. Indeed, the district court's findings are restrained and understated given the overwhelming evidence against respondent. The district court did not make express findings concerning some of the murders and atrocities that respondent allegedly perpetrated. Doubtless, that court's care and restraint were a result of its pains to ensure that there was ample corroborative evidence against respondent before making such serious findings.

The district court found that respondent murdered the Singer girl, and participated in the murder of members of the Kandler family. All of the victims were Jews. As noted in the court's findings, at least three witnesses observed respondent murder the

Singer girl. 540 F.Supp. at 32. There were also other witnesses whose testimony corroborated, in part, the testimony of the three eyewitnesses. Id.

Witness Vatseb testified that respondent participated in the murder of members of the Kandler family. Master Exhibit 2, pp. 1744-45. Witness Jablonski gave corroborating testimony. Id. p. 887.

However, there were numerous claims that respondent committed other atrocities. For example, witness Il'Kovs'ka testified that respondent participated in beating a Jewish woman with a whip and setting a vicious dog upon her. Id. p. 1007. She also testified that she personally witnessed respondent shoot and kill a young Jewish boy. Id. pp. 1017-18.

Witness Vatseb, in addition to testifying that respondent murdered the Singer girl [Id. 1741-45] and members of the Kandler family [Id. 1744-45] gave testimony that provided strong circumstantial evidence that respondent murdered a Jewish girl whose surname was Rosiner. Id. 1749.

The district court, however, exercised considerable restraint and declined to make findings concerning persecution except where the evidence was overwhelming.

In sum, this Court, after a review of the record of the denaturalization proceeding, finds that all the district court's findings are supported by clear, convincing and unequivocal evidence.

Relief in lieu of deportation

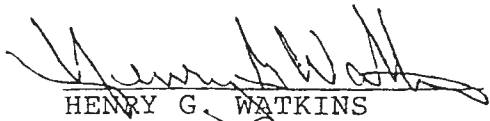
Counsel for respondent has made no application for relief in lieu of deportation, stating that because respondent is believed to be out of the United States such application would be academic. Respondent, of course, has the burden of demonstrating entitlement to any relief

in lieu of deportation. By his unexcused failure to appear he does not go forward on any such application, and accordingly it would have to be denied in any event. Moreover, it appears, given this Court's findings that respondent assisted Nazi Germany in persecuting Jews, that he would not be eligible for relief in lieu of deportation. See Matter of Linnas, File No. A8 085 626 (BIA July 31, 1984).

Country of deportation

As indicated above, counsel for respondent declined to designate a country of deportation because he believes that respondent is out of the country. The Government proposed that deportation be ordered to the U.S.S.R. Section 243 of the I&N Act of 1952 [8 U.S.C. §1253] provides that where a respondent declines to designate a country of deportation, the Court can direct his deportation to, among other places, "the country in which the place of his birth is situated at the time he is ordered deported." That country in respondent's case is the U.S.S.R. This Court finds that deportation to that country is appropriate.

ORDER: For the reasons set forth above, respondent is ordered deported from the United States to the U.S.S.R.


HENRY G. WATKINS
Immigration Judge



POLISH AMERICAN CONGRESS, Inc.

NATIONAL OFFICE:

† 1200 North Ashland Avenue
Chicago, Illinois 60622
Phone (312) 252-5737

WASHINGTON OFFICE:

1625 I Street, N.W.
Washington, D.C. 20006
Phone (202) 296-6955

OSI

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Chicago, IL

JOSEPH A. DROBOT
Treasurer
Chicago, IL

January 9, 1985

Director of Office
Of Special Investigation
Department of Justice
Constitution Avenue
Washington, D. C. 20530

Dear Sir:

As leaders of the Polish-American community, we strongly support the efforts of the Justice Department's Office of Special Investigations (OSI) to identify, strip of American citizenship, and deport those alleged Nazi war criminals now residing illegally in the United States. The efforts of OSI are in accord with the belief we share, that America exists as a haven for the victims of persecution and not the perpetrators of it.

