

(Court File No.) T-440-

FEDERAL COURT

BETWEEN:

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Plaintiff

and

JURA SKOMATCHUK

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the *Federal Court Rules, 1998*, serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the *Federal Court Rules, 1998*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Registry Officer
Federal Court of Canada
Assistant Clerk General

(Date) MAR 01 2004

Issued by: _____
(Registry Officer)

Federal Court of Canada
Tribunal Fédéral du Canada
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TO: Mr. Jura Skomatchuk
20 High Court
St. Catharines, Ontario

CLAIM

1. The Deputy Attorney General of Canada on behalf of the Plaintiff, the Minister of Citizenship and Immigration, requests that this Court decide, pursuant to ss. 18(1)(b) of the *Citizenship Act*, R.S.C. 1985, c. C-29, as amended, and/or pursuant to section 19 of the *Canadian Citizenship Act*, R.S.C. 1952 c. 33, as amended, that the Defendant, Jura Skomatchuk, has obtained and retained Canadian citizenship by false representation or fraud or by knowingly concealing material circumstances. The Deputy Attorney General also requests the costs of this action.

1) Introduction

2. Jura Skomatchuk, whose last name is also written as "Skomaczuk", "Skomatschuk" or "Skomaczuk", was born in Schabje, Kolomea in Poland on February 21 or 26, 1921. Shabje (also written as Zarje, Zabje, Zabje or Schabje) is now known as Verkhovyna and is located in the Verkhovyna raion of the Ivano-Frankivsk oblast of present day Ukraine (an "oblast" being a local administrative unit consisting of several "raions").

3. In 1943 the Defendant trained as an armed guard at the Trawniki SS Training Camp and thereafter served as an armed guard at the forced labour camp, Poniatowa SS Labour Camp. Both of these camps were

situated in the Lublin district, General Government (Nazi occupied Poland). Both camps are within a 50km radius of Lublin. He held the rank of SS Wachman and guarded, amongst others, Jewish prisoners and workers.

4. The Defendant was subsequently transferred to the concentration camp of Sachsenhausen, located at Oranienburg (near Berlin), Germany and thereafter to Mauthausen concentration camp and its subcamps, in Austria. He served as a guard within the Nazi concentration camp system throughout the rest of 1943 until the close of the war. He worked as a farm helper from May 1945 until January 1948 at two farms in Austria within 50 km of Mauthausen.

2) The occupation of Polish territory

5. In September 1939, Nazi Germany launched an invasion of Poland and rapidly occupied its territory. The northern and western parts of Poland were annexed into the German Reich. Others parts of German-occupied Poland were not directly annexed into the German Reich, but were placed under German administrative authority and called the General Government. The General Government was composed of the four districts of Lublin, Radom, Krakow and Warsaw.

6. The Soviet Union, under the terms of the Hitler-Stalin Pact of August 1939, occupied the eastern parts of Poland. The district of Stanislav (where the city of Verkhovyna, the birthplace of the Defendant, is located) was incorporated by the Soviet authorities in October 1939 into the then existing Soviet Ukraine. On June 22, 1941, Germany invaded the Soviet Union. The territory of Soviet Ukraine was soon occupied by Germany. The district of Stanislav, as well as others, were removed from Soviet Ukraine by the Nazi authorities and incorporated into the General Government, becoming its fifth district and renamed "District Galicia".

7. Assigned to the different levels of the civil administration in the General Government were various SS and Police authorities (SS or Schutzstaffel, meaning protective unit). At the level of the General Government, there was the Höhere SS-und-Polizeiführer (Senior SS and Police Leader, or HSSPF). At the administrative level of the district, in the present case, the District of Lublin, and subordinate to the HSSPF was the SS-und-Polizeiführer (SS and Police Leader, or SSPF). The SSPF for the Lublin district was, from the fall of 1941, Odilo Globocnik. In addition to his role as SSPF, Globocnik had close ties to Heinrich Himmler, the Reichsführer SS and Chief of the German Police - the second most powerful person in Nazi Germany.

3) Trawniki and "Operation Reinhard"

8. In the summer of 1941, the construction of an SS training camp began on the grounds of an abandoned sugar factory located just outside the limits of the town of Trawniki, in the Lublin district of the General Government.

