

1 William B. Shubb  
United States Attorney  
3305 Federal Bldg.  
3 650 Capitol Mall  
4 Sacramento, CA 95814  
5 (916) 440-2331

Allan A. Ryan, Jr., Director  
Neal Sher, Deputy Director  
Walter J. Rockler, Special Counsel  
Jeffrey N. Mausner, Trial Attorney  
Office of Special Investigations  
Criminal Division  
United States Department of Justice  
Post Office Box 28603  
Washington, D.C. 20005  
(202) 633-2502  
Attorneys for Plaintiff

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, )

11 Plaintiff, )

12 v. )

13 OTTO ALBRECHT ALFRED VON BOLSCHWING, )

Defendant. )

Civil No. \_\_\_\_\_

COMPLAINT

15 Plaintiff, UNITED STATES OF AMERICA, by and through its attorneys,  
16 complains of defendant as follows:  
17

18 I. JURISDICTION AND VENUE

19 1. This action is brought pursuant to Section 340(a) of the  
20 Immigration and Nationality Act of 1952, as amended (hereinafter the  
21 "Act"), 8 U.S.C. § 1451(a), to revoke the United States citizenship of OTTO  
22 ALBRECHT ALFRED VON BOLSCHWING (hereinafter "defendant"), to set aside the  
23 April 6, 1959 order of the United States District Court for the Southern  
24 District of New York admitting defendant to citizenship, and to cancel  
25 defendant's Certificate of Naturalization No. 8094737. Plaintiff is the  
26 United States of America. Jurisdiction is conferred upon this Court by 28  
27 U.S.C. § 1345 (except as otherwise provided, the United States District  
28 Courts shall have original jurisdiction of all civil actions commenced by  
29 the United States), 8 U.S.C. § 1421(a) (jurisdiction to naturalize persons  
30 as citizens is conferred on U.S. District Courts), and 8 U.S.C. § 1451(a).  
31  
32

1 (action to revoke citizenship may be brought in any court specified in 8  
U.S.C. § 1421(a)).

3 2. The affidavit of Charles Gittens, Deputy Director (Operations) of  
4 the Office of Special Investigations, Criminal Division, United States  
5 Department of Justice, showing good cause for this action as required by 8  
6 U.S.C. § 1451(a), is attached hereto as Exhibit A.

7 3. Defendant is a natural person whose last known address is 4729  
8 Manzanita Avenue, Apartment 51, Carmichael, California, 95608, which is  
9 within the jurisdiction and venue of this Court.

## 10 II. FACTS

### 11 A. Defendant's Activities Before and During World War II

12 4. Defendant was born in Schoenbruck, Germany on October 15, 1909.

13 5. Prior to and during World War II, defendant was a member of the  
14 Nazi Party (Nationalsozialistische Deutsche Arbeiterpartei, hereinafter  
15 referred to as "NSDAP") of Germany.

16 6. The Schutzstaffeln der Nationalsozialistischen Deutschen  
17 Arbeiterpartei (commonly known and hereinafter referred to as the "SS") was  
18 an elite unit of the Nazi Party of Germany. The SS was declared to be a  
19 criminal organization by the International Military Tribunal at Nurnberg,  
20 Germany in 1946 for its programmatic and massive participation in the  
21 commission of war crimes and crimes against humanity. The Allgemeine SS  
22 (General SS) was a part of the SS specifically found by the International  
23 Military Tribunal to be criminal.

24 7. Defendant had the following involvement with the SS:

25 a. Defendant became a member of the Allgemeine SS in or about April  
26 1940, joining with the rank of SS-Untersturmfuehrer (Second  
27 Lieutenant).

28 b. Defendant was promoted to the rank of SS-Obersturmfuehrer (First  
29 Lieutenant) in or about July 1940.

30 c. Defendant was promoted to the rank of SS-Hauptsturmfuehrer  
31 (Captain) in or about January 1941.  
32

1 8. The Sicherheitsdienst des Reichsfuehrer SS (commonly known and  
hereinafter referred to as the "SD") was the Security Service of the SS.  
3 The SD served as an intelligence gathering arm for the Nazi Party, the SS,  
4 and the Gestapo (State Secret Police). Both the SD and Gestapo were  
5 declared to be criminal organizations by the International Military  
6 Tribunal at Nurnberg, Germany in 1946 for their programmatic and massive  
7 participation in the commission of war crimes and crimes against humanity.