The Polish-American community proudly claims among its members many survivors of wartime persecution who bravely defied the Nazi occupation of their native land and so suffered deprivation, internment, and physical abuse at the hands of the Nazi regime and its collaborators in Eastern Europe. Our community's special understanding of the nature and extend of Nazi-directed persecution leads us to appreciate with special fervor OSI's ongoing attempt to bring to justice those who participated in that persecution but who now unlawfully enjoy the blessings of living in the United States.

As Polish-Americans, we understand all too well the problems of living in Eastern Europe today, and the differences between our own great country, the United States, and the Soviet Union. However, we do not believe that current East-West tensions should interfere with OSI's effort to obtain evidence of wartime Nazi persecution from archives and witnesses in Eastern Europe, including the Soviet Union. Like OSI, we believe that such evidence should be subjected to review for competence and credibility by American courts under American law.

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OFFICE OF
SPECIAL INVESTIGATIONS

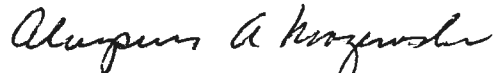
Director of OSI

Page Two

We do not believe that OSI should be barred from offering such evidence for judicial consideration in the United States. Much of the persecution practiced by the Nazi regime occurred in Eastern Europe, and it behooves OSI to seek out the evidence of that persecution at its source.

To prevent the use of evidence obtained in Eastern Europe from even being considered in American cases would be to ignore and indeed to "hush-up" the persecution of Poles and other groups who bravely opposed Nazi tyranny in countries now behind the Iron Curtain. Accordingly, we support OSI in its world-wide effort to uncover evidence of Nazi persecution for use in cases brought here at home against accused Nazi persecutors.

Yours very truly,



Aloysius A. Mazewski, President
POLISH AMERICAN CONGRESS, Inc.

AAM:wd

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Congress of the United States

House of Representatives

Washington, D.C. 20515

July 22, 1985

President Ronald Reagan
The White House
Washington, D.C. 20500

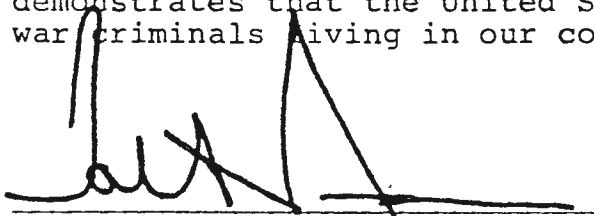
Dear Mr. President:

We are writing to express our continued support for the Justice Department's Office of Special Investigations (OSI), and to urge that you join us in expressing your personal support for the significant work of this important agency.

As you know, OSI was created at the urging of Congress in 1979 to look into suspected Nazi war criminals living in the United States under false pretenses. Many of these individuals gained access to our country by purposefully withholding information from U.S. government officials regarding past involvement in Nazi criminal activities. We are confident that you would agree that those who perpetrated crimes against the Jews and other victims of Nazism should not be afforded the privilege of residence in our country. This is why we so emphatically support the work of the Office of Special Investigations.


Our concern, however, regards an effort in some quarters to discredit the achievements of the Office of Special Investigations. In light of the recent attack on OSI, we believe it is time to reaffirm our commitment to sustaining the work of this agency. As members of Congress, we will continue to support the Office of Special Investigations and we respectfully urge you to publicly express your support as well.

We firmly acknowledge that the values of our great Nation dictate that we preserve our moral commitment never to forget the horrors of the Holocaust. The vital work of the Office of Special Investigations demonstrates that the United States government will not tolerate Nazi war criminals living in our country.

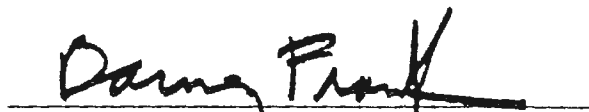


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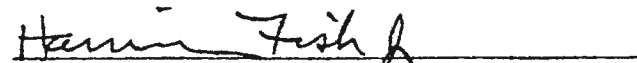
Sincerely,



