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8

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 SOUTHERN DIVISION

12 UNITED STATES OF AMERICA, ) Case No. SA CR 08-180-DOC  
13 )  
13 Plaintiff, ) STIPULATION RE CONTINUANCE OF  
14 ) TRIAL DATE TO AUGUST 4, 2009 AT  
14 v. ) 8:30 A.M. AND EXCLUDABLE TIME  
15 )  
15 MOSES ONCIU, BEATA GIZELLA ) Proposed New Trial Date:  
16 PRIORE, and IRENE PEMKOVA, ) August 4, 2009  
16 ) Proposed New Time: 8:30 a.m.  
17 Defendants. ) Place: Courtroom of the  
17 ) Honorable David O. Carter  
18 )

19 Plaintiff United States of America, by and through its  
20 counsel of record, the United States Attorney for the Central  
21 District of California, and defendants, Moses Onciu, by and  
22 through his counsel of record, Gerald Werksman, Beata Gizella  
23 Priore, by and through her counsel of record, Joel Levine, and  
24 Irene Pemkova, by and through her counsel of record, Diane Bass,  
25 stipulate as follows.

26 1. Defendants Onciu and Priore first appeared before a  
27 judicial officer in the court in which this charge is pending on  
28 August 4, 2008. The Indictment in this case was filed on July 2,

1 2008. The Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq.,  
2 originally required that the trial as to defendants Onciu and  
3 Priore commence on or before October 13, 2008. Defendant Pemkova  
4 first appeared before a judicial officer in the court in which  
5 this charge is pending on August 18, 2008. The Speedy Trial Act  
6 of 1974, 18 U.S.C. § 3161 et seq., originally required that the  
7 trial as to defendant Pemkova commence on or before October 27,  
8 2008.

9 2. On August 4, 2008, defendants Onciu and Priore were  
10 arraigned on the Indictment and the Court set a trial date of  
11 September 30, 2008. On August 18, 2008, defendant Pemkova was  
12 arraigned on the Indictment and the Court set the same trial date  
13 of September 30, 2008. Pursuant to the parties' stipulation, the  
14 trial date was continued to the current date of April 28, 2009.

15 3. Defendants are released on bond pending trial. The  
16 parties estimate that the government's case-in-chief in the trial  
17 of this matter will last approximately 6 days.

18 4. By this stipulation, the parties jointly move to  
19 continue the trial date from April 28, 2009 to August 4, 2009 at  
20 8:30 a.m.

21 5. The parties request the continuance based upon the  
22 following facts, which the parties believe demonstrate good cause  
23 to support the appropriate findings under the Speedy Trial Act:

24 a) Pursuant to defendants' requests, on September 2  
25 and 3, 2008, the government produced to defendants over 400 pages  
26 of discovery including search warrants and a written affidavit,  
27 voluminous email messages and attachments, memoranda of  
28 interviews, investigative reports, criminal history printouts, IP

1 address printouts, and other documentation. On September 18,  
2 2008, the government produced to defendants many hours of audio  
3 recordings of dozens of telephone conversations and an in-person  
4 meeting.

5           b) On February 4, 2009, the court granted the request  
6 of defendant Priore's counsel to be relieved and appointed Mr.  
7 Khouri as new counsel on her behalf. On February 12, 2009, the  
8 court granted the request of defendant Priore's second counsel,  
9 Mr. Khouri, to be relieved and, on February 13, 2009, appointed  
10 Mr. Levine as her counsel. Defendant Priore's new counsel, Mr.  
11 Levine, believes that there is insufficient time remaining before  
12 the current trial date for counsel to review the documentary and  
13 audio recording discovery, as well as the proceedings conducted  
14 thus far in this case, and to confer with defendant and with  
15 government counsel, so as to be able to effectively prepare for  
16 trial by the current trial date.

