

8 July 1980

STATEMENT OF ALLAN A. RYAN, JR.

DIRECTOR OSI, DEPARTMENT OF JUSTICE

JULY 8, 1980

General Counsel  
80-05860

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I have today asked the United States District Court for the District of New Jersey to dismiss the lawsuit that this Office filed last November seeking the denaturalization of Tscherim Soobzokov of Paterson, New Jersey. It is a step I take with reluctance and only after concluding that the law and the evidence leave me no choice.

In the complaint that we filed in November, we alleged that Mr. Soobzokov had concealed certain World War II affiliations when he applied for a visa to emigrate to the United States in 1955. Specifically, we alleged that he had been a member of a Waffen SS unit, that he had been a member of the police force in his native town of Tachtamakai, in the Caucasus region of the Soviet Union, and, finally, that he had been a member of the so-called North Caucasian Legion, a military unit affiliated with the German forces. We charged that he had concealed his connection with these three organizations when he applied for a visa, and again when he applied for naturalization in 1960. Evidence has since come to light, however, that leads us to conclude that in fact he did disclose his affiliations with these organizations in the course of his application to emigrate.

Before detailing this evidence, and the way in which it came to light, it is important to make two points. First, we did not allege that Soobzokov had actually taken part in the persecution of any person because of race, religion, or political belief. Such accusations had been made by others, but we did not believe then that we had sufficient evidence to prove that Mr. Soobzokov had in fact taken part in persecution. If our investigations, which are not yet closed on this question, reveal evidence sufficient to prove such persecutions, we will file a new action based on that evidence.

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Second, under the law, ~~and in the absence of evidence of actual persecutions~~, we cannot base a denaturalization action on membership in the Waffen SS, the North Caucasian Legion, or the Tachtamukai town police as such. We can proceed only on a showing that a defendant concealed his affiliation with such organizations. This follows from Section 1451 of Title 8 of the United States Code, which provides that citizenship shall be revoked by the United States district court upon proof that the defendant obtained it either illegally or by concealment or misrepresentation of a material fact. Our complaint was predicated on the defendant's alleged concealment of his affiliation with the three organizations named above.

Prior to filing this action, we conducted a thorough investigation and satisfied ourselves that Mr. Soobzokov had ~~in fact~~ concealed these facts. Specifically, we consulted the available documents of the Immigration and Naturalization Service, the Federal Bureau of Investigation, the Department of State and the Central Intelligence Agency. We discovered no document in which the defendant had disclosed his connection with the Waffen SS, the North Caucasian Legion or the Tachtamukai town police. Accordingly, we filed suit on ~~November 5,~~ December 5, 1979, alleging his failure to do so and alleging further that, as a matter of law, these facts were material to his qualifications for citizenship and that his failure to disclose them was therefore grounds for revocation of that citizenship.

In April of this year, when preparation for trial was well underway, the defendant's attorney telephoned me and stated for the first time that there was a document in defendant's possession that demonstrated that in fact the defendant had disclosed the facts that we had charged him with concealing. We immediately filed a motion with the court demanding that this document be produced to us for inspection, and shortly thereafter the defendant turned it over to us.

This document, a copy of which is contained in our filing with the court today, is captioned "Personal <sup>Data Form</sup> ~~History~~ ~~Questionnaire~~" and is identified as a "Form V-30." The defendant has since testified under oath that consular officials at the American Embassy in Amman, Jordan, <sup>where the defendant was then living,</sup> gave him this form in 1952, as part of his application for an immigrant visa. ~~The defendant was living in Jordan at that time.~~ On this form, as defendant produced it to us, is listed over his signature <sup>Y</sup> his affiliation with the Waffen SS, the North Caucasian Legion, and the Tachtamukai town police.

It was apparent to me at that time that, if this form V-30 was genuine, our case against the defendant, predicated as it was on the alleged failure to reveal those facts, could not be maintained. I was not prepared at that time to conclude, however, that the form was in fact genuine, and I directed that a thorough investigation be conducted by this Office to determine <sup>Form</sup> the validity of the V-30.

We provided copies of this form to the State Department and the Central Intelligence Agency and requested that those agencies conduct a review of their archives to determine if such a form had ever been produced in the process of defendant's emigration to the United States. The State Department has informed us that, after a thorough review of its files, it can find no evidence that such a form was filled out by the defendant. This conclusion, however, is subject to two substantial qualifications. First, many of the files on applications for immigrant visas from the mid-50's have since been routinely destroyed. Second, the State Department cannot state that a form V-30 was not in use in Amman during the mid-50's or that the defendant did not complete such a form.

On the other hand, the Central Intelligence Agency advised us that it had in its possession certain documents that were relevant to our inquiry. The CIA in fact had three documents. First, it had a copy of the Form V-30 itself as defendant had produced it to us. Second, it had a copy of an operations memorandum, dated August 3, 1953,

from the American Embassy in Amman to the Department of State. This operations memorandum, a copy of which is being released today, sets ~~form~~ <sup>forth</sup> essentially the disclosures that defendant made on the Form V-30 and asks for an advisory opinion on what should be done with Mr. Soobozkov's application for an immigration visa. Third, the CIA had a cover letter from the State Department to the CIA dated August 18, 1953, forwarding certain materials and soliciting the CIA's views on the matters disclosed therein.