8 9. Office II 112 was the "Jewish Affairs" office of the SD. This  
9 office collected historical, statistical, economic, and cultural  
10 information on the Jews for use by the Nazi Government in its systematic  
11 persecution of Jews, and recommended measures for carrying out the  
12 persecution of Jews.

13 10. Defendant had the following involvement with the SD and Office II  
112 of the SD:

- 15 a. Defendant was an agent, official, or employee of the SD from 1934  
16 until at least 1941.
- 17 b. Defendant was an agent, official, or employee of Office II 112 of  
18 the SD from at least 1937 until 1939.
- 19 c. Defendant participated in planning the SD's program of persecution  
20 and forced emigration of Jews from areas under the control of the  
21 Nazi Government of Germany. In particular, defendant advocated and  
22 devised proposals which included a complete exclusion of Jews from  
23 the economy of Germany, the use of physical intimidation against  
24 Jews, and the use of anti-Jewish propaganda to achieve the forced  
25 emigration of all Jews from Germany.
- 27 d. Defendant provided information and advice to the SD, and in  
28 particular to Adolf Eichmann, who was then an official of Office II  
112, on Jewish organizations and forced emigration of Jews.
- 29 e. Defendant provided information to the SD on persons deemed to be  
30 inimical or politically suspicious to the Nazi Party and Nazi  
31 Government of Germany.  
32

1 f. Defendant formally became an officer in the SD in or about 1940.

2 Defendant held the same ranks in the SD as he held in the SS.

3 g. Defendant was head of the SD for Romania in late 1940 and early  
4 1941.

5 h. The "Iron Guard" was a violent, fascist, anti-semitic movement in  
6 Romania which murdered and persecuted Jews and non-ethnic Romanians  
7 during the period September 1940 to January 1941. In January 1941,  
8 the Iron Guard staged a rebellion against the government of  
9 Romania. This rebellion was accompanied by a pogrom in which large  
10 numbers of Jewish citizens of Romania were brutally murdered or  
11 tortured by the Iron Guard. Defendant, in his position as head of  
12 the SD for Romania, encouraged and aided the Iron Guard in its  
13 January 1941 efforts. Defendant also protected Iron Guard leaders  
14 after the unsuccessful rebellion and after the pogrom, and aided  
15 their escape into Germany.

16 11. The Reichssicherheitshauptamt (Reich Security Main Office,  
17 commonly known and hereinafter referred to as the "RSHA") was established  
18 in September 1939, to unify under its jurisdiction the SD, Gestapo, and  
19 Criminal Police.

20 12. Defendant became an official or employee of the RSHA in  
21 approximately 1939.

22  
23 B. Defendant's Unlawful Efforts to Obtain United States Citizenship

24 13. On or about January 18, 1959, defendant submitted to the  
25 Immigration and Naturalization Service (hereinafter "INS") at New York  
26 City an "Application to File Petition for Naturalization" and an attached  
27 "Statement of Facts for Preparation of Petition" (together comprising INS  
28 Form N-400).

29 14. The Form N-400 submitted by defendant stated the following:  
30  
31  
32

1 "IMPORTANT — Under the naturalization laws, citizenship may be  
2 revoked for concealment of a material fact or for willful  
3 misrepresentation in connection with the naturalization  
4 proceedings. It is important therefore that you fill out pages 1,  
5 2, 3, and 4 of this form completely and as accurately as  
6 possible."

7  
8 15. In spite of the above admonition, defendant failed to reveal his  
9 membership in the NSDAP, Allgemeine SS, SD and RSHA in response to question  
10 number 13 on the Form N-400, which read as follows: "What organizations,  
11 clubs, or societies in the United States or in any other country have you  
12 been a member of before the last 10 years?"

13  
14 16. On or about February 4, 1959, in connection with the processing of  
15 defendant's Application to File Petition for Naturalization, a preliminary  
16 examination was held in New York City pursuant to 8 U.S.C. § 1443. At that  
17 time defendant swore under oath before an officer of the Immigration and  
18 Naturalization Service (hereinafter referred to as "Naturalization  
19 Examiner") that he knew the contents of the Form N-400 which he had filed  
20 and that all the answers he gave to the questions in the Form N-400 were  
21 true to the best of his knowledge and belief. The Naturalization Examiner  
22 certified that the defendant had stated in his presence that the defendant  
23 understood the contents of the Form N-400 before the defendant had verified  
24 his answers.