9. The Trawniki SS Training Camp (hereinafter "Trawniki") was the brainchild of Odilo Globocnik, the SSPF for the Lublin district. Trawniki was originally conceived as a base where the pro-German element from the population of the General Government would be trained as an auxiliary police force. The foreseen role of this auxiliary police force was to relieve the understaffed German occupation authorities of certain duties, such as the routine, but onerous, burden of checking passes, controlling traffic and guarding factories and military installations.

10. In the autumn of 1941, Globocnik commissioned SS Captain Karl Streibel to be the commander of the training camp at Trawniki. Upon assembling his staff, Streibel set about the task of finding rank-and-file recruits for the training camp. In keeping with Nazi directives, Streibel combed prisoner-of-war ("POW") camps in Poland and the Ukraine in search of pro-Nazi, anti-Communist, anti-Semitic or nationalist prisoners among the

Ukrainian, Baltic and Byelorussian internees. In a little more than a year, approximately 2,500 men joined the Trawniki guard unit.

11. Soon after the Trawniki concept was initiated by Globocnik, he was put in charge of implementing the Nazi "Final Solution" in the territory of the General Government. This operation was given the code name "Operation Reinhard".

12. Globocnik quickly assembled a large staff, including "specialists" from the Nazi euthanasia program, to co-ordinate the isolation, concentration and deportation of Jewish people within the General Government. Globocnik supervised the construction of killing centres at Belzec, Treblinka and Sobibor, where the systematic physical extermination of Jewish people would be carried out. He ensured that sufficient manpower was available for the smooth functioning and completion of this enterprise.

13. By the autumn of 1942, as the induction of POWs into Trawniki was winding down, German priorities began to change. Faced with mounting losses on the eastern front, Nazi authorities launched a concerted effort to recruit young men of military age from among the civilian population of western Ukraine. The focus of Trawniki recruitment shifted accordingly. Over

the next two years, another 2,500 civilian recruits, most of whom were of Ukrainian origin, joined the Trawniki guard unit.

14. New recruits at Trawniki were trained in various aspects of guard duty. Particular emphasis was placed on teaching the recruits how to convey large numbers of prisoners from one place to another. The presence of several thousand Jewish prisoners at the adjacent labour camp afforded the opportunity for hands-on training for this aspect of guard duty. New recruits received traditional military drill, were taught basic German so as to understand the orders of their superiors, and were schooled in the proper handling of rifles.

4) Poniatowa SS Labour Camp

15. The town of Poniatowa was the site of a telephone and telegraph exchange in pre-war Poland. Between 1939 and 1941, its few public buildings were used to billet units of the German army. After the invasion of the Soviet Union in June 1941, Poniatowa became the site of a camp for Soviet POWs. The first significant contingent of Jewish people to be interned there were the several hundred survivors of the liquidation of the Opole-Lubleskie ghetto, which was carried out in October 1942. They were joined toward the end of the same year by another 1,500 survivors of the liquidation of the ghetto in the town of Belzec.

16. The number of internees of Poniatowa increased significantly in 1943. The reason for this increase was the wholesale transfer-out from Polish cities of war industries employing Jewish labour. This was ordered by Reichsfuhrer-SS Heinrich Himmler in late 1942. In keeping with Himmler's wishes, Globocnik signed a series of contracts with key enterprises in Warsaw, which called for their relocation to labour camps in the Lublin district, where they would continue production. One such contract involved the transfer to Poniatowa SS Labour Camp of the Jewish labour force of the Toeibbens textile firm and came into effect on February 1, 1943.

17. Between mid-March 1943 and the start of the final clearing of the Warsaw Ghetto on April 19, 1943, a part of Toeibbens's 10,000-strong work force, along with their families, were evacuated to Poniatowa. In late May 1943 a contingent of Trawniki men were transferred to the SS Labour Camp at Poniatowa, where they guarded its Jewish inmates.

18. In August-September 1943, Poniatowa was made a branch of the Majdanek concentration camp. Like the other Majdanek satellites, Poniatowa internees were engaged in the repair and sorting of plundered Jewish property.

19. Around the second half of October 1943, Himmler ordered the SS and Police forces in the General Government to execute all Jewish people in the camps of Trawniki, Poniatowa and Majdanek, an event, which was code-named Aktion Erntefest – "Operation Harvest Festival". The timing of this operation appears to have been prompted by an uprising by Jewish prisoners at the Sobibor death camp in mid-October 1943. At the time of the so-called "Harvest Festival" massacres, approximately 15,000 Jews were interned at Poniatowa SS Labour Camp.

