

**SUPERIOR COURT OF JUSTICE
TORONTO REGION**

In the matter of an application pursuant to s.13 of the *Extradition Act*
for a warrant for the provisional arrest of **KARLHEINZ
SCHREIBER**

BETWEEN:

THE FEDERAL REPUBLIC OF GERMANY,

Extradition Partner,

- and -

KARLHEINZ SCHREIBER

Person Sought

AFFIDAVIT OF ROBERT MOREAU

I, ROBERT MOREAU, an officer with the Royal Canadian Mounted Police,

MAKE OATH AND SAY AS FOLLOWS:

1. The contents of this affidavit are based upon my review of materials forwarded by the Federal Republic of Germany to support their request for the provisional arrest of Karlheinz Schreiber, hereafter also referred to as the "person sought" and from information provided to me by fellow members of the R.C.M.P. I believe the information contained in this document, including the exhibits attached hereto, to be true.

2. Karlheinz Schreiber is sought for the purpose of prosecution by the Federal Republic of Germany in respect to income and other tax evasion offences. A warrant for his arrest was issued on May 7, 1997, reference number 1 GS 997/97 File number 501-Js127135/95 by the Augsburg Local Court, in the Federal Republic of Germany. The warrant remains outstanding at the present time. The facts surrounding the charges are summarized by the Public Prosecutor of the Augsburg Public Prosecutor's Office in the Request for the provisional arrest of Karlheinz Schreiber dated August 27, 1999, which is attached as Exhibit A, as follows:

In the years 1988 to 1993, the accused subject earned commissions received for his consulting activities amounting to at least DEM 46,112,101, which he concealed in his tax declarations for these years. In order to conceal the receipt of these commissions towards the German financial authorities, he had his trustees conclude the respective consultancy agreements with the foreign base companies I.A.L. and A.T.G. After the receipts had been transferred to the accounts of these foreign base companies, the accused subject spent the money on his own purposes. Within the limitation of time, the accused subject in detail was paid commissions received by the company Messerschmidt Bolkow-Blohn in 1988 for the negotiation of the sale of 12 helicopters to Canada amounting to 116,250 CAN\$, by the company styled Airbus Industrie from 30 September 1988 to 26 June 1991 10,827,000 U.S.\$ for the negotiation of the sale of airbuses to Canada and Thailand, by the company Thyssen Industrie AG on 25 October 1988

2,000,000 CAN\$ for a project directed towards the establishment of an industrial enterprise in Canada (Bear-Head-Project) as well as by the company Thyssen Industrie AG from 1991 to 1993 24 million DEM for the negotiation of the sale of 36 tanks to Saudi Arabia.

The accused subject thus evaded income and trade tax amounting to a total of at least DEM 25,724,844.

This corresponds to six factually coinciding offences of income tax evasion, in four cases particularly aggravated, in penal cumulation with five factually coinciding offences of trade tax evasion, in two cases particularly aggravated, and is punishable according to sections 369 and 370, paragraph 1, subparagraphs 1 and 2, paragraph 3, subparagraph 1, paragraph 4, clause 3 of the Fiscal Code, section 15 of the Income Tax Act, section 2 of the Trade Tax Act, section 149 of the Fiscal Code, section 53 of the Penal Code.

Exhibit A: Request for Provisional Arrest

3. Further detail of the allegations are set out in the warrant of arrest provided by the authorities of the Federal Republic of Germany, a copy and certified translation of which is attached as Exhibit "B" to my affidavit.

Exhibit B: Warrant of Arrest

4. I am advised that the requirements for issuing a provisional arrest warrant are set out in Section 13 of the *Extradition Act*. As a result, the applicant must establish that there are reasonable grounds to believe that:

(a) it is necessary in the public interest to arrest the person, including to prevent the person from escaping or committing an offence;

(b) the person is ordinarily resident in Canada, is in Canada, or is on the way to Canada; and

(c) a warrant for the person's arrest or an order of a similar nature has been issued or the person has been convicted.

(a) It is necessary in the public interest to arrest the person, including to prevent the person from escaping or committing an offence:

5. I believe it is in the public interest to arrest Mr. Schreiber at this time. The German authorities, through Interpol, have provided information indicating evasive action taken by Mr. Schreiber in response to the investigation in Germany. Attached as Exhibit 'C' is a copy of the Interpol communication provided by the German Public Prosecutor which supplements the information previously provided in Exhibit 'A'. The information provided by the German authorities with respect to the risk of flight is as follows:

(a) Karlheinz Schreiber is a German-Canadian national whose last known German address is 86916 Kaufering Raiffeisenstr.27. On October 5, 1995, German authorities carried out a search at the Schreiber residence in Kaufering, in connection with their investigation into suspected tax evasion. Schreiber left Germany shortly thereafter. His departure was confirmed by his secretary, Mrs. Kaupp;

(b) In an interview of Schreiber published in the June 21, 1996 edition of the "Augsburger Allgemeine" newspaper, referring to the connection between his flight and the investigative proceedings, the defendant stated during the interview: "They better not even think about taking me into coercive detention":

(c) On May 7, 1997, a warrant was issued in Germany for the arrest of Schreiber on charges of income and trade tax evasion. In early 1998, the German Federal Police determined that Mr. Schreiber was residing in Switzerland. German authorities made a request for legal assistance to the Swiss authorities to

supply them with materials relevant to their investigation of Mr. Schreiber. Mr. Schreiber was notified of the request and filed an appeal with the Federal Court in Switzerland seeking to prevent the use of the seized material or its delivery to German judicial authorities. The appeal was denied in January of 1999;

(d) In March of 1999, the public prosecutors' office in Augsburg, Germany submitted another request for legal assistance to Switzerland. This time the request was in relation to charges of aiding and abetting a criminal breach of trust and bribery in addition to tax evasion. Mr. Schreiber received notice of this further request;

(e) In May of 1999, after German authorities had had an opportunity to evaluate the materials received from the Swiss, two managers of Thyssen Industrie, AG were arrested in connection with the same investigation. Another accused, a Dr. Pfahls, evaded arrest and has fled Germany. Shortly after, in mid-May, Schreiber left Switzerland;

(f) Mr. Schreiber's mother died recently in Germany. The funeral was held on Friday, August 27. Neither Mr. Schreiber nor his wife attended the funeral.