25  
26 17. On or about February 4, 1959 defendant filed with the United  
27 States District Court for the Southern District of New York a Petition for  
28 Naturalization No. 704913 (INS Form N-405).

29  
30 18. On April 6, 1959 the United States District Court for the Southern  
31 District of New York granted defendant's Petition for Naturalization and  
32 issued to him Certificate of Naturalization No. 8094737.

19. Since April 6, 1959 defendant has remained a citizen of the United  
States of America.

20. Under Section 340(a) of the Immigration and Nationality Act, 8  
U.S.C. § 1451(a), defendant's citizenship must be revoked and his  
Certificate of Naturalization must be cancelled if his citizenship was  
either:

- a. Illegally procured, or
- b. Procured by concealment of a material fact or by willful misrepresentation.

COUNT I

Procurement of Citizenship by Concealment of a Material Fact or by Willful Misrepresentation

21. Plaintiff realleges and incorporates by reference paragraphs 1-20 of the complaint.

22. When defendant failed to list membership in the NSDAP, Allgemeine SS, SD, or RSHA in response to question 13 on his Application to File Petition for Naturalization (Form N-400), and when he failed to reveal membership in these organizations at the preliminary examination, he willfully misrepresented and concealed material facts.

23. Because defendant procured his citizenship and Certificate of Naturalization by willfully concealing and misrepresenting material facts, defendant's citizenship must be revoked pursuant to Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a).

WHEREFORE, plaintiff demands:

- a. A declaration that defendant procured his citizenship and Certificate of Naturalization by concealment of material facts or by willful misrepresentations;
- b. Judgment revoking and setting aside the April 6, 1959 order of the United States District Court for the Southern District of New York admitting the defendant to United States citizenship, and cancelling the Certificate of Naturalization No. 8094737;
- c. Judgment forever restraining and enjoining the defendant from claiming any rights, privileges or advantages under any document evidencing United States citizenship;
- d. Judgment requiring the defendant immediately to surrender and deliver his Certificate of Naturalization to the Attorney General; and

1 e. Judgment granting to the plaintiff such other relief as may be  
2 lawful and proper.

3  
4 COUNT II

5 Illegal Procurement of Citizenship: Lack of Good  
6 Moral Character (World War II Activities)

7 24. Plaintiff realleges and incorporates by reference paragraphs 1-20  
8 of the complaint.

9 25. Section 316(a) of the Immigration and Nationality Act, 8 U.S.C.  
10 § 1427(a) provided, at the time of defendant's naturalization, that:

11 "No person, except as otherwise provided in this title, shall be  
12 naturalized unless such petitioner \* \* \* (3) during all the periods  
13 referred to in this subsection has been and still is a person of good  
moral character, attached to the principles of the Constitution of the  
United States, and well disposed to the good order and happiness of  
the United States."

14 Section 316(e) of the Act, 8 U.S.C. § 1427(e) provided that:

15 "In determining whether the petitioner has sustained the burden of  
16 establishing good moral character and the other qualifications for  
17 citizenship specified in subsection (a) of this section, the court  
18 shall not be limited to the petitioner's conduct during the five years  
preceding the filing of the petition, but may take into consideration  
as a basis for such determination the petitioner's conduct and acts at  
any time prior to that period."

19 26. Defendant lacked good moral character and attachment to the  
20 principles of the Constitution of the United States, as evidenced by his  
21 participation in the acts of persecution alleged in paragraph 10 of the  
22 complaint or his membership, position, and rank in any of the organizations  
23 set forth in paragraphs 7, 10, or 12 of the complaint.

24 27. Because defendant was not a person of good moral character,  
25 attached to the principles of the Constitution of the United States, he was  
26 ineligible for naturalization under Section 316 of the Immigration and  
27 Nationality Act, 8 U.S.C. § 1427, and his naturalization was therefore  
28 illegally procured.

29 28. Because defendant's citizenship was illegally procured, it must be  
30 revoked pursuant to Section 340(a) of the same Act, 8 U.S.C. § 1451(a).