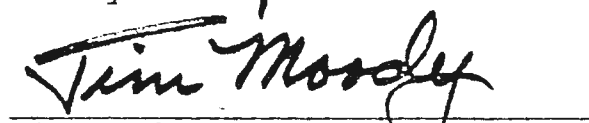
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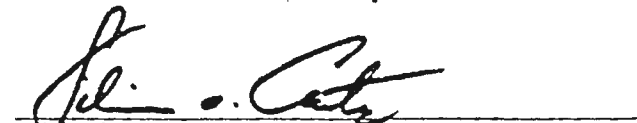
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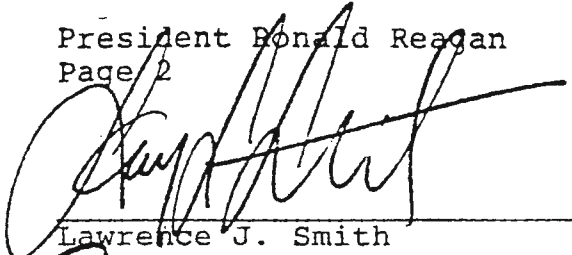
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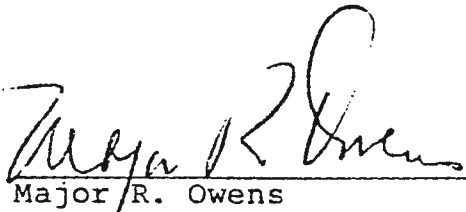
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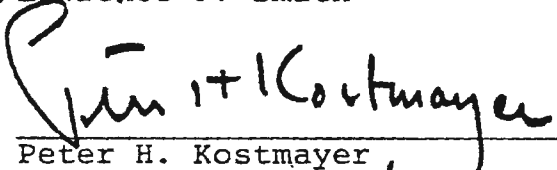
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Lawrence J. Smith



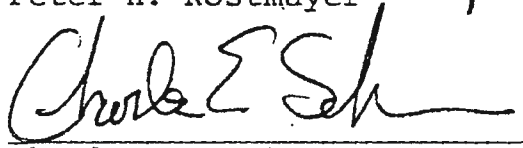
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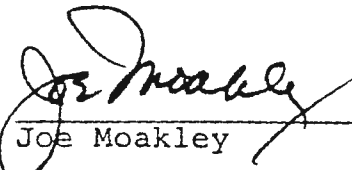
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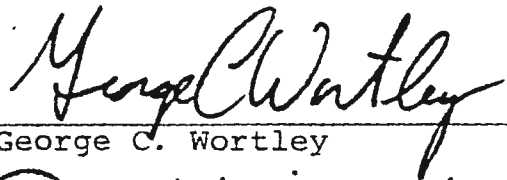
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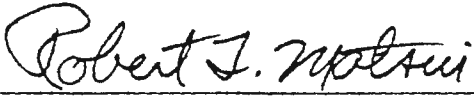
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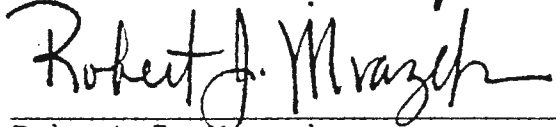
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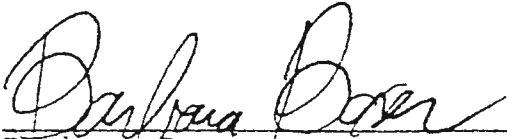
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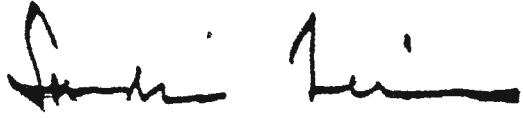
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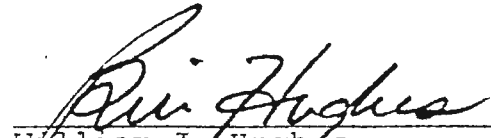
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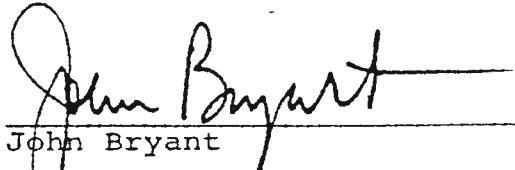
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Bill Richardson