20. Notwithstanding the annihilation of its work force at the beginning of November 1943, the Toebebens facility at Poniatowa SS Labour Camp was not immediately dismantled and moved to Germany. Accordingly, a reduced contingent of Trawniki men continued to stand guard there until the spring of 1944.

5) Recruitment, induction and service of the Defendant

21. Between February and April of 1943, two groups of recruits from the region of Stanislav (then Nazi occupied Poland, present day Ukraine) were sent to Trawniki. The first group was sent to Trawniki in mid-February 1943, while the second group did not arrive there until early April. Upon arrival, each recruit underwent a medical examination, after which he was

photographed, thumb-printed, and processed. The processing included the preparation of a personnel sheet, on which was typed the recruit's biographical information and contained the recruit's photograph and his thumb-print. A Trawniki identity card was also issued at this time. The personnel sheet remained in the files at Trawniki, where it could be updated with information about a recruit's transfers, leaves and any disciplinary actions taken against him.

22. A key part of the processing procedure was the assignment to each recruit of a Trawniki identification number, which was intended to remain with him for the duration of his Trawniki service. After the preparation of his identification and personnel documentation, each recruit signed a declaration attesting both to his so-called "Aryan" descent (i.e., that he had no Jewish ancestors) and his political reliability (i.e., that he had never been a member of the Communist Party or its youth organisation), along with a pledge to serve for the duration of the war.

23. Upon successful completion of his training, the recruit signed another declaration attesting to his acknowledgment that henceforth he was under the jurisdiction of the SS and Police courts.

24. The Defendant was part of the second group of Stanislaw recruits to be sent to Trawniki SS Training Camp, his service beginning in March to early April, 1943. During his induction and processing, the Defendant was assigned identification number 3321. Therefore, he signed the declaration attesting to his so-called "Aryan" descent and political reliability, along with a pledge to serve for the duration of the war. Upon successful completion of his training, the Defendant also signed the declaration attesting his acknowledgement that henceforth he was under the jurisdiction of the SS and Police courts.

25. The Defendant's training lasted about six weeks. In late May 1943 he was part of a contingent of Trawniki men transferred to the forced labour camp at Poniatowa, his name appearing as No. 21 on a list of some 117 guardsmen transferred. At Poniatowa SS Labour Camp the Defendant guarded the Jewish internees of the camp. His assignment at Poniatowa lasted through the "Harvest Festival" massacre until November 1943.

26. The duties of an SS Wachman, such as the Defendant, were divided into three basic categories: (1) guarding the camp; (2) escorting labour details to and from work and guarding them at the worksite; and (3) escorting transports of prisoners. Guarding the camp involved manning watchtowers and standing sentry around the exterior of the camp. Whether a

guard on the watchtower or in the sentry chain, every guard had standing orders to shoot at any prisoner attempting to escape.

27. Towards the end of November 1943, the Defendant was transferred back from Poniatowa to Trawniki SS Training Camp. Then, within a few days after returning to Trawniki, the Defendant was transferred from Trawniki to the concentration camp of Sachsenhausen, located at Oranienburg, near Berlin. Thereafter, the Defendant was engaged in activities as part of the "SS guard units of concentration camps" ("SS Wachmannschaften der Konzentrationslager") at concentration camps in the German Reich. He served at the Mauthausen concentration camp in Austria, and its satellite camps, including Gusen, until the conclusion of the war, remaining thereafter in Austria until at least the beginning of 1948.

6) The Trawniki guards

28. During three and a half years of existence, from the fall of 1941 until the summer of 1944, the Trawniki guards performed some of the routine auxiliary police tasks for which they had originally been constituted. In eastern Poland, for example, platoon-sized Trawniki detachments guarded vulnerable lines of communication, warehouses, and military bases. Among the installations that had a permanent Trawniki guard was the SS headquarters in Lublin.

29. The primary role of Trawniki guards was to assist the SS and Police in carrying out "Operation Reinhard" in 1942-43. In that regard, Trawniki guards took part in more than 200 anti-Jewish operations, including ghetto clearings and mass shootings, in the Lublin district, during 1942-43. In addition, the Trawniki guards were used as escorts on deportation transports, guard detachments at "Operation Reinhard" killing centres, and security details during the confiscation and registration of Jewish property and valuables. The participation of the Trawniki guards in the extermination of the Jewish population of the General Government continued until November 1943.