17           c) On February 25, 2009, the court granted the  
18 request of defendant Pemkova to travel to the Czech Republic for  
19 medical treatment. This order allows defendant Pemkova to travel  
20 from March 10, 2009 to April 10, 2009. Defendant Pemkova's  
21 treatment during that period will limit her ability to consult  
22 with her counsel to prepare for trial. In addition, counsel for  
23 defendant Pemkova has a complex federal trial scheduled for June  
24 23, 2009 in Riverside that involves tens of thousands of pages of  
25 discovery, at least 40 witnesses, and is expected to last for at  
26 least a month. As a result of the time needed to prepare for  
27 that trial, defendant Pemkova's counsel is need of additional  
28 time to prepare for the instant case and she is unavailable to

1 try this case on a new date that is earlier than that stipulated  
2 to herein. Counsel for defendant Onciu will be out of the state  
3 at the end of June and in early July 2009 and, as a result, if  
4 trial in this case is continued, will be unavailable to try this  
5 case on a new date that is earlier than that stipulated to  
6 herein.

7 d) Counsel for defendants represent that additional  
8 time is necessary to confer with defendants, conduct and complete  
9 an independent investigation of the case, conduct and complete  
10 additional legal research including for potential pre-trial  
11 motions, review the discovery and potential evidence in the case,  
12 to obtain additional discovery that defendants may seek from the  
13 government, to review that additional discovery after it is  
14 produced, and prepare for trial in the event that a pretrial  
15 resolution does not occur. Defense counsel represent that  
16 failure to grant the continuance would deny them reasonable time  
17 necessary for effective preparation, taking into account the  
18 exercise of due diligence.

19 e) Defendants' counsel have discussed this  
20 stipulation with defendants and defendants consent to the  
21 requested continuance. The government does not object to the  
22 continuance.

23 6. For purposes of computing the date under the Speedy  
24 Trial Act by which defendants' trial must commence, the parties  
25 agree that the time period of April 28, 2009 to August 4, 2009  
26 inclusive, should be excluded pursuant to 18 U.S.C.  
27 §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the delay  
28 results from a continuance granted by the court at defendants'

1 request, without government objection, on the basis of the  
2 court's finding that: (i) the ends of justice served by the  
3 continuance outweigh the best interest of the public and  
4 defendants in a speedy trial; (ii) failure to grant the  
5 continuance would be likely to make a continuation of the  
6 proceeding impossible, or result in a miscarriage of justice,  
7 that it is unreasonable to expect preparation for pre-trial  
8 proceedings or for the trial itself within the time limits  
9 established by the Speedy Trial Act; (iii) failure to grant the  
10 continuance would deny defense counsel the reasonable time  
11 necessary for effective preparation, taking into account the  
12 exercise of due diligence; and (iv) failure to grant the  
13 continuance would unreasonably deny defendants continuity of  
14 counsel and would deny defense counsel the reasonable time  
15 necessary for effective preparation, taking into account the  
16 exercise of due diligence.

17 7. In addition, the parties agree that the time period of  
18 April 28, 2009 to August 4, 2009 inclusive, should be excluded  
19 pursuant to 18 U.S.C. § 3161(h)(6), because it is a reasonable  
20 period of delay resulting from defendants' joinder for trial with  
21 each other, the time for trial of defendants has not run, and no  
22 motion for severance has been granted.

23 8. Nothing in this stipulation shall preclude a finding  
24 that other provisions of the Speedy Trial Act dictate that  
25 additional time periods be excluded from the period within which  
26 trial must commence. Moreover, the same provisions and/or other  
27 provisions of the Speedy Trial Act may in the future authorize

28 / / /

1 the exclusion of additional time periods from the period within  
2 which trial must commence.

3 IT IS SO STIPULATED.

4 Dated: February 26, 2009.

THOMAS P. O'BRIEN  
United States Attorney

6 ROBB C. ADKINS  
7 Assistant United States Attorney  
8 Chief, Santa Ana Branch

9   /S/    
10 LAWRENCE E. KOLE  
11 Assistant United States Attorney  
12 Attorneys for Plaintiff United  
13 States of America

14 I am Moses Onciu's attorney. I have carefully discussed  
15 this stipulation and the continuance of the trial date with my  
16 client. I have fully informed my client of his Speedy Trial  
17 rights. To my knowledge, my client understands those rights. I  
18 believe that my client's decision to give up the right to be  
19 brought to trial earlier than August 4, 2009 is an informed and  
20 voluntary one.