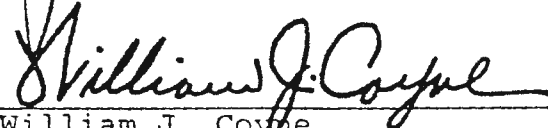
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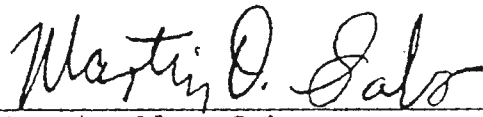
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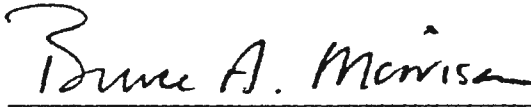
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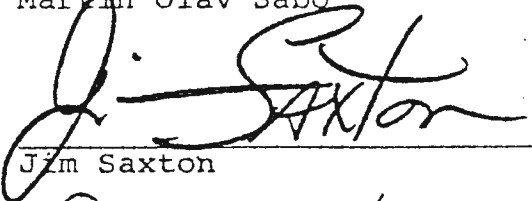
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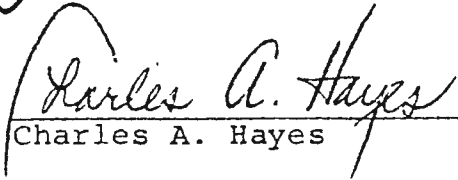
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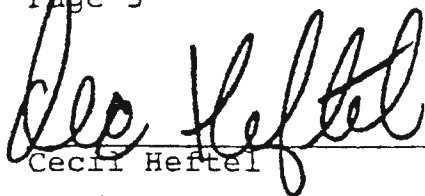
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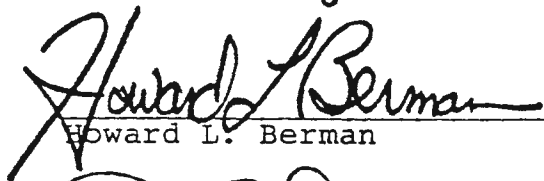
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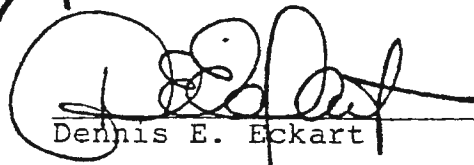
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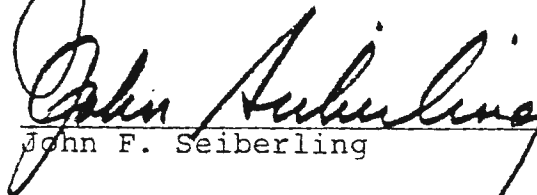

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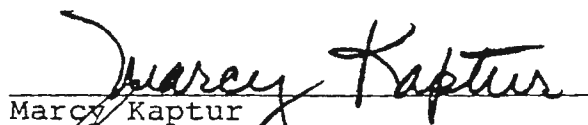

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Howard L. Berman

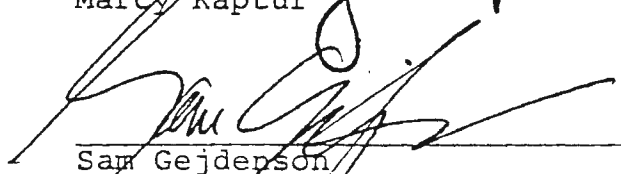

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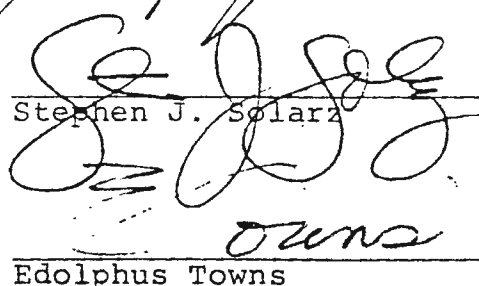

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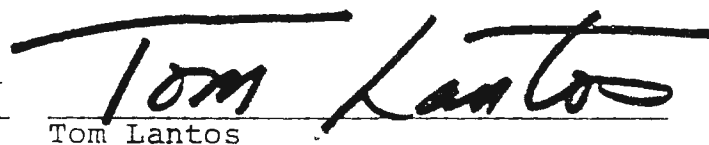