Exhibit C: Supplemental material

6. The information provided by the German authorities in Exhibit 'D' indicates that since January of 1999, data for telephone calls from Mr. Schreiber's business and by his family was collected for the purpose of establishing his whereabouts:

(a) Until May, 1999, Mr. Schreiber had often received several calls a day from Germany at his residence in Switzerland. Analysis of the phone call data revealed that Mr. Schreiber and his wife left their place of residence in Switzerland in mid-May;

(b) After this, analysis of the telephone data did not provide any information about where Mr. Schreiber was staying;

(c) Telephone contacts with Canada have been established since mid-July. Numerous calls were made by the family to a mobile phone in Canada.

7. As a result of inquiries made by the RCMP with Bell Mobility, I am advised that the telephone number of the mobile phone is registered to Greg Alford of 640 Broadway Avenue, Toronto.

8. On August 26, 1999, a member of the RCMP made a pretext phone call to the cell phone number registered to Mr. Alford. At the moment that the phone number was called and the phone rang and was answered, Mr. Alford was under surveillance. He did not answer a phone. The phone was answered by a man with a German accent.

9. The Division Criminal Analysis Unit of the RCMP checked for telephone numbers registered to Mr. or Mrs. Shreiber. No published numbers were revealed.

10. I am advised that an RCMP check of property tax rolls indicates that Mr. Schreiber is the owner of a townhouse at 7 Bittern Court, Rockcliffe Park, Ottawa, Ontario. Telephone checks reveal a non-published number at this address. The German authorities advise that there have been no phone calls to any numbers in Ottawa.

11. I am further advised that on the morning of August 31, 1999, a member of the RCMP in company with a member of the Ottawa-Carleton Regional Police Service attended the neighbourhood of 7 Bittern Court in the guise of investigating neighbourhood car thefts. As a

result it was determined that Mr. Schreiber has not been present at that residence for some time.

A neighbour advised that he had not been to the house "since the Airbus scandal broke".

12. Mr. Schreiber has been located in Toronto at 102 Bloor Street West, a 'business apartment' building that rents furnished suites by the month to business traveller. Attached as Exhibit 'D' is an internet off-print of a brochure describing the accommodations at 102 Bloor Street West.

Exhibit D: Brochure 102 Bloor Street West, Tab "D"

13. I believe it is in the public interest to apprehend Mr. Schreiber forthwith considering:

- (a) the transient nature of his accommodations in Toronto and the fact that he could leave at any time;
- (b) his suspected use of someone else's cell phone;
- (c) the information provided by the Germans respecting his departure from Germany and Switzerland;
- (d) his comments to the press indicating his intention to avoid returning to Germany to face prosecution;
- (e) his presumed wealth considering the alleged tax evaded;
- (f) the significance of the penalty facing him in Germany.

(b) the person is ordinarily resident in Canada, is in Canada, or is on the way to Canada;

14. On August 30, 1999, I was detailed to a surveillance team and provided with a copy of the photograph of Karlheinz Schreiber which had been provided by the German authorities to the

RCMP through Interpol. A copy of this photograph is attached as exhibit E to my affidavit, along with a copy of the telefax cover page.

Exhibit E: Copy of Photograph

15. At 10:17 a.m. on August 30, 1999, in the vicinity of 102 Bloor Street West, Toronto, I observed a male individual matching the photograph provided to us of Karlheinz Schreiber. I saw the same individual several times during the course of surveillance on August 30, 1999, and I am of the belief that he is the person in the photograph provided by the German authorities, and is the Karlheinz Schreiber who is the subject of the request for a warrant of provisional arrest by the Federal Republic of Germany.

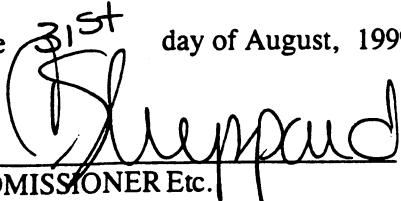
16. At 5:28 p.m. I observed Karlheinz Schreiber return in the company of a female to 102 Bloor Street West, and observed them enter the building by the rear entrance off of Cumberland Street, Toronto. I am advised by Cpl. Michael Marsden, that he and Cst. Joe Gareau followed Mr. Schreiber into the building, and that Cst. Gareau went up in the elevator with Mr. Schreiber to the 5th floor where Mr. Schreiber entered either suite 510 or 511.


17. I observed Mr. Schreiber today, August 31, 1999, at 12:30 pm in a laneway south of Cumberland Street in Yorkville. He was with a man believed to be Mr. Alford. I saw them get into a 1998 red Volvo. I am advised that as of 2:00 pm the surveillance team has located him in Barrie, Ontario.

(c) **There is a warrant for the person's arrest or the person has been convicted:**

18. The person sought is wanted on a warrant of arrest issued by Augsburg Court in Germany. on May 7, 1997. The warrant remains outstanding at the present time.

Exhibit B: Warrant of Arrest

SWORN before me at Toronto, Ontario,)
on the ^{31st} day of August, 1999.)
)
A COMMISSIONER Etc.)


ROBERT MOREAU