21 Dated: February 26, 2009.

  /S/    
GERALD WERKSMAN  
Attorney for Defendant  
Moses Onciu  
\*pursuant to 2/26/09 authorization

25 I am Beata Gizella Priore's attorney. I have carefully  
26 discussed this stipulation and the continuance of the trial date  
27 with my client. I have fully informed my client of her Speedy  
28 Trial rights. To my knowledge, my client understands those

1 rights. I believe that my client's decision to give up the right  
2 to be brought to trial earlier than August 4, 2009 is an informed  
3 and voluntary one.

4 Dated: February 26, 2009.

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\_\_\_\_\_/S/\*  
JOEL LEVINE

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Attorney for Defendant  
Beata Gizella Priore  
\*pursuant to 2/26/09 authorization

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I am Irene Pemkova's attorney. I have carefully discussed  
this stipulation and the continuance of the trial date with my  
client. I have fully informed my client of her Speedy Trial  
rights. To my knowledge, my client understands those rights. I  
believe that my client's decision to give up the right to be  
brought to trial earlier than August 4, 2009 is an informed and  
voluntary one.

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Dated: February 26, 2009.

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\_\_\_\_\_/S/\*  
DIANE BASS

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Attorney for Defendant  
Irene Pemkova  
\*pursuant to 2/26/09 authorization

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 2 ROBB C. ADKINS  
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7 Attorneys for Plaintiff  
 United States of America  
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9 UNITED STATES DISTRICT COURT  
 10 CENTRAL DISTRICT OF CALIFORNIA  
 11 SOUTHERN DIVISION

12	UNITED STATES OF AMERICA,	)	Case No. SA CR 08-180-DOC
13	Plaintiff,	)	[PROPOSED] ORDER CONTINUING
14	v.	)	TRIAL TO AUGUST 4, 2009 AT 8:30
15	MOSES ONCIU, BEATA GIZELLA	)	A.M. AND REGARDING EXCLUDABLE
16	PRIORE, and IRENE PEMKOVA,	)	TIME PERIOD UNDER SPEEDY TRIAL
17	Defendants.	)	ACT

18 The Court has read and considered the Stipulation re  
 19 Excludable Time Period under Speedy Trial Act filed by the  
 20 parties in this matter on February 26, 2009. The Court hereby  
 21 finds that the Stipulation, which this Court incorporates by  
 22 reference into this Order, demonstrates facts that provide good  
 23 cause for a finding of excludable time pursuant to the Speedy  
 24 Trial Act, 18 U.S.C. § 3161.

25 The Court further finds that: (1) the ends of justice served  
 26 by the continuance outweigh the best interest of the public and  
 27 defendant in a speedy trial; (2) failure to grant the continuance  
 28 would be likely to make a continuation of the proceeding



1 impossible, or result in a miscarriage of justice; (3) failure to  
2 grant the continuance would unreasonably deny defendants  
3 continuity of counsel and would deny defense counsel the  
4 reasonable time necessary for effective preparation, taking into  
5 account the exercise of due diligence, and (4) this continuance  
6 is a reasonable period of delay resulting from defendants'  
7 joinder with each other for trial, that the time for trial of  
8 defendants has not run, and that no motion for severance has been  
9 granted.

10 THEREFORE, FOR GOOD CAUSE SHOWN, IT IS ORDERED THAT:

11 1. The trial in this matter is continued from April 28,  
12 2009 to August 4, 2009 at 8:30 a.m.

13 2. The time period of April 28, 2009 to August 4, 2009,  
14 inclusive, is excluded in computing the time within which the  
15 trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(6),  
16 (h)(7)(A), (h)(7)(B)(I), and (B)(iv).

17 3. Nothing in this Order shall preclude a finding that  
18 other provisions of the Speedy Trial Act dictate that additional  
19 time periods are excluded from the period within which trial must  
20 commence. Moreover, the same provisions and/or other provisions  
21 of the Speedy Trial Act may in the future authorize the exclusion  
22 of additional time periods from the period within which trial  
23 must commence.

24 Dated: \_\_\_\_\_.

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27 \_\_\_\_\_  
Honorable David O. Carter  
United States District Judge