When ~~the~~ the CIA turned over these documents to us, we re-interviewed <sup>e</sup> the consular officials who had been in Amman during the time that the defendant's application for a visa had been pending. Neither of these officials could recall specifically the defendant or his application for a visa, but both stated to us that the Form V-30 appeared to be one that was in use in Amman during that time and, moreover, that the operations memorandum that had apparently been sent from Amman to the Department of State in Washington was indeed an example of the standard operating procedure that had been followed at that time in cases where an applicant's eligibility for a visa was subject to question or where authoritative guidance was needed.

Finally, we are satisfied as a result of our investigation that the typewriter used to complete the Form V-30 is one that could well have been in use in Amman during the period in question.

It is seldom possible to recreate precisely and beyond question a course of events that is more than 25 years old. One can construct any number of hypotheses to accommodate the facts as they are known. Nonetheless, I am satisfied that the most <sup>likely hypothesis, given the known facts,</sup> ~~accurate reconstruction~~ is that Soobzokov in ~~fact~~ completed a Form V-30 that was given to him in Amman as part of the process of applying for an immigration visa, that he disclosed his affiliations with the Waffen SS, the North Caucasian Legion and the Tachtamukai town police, that this

form was transmitted to the State Department together with the operations memorandum from the Embassy in Amman seeking guidance from the Department of State, and that it was received by the Department of State. Under these circumstances, I cannot in good faith proceed with a prosecution that charges him with failure to disclose those facts.

It also appears to be the case that the State Department, as a routine matter, forwarded these materials to the Central Intelligence Agency seeking that agency's views. Apparently the CIA did not produce any derogatory information regarding the defendant, for he was issued an immigration visa when he became eligible under the annual quota applicable to him, and he came to this country and was subsequently naturalized. While it is also true that he did not reveal his affiliations in the application for naturalization itself, it is my conclusion that, on the facts of the case, that failure should not be made the basis for a denaturalization proceeding, given what appears from all the known facts to be the earlier disclosure to the consular officials.

Some may find it ironic that we must terminate this litigation because the defendant admitted his affiliation with organizations loyal to the Third Reich. But that, in my opinion, is the law, ironic or not, as it applies to this case. Nothing in our action today, or in this statement, applies to any other case, present or future.

The question might well arise whether Soobzokov had any independent connection to the Central Intelligence Agency apart from the fact that the State Department apparently forwarded to that agency the information I have described above. I am aware that a claim of such a connection has been made in the public media. My answer to such a question is simply that I am not at liberty to reveal any such connection, if it exists, in this case or in any other case. I will

state what is more to the point: My decision to seek dismissal of the complaint in this case, or in any other case -- and indeed my decision whether or not to institute a proceeding in any case -- is entirely independent of whether or not an individual has any connection with the Central Intelligence Agency or any other government agency. I will also state that the CIA has not directly or indirectly sought to influence the decision to institute this case or to withdraw it. On the contrary, the CIA has been responsive to the requests we have made in our investigations. I take this occasion to restate what has been my determination since I came to the Office of Special Investigations in January: a decision to file legal proceedings, and necessarily any decision to withdraw proceedings once filed, will be made on the evidence and the law.

The question ~~will~~<sup>might</sup> also arise why the CIA did not produce the materials in its possession -- the Form V-30, the operations memo from the Embassy in Amman to the Department of State, and the cover letter from the State Department to the CIA -- when we were investigating this case prior to filing it, considering that this material was then in its ~~files~~<sup>custody</sup>. The CIA has stated that it was not, and is not, free to release such "third-party documents" -- that is to say, documents that the CIA did not originate but which came to it from the State Department -- but that it indicated the existence of these third party documents to us by information disclosed in the course of our investigation. It is my conclusion that these means were inadequate in the present case -- that they did not adequately put us on notice that such documents indeed existed. I have since discussed the matter with responsible officials at the CIA and we have agreed that the means of disclosing the existence of such third-party documents in the future will be modified to preclude any repetition of this situation. I am satisfied that the shortcomings in the procedures used in this case were nothing more than a legitimate misunderstanding of what was necessary to make such full

disclosure. As a result of my discussions with the CIA, I am confident that this <sup>situation</sup> oversight will not be repeated in any future cases.

One final point must be made. The complaint in this action charges the defendant not only with failing to disclose his affiliation with the three organizations mentioned, but also with failing to disclose certain convictions in the Soviet Union prior to World War II. It was our expectation, prior to filing this case, that evidence would be forthcoming sufficient to show, clearly and convincingly, the nature of that conviction, the underlying acts that gave rise to it, and the sentence that was imposed.

After reviewing the evidence available to us, I am not satisfied that we can prove, by the high standards required in denaturalization actions, the existence of the allegedly concealed conviction or the acts that gave rise to it. Accordingly, I have asked the court to dismiss these counts of the complaint as well. This decision is independent of the decision on the counts charging concealment of defendant's wartime affiliations.