30. During the so-called "Harvest Festival" massacres, the 40,000 Jewish inmates of the labour camps at Poniatowa, Majdanek, and Trawniki were executed. While the role of the Trawniki guards in the actual executions is subject to historical debate, these guards are known to have participated in the "clean-up" operations thereafter.

31. While the "Harvest Festival" massacres marked the formal termination of "Operation Reinhard", they did not signal the end of the deployment of Trawniki men as camp guards. Though some Trawniki detachments were now called upon to combat the growing partisan threat in eastern Poland, others were assigned to guard duty at the older and more

established concentration and forced labour camps in the German Reich. Concurrently, the Trawniki were placed under the control of the SS Economic Administrative Main Office (SS-WVHA), which by this time was supervising all aspects of the Nazi concentration camp system, including day-to-day administration, labour utilisation and internal discipline.

7) Immigration to Canada

32. After the completion of his service to the German Reich and his work as a farm helper in Austria, the Defendant made his way to the United Kingdom of Great Britain and Northern Ireland sometime after January, 1948. While there, he did not acquire British citizenship. During his sojourn in the United Kingdom, the Defendant was single and did not have any dependants.

33. The Defendant applied for Immigration to Canada as a "self-payer". He was issued a British travel document in London, England on January 23, 1952. On April 21, 1952 he was granted a Canadian visa, which was given at Liverpool.

34. Departing for Canada from Southampton in May 1952 aboard the ship "Columbia", the Defendant was admitted into Canada for permanent residence on May 26, 1952 at Quebec City.

35. At the time the Defendant applied for immigration to Canada he had no entitlement or right to enter or to land in Canada or to be granted a Canadian visa, because a visa, entry and landing were granted only to those persons who met all of the prescribed conditions for the granting of these privileges, which the Defendant did not.

36. At the time the Defendant applied for a Canadian visa in April 1952, such a visa was a necessary pre-condition to entry into and landing in Canada from Great Britain as a non-British subject. The grant of a visa was a discretionary act exercised by Canadian Immigration Officers stationed in Europe in accordance with the prescribed administrative practice, policies and regulations of the day, including Order-in-Council, P.C. 2744, dated June 2, 1949, as amended, made under the authority of s. 37 of the *Immigration Act*, R.S.C. 1927, c. 93, as amended.

37. When the Defendant entered Canada, the landing in Canada of all immigrants of all classes and occupations was prohibited by regulation made under the authority of s. 38 of the *Immigration Act*, R.S.C. 1927, c. 93, as amended, and in particular under the authority of Order-in-Council, P.C. 2856, dated June 2, 1950, as amended, made thereunder. Exceptions to this general prohibition were authorized by the Governor-in-Council. The

Defendant did not fall into any of the exceptions. Entry and landing were also at the discretion of the examining Immigration officer at the port of entry.

38. The Defendant did not disclose to Canadian authorities, during the process of his application for a visa to enter Canada nor at the port of entry, his wartime collaboration as a forced labour camp guard with the German Nazi regime and/or his service to the enemy. He did not disclose to Canadian authorities his duties as an SS Wachman. The Defendant's collaboration with the enemy and/or status as an SS Wachman made him ineligible for the grant of a Canadian visa and proscribed his entry into Canada.

39. By failing to disclose to Canadian immigration authorities his wartime activities or by deliberately withholding this information from them, the Defendant falsely presented himself at the time of his application for a Canadian visa. No Canadian visa would have been granted to him had he disclosed the truth about his wartime activities and service to the enemy.

40. Upon arrival at Quebec City on or about May 26, 1952, the Defendant represented to the examining officer at the port of entry that, among other things, he was entitled to the Canadian visa issued to him. These representations were false given the Defendant's collaboration with

and/or service to Nazi Germany, as an armed guard at various labour and concentration camps.

41. By failing to disclose his wartime activities or by deliberately withholding this information from immigration officer(s) at the port of entry, the Defendant falsely presented himself at the time of his entry into Canada. The Defendant would not have been permitted to enter or to be landed in Canada had he disclosed the truth about his wartime activities and/or service to the enemy.