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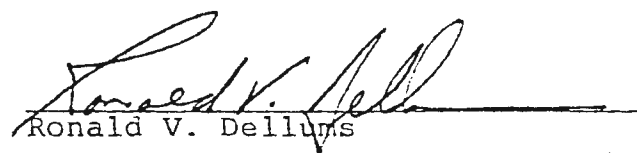

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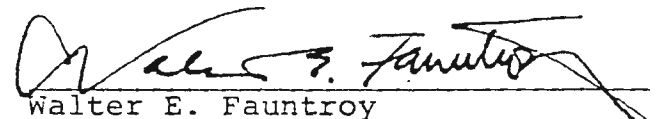

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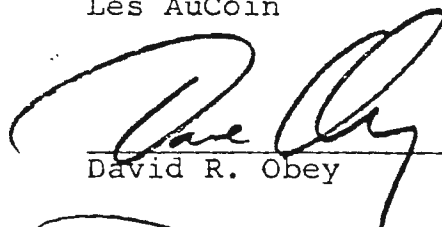

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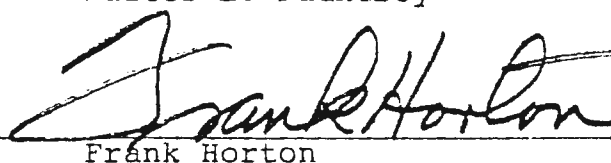

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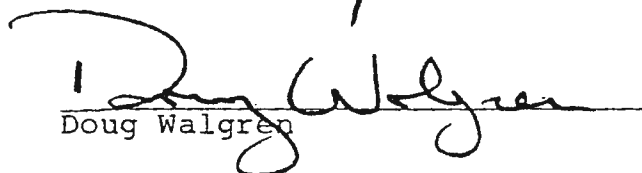

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Les AuCoin


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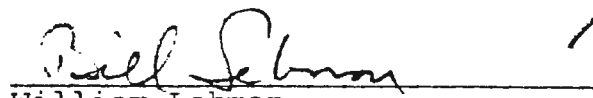

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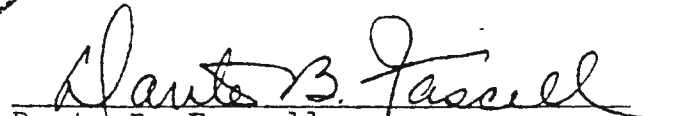

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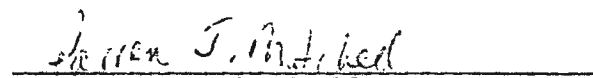

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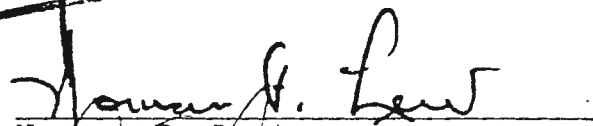

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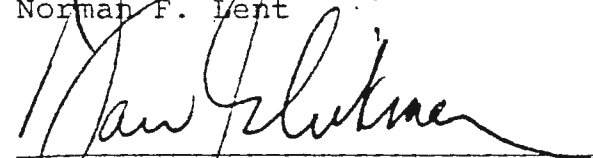

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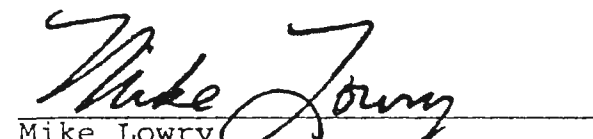