31 WHEREFORE, plaintiff demands:  
32

1 a. A declaration that defendant illegally procured his citizenship and  
2 Certificate of Naturalization;

3 b. Judgment revoking and setting aside the April 6, 1959 order of the  
4 United States District Court for the Southern District of New York  
5 admitting the defendant to United States citizenship, and cancelling the  
6 Certificate of Naturalization No. 8094737;

7 c. Judgment forever restraining and enjoining the defendant from  
8 claiming any rights, privileges or advantages under any document evidencing  
9 United States citizenship;

10 d. Judgment requiring the defendant immediately to surrender and  
11 deliver his Certificate of Naturalization to the Attorney General; and

12 e. Judgment granting to the plaintiff such other relief as may be  
13 lawful and proper.

14 COUNT III

15 Illegal Procurement of Citizenship: Lack of  
16 Good Moral Character (False Testimony)

17 29. Plaintiff realleges and incorporates by reference paragraphs 1-20  
18 and 25 of the complaint.

19 30. Section 101(f)(6) of the Immigration and Nationality Act, 8 U.S.C.  
20 § 1101(f)(6), provided at the time of defendant's naturalization, that:

21 "No person shall be regarded as, or found to be, a person of good  
22 moral character who, during the period for which good moral character  
23 is required to be established, is or was —

24 \* \* \*

(b) one who has given false testimony for the purpose of obtaining any  
benefits under the Act."

25 31. When defendant swore to the truth of all the statements contained  
26 in his N-400, he gave false testimony as to one or more of the following  
27 facts for the purpose of obtaining U.S. citizenship: his membership in the  
28 NSDAP; his membership in the Allgemeine SS; his membership in the SD; his  
29 membership in the RSHA.

30 32. Because defendant gave false testimony for the purpose of  
31 obtaining benefits under the Immigration and Nationality Act, he was not a  
32

1 person of good moral character as defined in Section 101(f)(6) of the Act,  
2 8 U.S.C. § 1101(f)(6).

3 33. Because defendant was not a person of good moral character, his  
4 naturalization was illegally procured under Section 316(a)(3) of the Act, 8  
5 U.S.C. § 1427(a)(3).

6 34. Because defendant's citizenship was thus illegally procured, it  
7 must be revoked pursuant to Section 340(a) of the Act, 8 U.S.C. § 1451(a).

8 Wherefore, plaintiff demands:

9 a. A declaration that defendant illegally procured his citizenship and  
10 Certificate of Naturalization;

11 b. Judgment revoking and setting aside the April 6, 1959 order of the  
12 United States District Court for the Southern District of New York  
13 admitting the defendant to United States citizenship, and cancelling the  
Certificate of Naturalization No. 8094737;

14 c. Judgment forever restraining and enjoining the defendant from  
15 claiming any rights, privileges or advantages under any document evidencing  
16 United States citizenship;

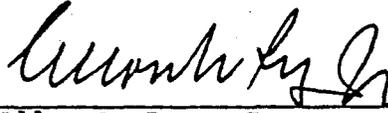
17 d. Judgment requiring the defendant immediately to surrender and  
18 deliver his Certificate of Naturalization to the Attorney General; and

19 e. Judgment granting to the plaintiff such other relief as may be  
20 lawful and proper.  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

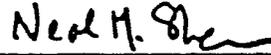
William B. Shubb  
United States Attorney  
Eastern District of California

By: \_\_\_\_\_

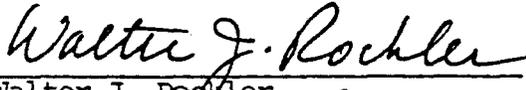
Respectfully submitted,



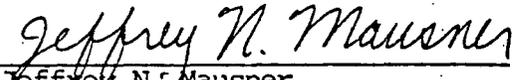
Allan A. Ryan, Jr.  
Director



Neal M. Sher  
Deputy Director



Walter J. Rockler  
Special Counsel AR



Jeffrey N. Mausner  
Trial Attorney

Office of Special Investigations  
Criminal Division  
United States Department of Justice  
Post Office Box 28603  
Washington, D.C. 20005  
(202) 633-2502

1  
-  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
27  
28  
29