42. Further, or in the alternative, the Deputy Attorney General pleads that the Defendant had a duty of candour, during the process of his application for a Canadian visa and upon his entry into Canada, to disclose to the relevant officials his wartime collaboration and/or his service to the enemy as an SS guardsman.

8) Citizenship

43. The Defendant applied for and was granted Canadian citizenship in 1957.

44. His Honour Judge A. St. Aubin of the General Sessions of the Peace for the District of Sudbury found on October 19, 1957 that the

Defendant "is qualified for Canadian citizenship". During the course of the adjudication the Judge found that the Defendant had satisfied the necessary requirements for the granting of Canadian citizenship, including that the Defendant was of good character and had acquired Canadian domicile.

45. Throughout the process of application for Canadian citizenship the Defendant presented himself to Canadian authorities, including the Citizenship Judge, as a person of good character. The Defendant so presented himself, notwithstanding his participation in the guarding of Jewish inmates, notwithstanding his collaboration as a forced labour camp guard and concentration camp guard within the Nazi regime and notwithstanding his failure to disclose such information during his application for immigration to, and entry into, Canada. At all material times the Defendant was not a person of good character.

46. The Defendant presented himself to Canadian authorities, including the Citizenship Judge, throughout the process of application for citizenship as a person who had acquired Canadian domicile. The Defendant did not acquire Canadian domicile because he falsely presented himself at the time of his application to enter Canada.

47. At the time the Defendant made application for Canadian citizenship a person could only acquire Canadian domicile if he or she had been landed in Canada. A person could only be landed in Canada if he or she had been lawfully admitted to Canada. The Defendant was not lawfully admitted to Canada as he had obtained entry to and landing in Canada by false representation or fraud or by knowingly concealing material circumstances.

48. The Defendant failed to disclose his wartime activities during the process of his application for immigration to, and entry into, Canada, and was therefore not lawfully admitted to Canada. Because he was not lawfully admitted to Canada, he never acquired Canadian domicile.

49. By falsely presenting himself as a person of good character and a person who acquired Canadian domicile, the Defendant withheld from Canadian citizenship authorities information that would have resulted in the denial of Canadian citizenship to him. Had he disclosed his wartime activities or had he confessed to withholding this information from immigration authorities and to falsely presenting himself at the time of his admission to Canada, the Defendant would not have been granted Canadian citizenship.

50. Moreover, as a result of his failure to disclose his wartime activities during the process of his application for immigration to Canada, the Defendant was admitted to Canada for permanent residence by false representation or fraud or by knowingly concealing material circumstances. The Defendant is therefore a person who obtained Canadian citizenship because of his admission to Canada for permanent residence by false representation or fraud or by knowingly concealing material circumstances.

51. Alternatively, if it is found by this Honourable Court that the Defendant was lawfully admitted to Canada, the Deputy Attorney General pleads and relies upon subsection 10(2) of the *Citizenship Act*, R.S.C. 1985, c. C-29, as amended, and states that Defendant is a person who was lawfully admitted to Canada for permanent residence by false representation or fraud or by knowingly concealing material circumstances and, because of that admission, the Defendant subsequently obtained Canadian citizenship. Therefore, the Defendant is deemed, by virtue of the operation of subsection 10(2) of the *Citizenship Act*, to have obtained citizenship by false representation or fraud or by concealing material circumstances.

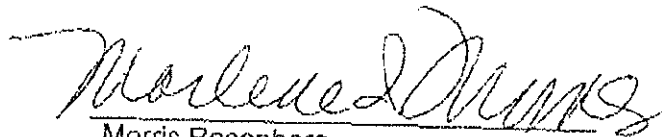
9) Conclusion and Order requested

52. The Deputy Attorney General therefore states that the Defendant obtained and retains Canadian citizenship by false representation or fraud or by knowingly concealing material circumstances.

53. The Deputy Attorney General on behalf of the Plaintiff respectfully requests that this Honourable Court decide, pursuant to ss. 18(1)(b) of the *Citizenship Act*, R.S.C. 1985, c. C-29, as amended, and/or pursuant to s. 19 of the *Canadian Citizenship Act*, R.S.C. 1952, c. 33, as amended, that the Defendant has obtained and retained citizenship by false representation or fraud or by knowingly concealing material circumstances. The Deputy Attorney General requests costs of this action.

The Plaintiff proposes that this action be tried at Toronto.

March 1, 2004



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