Mario Biaggi


Norman F. Lent

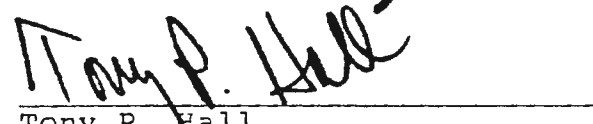

Bruce F. Vento

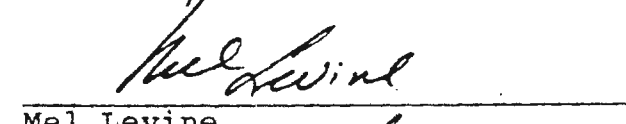

Dan Glickman


Ted Weiss



Mike Lowry



Berkley Bedell

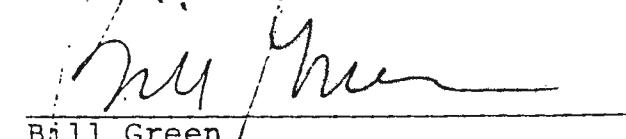

Tony P. Hall

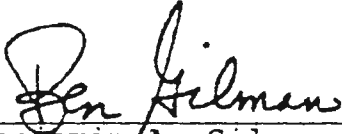

Mel Levine


Raymond J. McGrath

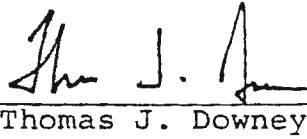

Robert Garcia


Matthew G. Martinez


Bill Green



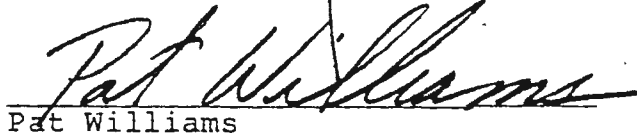
Benjamin A. Gilman



Thomas J. Downey



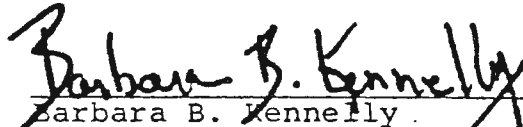
Robert W. Kastenmeier



Pat Williams



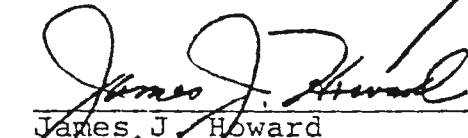
Ike Skelton



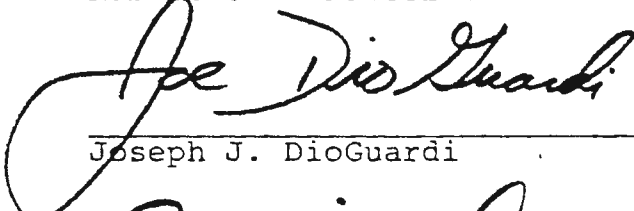
Barbara B. Kennelly



Robert G. Torricelli



James J. Howard



Joseph J. DioGuardi



Joe Kolter



Bill Richardson



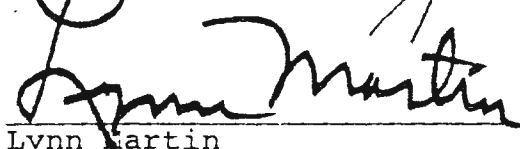
Michael D. Barnes



Bernard J. Dwyer



Richard J. Durbin



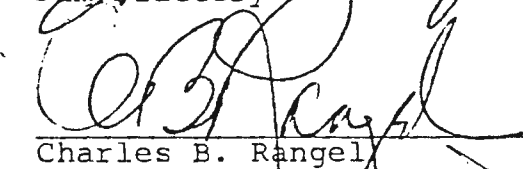
Lynn Martin



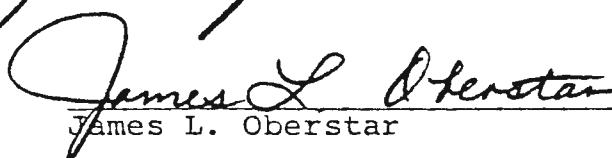
Jim Slattery



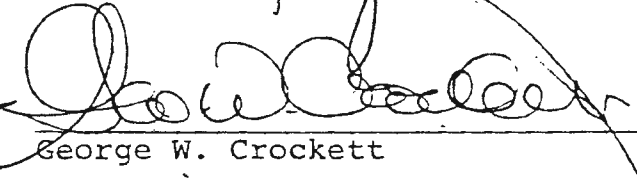
Howard Wolfe



Charles B. Rangel



James L. Oberstar



George W. Crockett