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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 Plaintiff,	)	STIPULATION RE CONTINUANCE OF
	)	TRIAL DATE TO JUNE 8, 2010 AT
14 v.	)	8:30 A.M. AND EXCLUDABLE TIME
)	
15 MOSES ONCIU, BEATA GIZELLA	)	New Trial Date: June 8, 2010
16 PRIORE, and IRENE PEMKOVA,	)	Proposed New Time: 8:30 a.m.
	)	Place: Courtroom of the
17 Defendants.	)	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. On July 9, 2009, the court vacated the
14 trial date, which had been continued pursuant to the parties'
15 stipulation, and ordered that it would be reset at a status
16 conference on August 4, 2009.

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

20 4. By this stipulation, the parties jointly move the court
21 to sign the contemporaneously filed proposed order to memorialize
22 the order that the court made at the status conference conducted
23 on August 4, 2009 that set the trial date in this matter on June
24 8, 2010 at 8:30 a.m. and to find the time from August 4, 2009 to
25 July 27, 2010 to be excludable.

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

1 a) Pursuant to defendants' requests, the government
2 produced to defendants over 400 pages of discovery including
3 search warrants and a written affidavit, voluminous email
4 messages and attachments, memoranda of interviews, investigative
5 reports, criminal history printouts, IP address printouts, and
6 other documentation. The government subsequently produced to
7 defendants many hours of audio recordings of dozens of telephone
8 conversations and an in-person meeting. On July 13 and 21, 2009,
9 the government produced to defendants draft transcripts of these
10 recordings, which encompassed over 400 pages. On August 3, 2009,
11 the government provided defendants with a notice of expert
12 testimony.

13 b) On July 16, 2009, the court granted the request of
14 defendant Pemkova to travel to the Czech Republic for medical
15 treatment for 60 days. Defendant Pemkova's treatment during that
16 period will limit her ability to consult with her counsel to
17 prepare for trial. In addition, counsel for defendant Pemkova
18 has a multi-defendant federal trial that is expected to last for
19 three to four weeks scheduled for September 28, 2009, counsel for
20 defendant Priore has a federal trial that is set for September
21 2009 and is anticipated to be rescheduled in November 2009,
22 counsel for defendants Pemkova and Priore are both scheduled to
23 be in trial in a federal case with 13 defendants that is
24 scheduled for December 1, 2009, counsel for defendant Pemkova has
25 another federal trial that is expected to last 10-12 weeks and
26 involves tens of thousands of pages of documentary evidence
27 scheduled for January 13, 2010, and counsel for defendants
28 Pemkova and Priore are scheduled to be in trial in a complex

1 federal case for approximately two months beginning in April
2 2010. As a result of the time needed to prepare for and conduct
3 these trials, defendant Pemkova's counsel and defendant Priore's
4 counsel are need of additional time to prepare for the instant
5 case and are unavailable to try this case on a new date that is
6 earlier than that stipulated to herein.

7 c) 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 including that recently produced by the government, to obtain
13 additional discovery that defendants may seek from the
14 government, to review that additional discovery after it is
15 produced, and prepare for trial in the event that a pretrial
16 resolution does not occur. Defense counsel represent that
17 failure to grant the continuance would deny them reasonable time
18 necessary for effective preparation, taking into account the
19 exercise of due diligence.

20 d) Defendants' counsel have discussed this
21 stipulation with defendants and defendants consent to the
22 requested continuance. Defendants also stated that they consent
23 to this continuance on the record during the August 4, 2009
24 status conference. The government does not object to the
25 continuance.

26 6. For purposes of computing the date under the Speedy
27 Trial Act by which defendants' trial must commence, the parties
28 agree that the time period of August 4, 2009 to July 27, 2010,

1 inclusive, should be excluded pursuant to 18 U.S.C.
2 §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the delay
3 results from a continuance granted by the court at defendants'
4 request, without government objection, on the basis of the
5 court's finding that: (i) the ends of justice served by the
6 continuance outweigh the best interest of the public and
7 defendants in a speedy trial; (ii) failure to grant the
8 continuance would be likely to make a continuation of the
9 proceeding impossible, or result in a miscarriage of justice,
10 that it is unreasonable to expect preparation for pre-trial
11 proceedings or for the trial itself within the time limits
12 established by the Speedy Trial Act; (iii) failure to grant the
13 continuance would deny defense counsel the reasonable time
14 necessary for effective preparation, taking into account the
15 exercise of due diligence; and (iv) failure to grant the
16 continuance would unreasonably deny defendants continuity of
17 counsel and would deny defense counsel the reasonable time
18 necessary for effective preparation, taking into account the
19 exercise of due diligence.

20 7. In addition, the parties agree that the time period of
21 August 4, 2009 to July 27, 2010, inclusive, should be excluded
22 pursuant to 18 U.S.C. § 3161(h)(6), because it is a reasonable
23 period of delay resulting from defendants' joinder for trial with
24 each other, the time for trial of defendants has not run, and no
25 motion for severance has been granted.

26 8. Nothing in this stipulation shall preclude a finding
27 that other provisions of the Speedy Trial Act dictate that
28 additional time periods be excluded from the period within which

1 trial must commence. Moreover, the same provisions and/or other
2 provisions of the Speedy Trial Act may in the future authorize
3 the exclusion of additional time periods from the period within
4 which trial must commence.

5 IT IS SO STIPULATED.

6 Dated: August 6, 2009.

7 THOMAS P. O'BRIEN
United States Attorney

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

10 _____
11 /S/
12 LAWRENCE E. KOLE
13 Assistant United States Attorney
Attorneys for Plaintiff United
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 July 27, 2010 is an informed and
20 voluntary one.

21 Dated: August 6, 2009.

22 _____
23 /S/*
24 GERALD WERKSMAN
25 Attorney for Defendant
Moses Onciu
*pursuant to 8/5/09 authorization

26 I am Beata Gizella Priore's attorney. I have carefully
27 discussed this stipulation and the continuance of the trial date
28

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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 SETTING TRIAL
14	v.	)	ON JUNE 8, 2010 AT 8:30 A.M.
15	MOSES ONCIU, BEATA GIZELLA	)	AND REGARDING EXCLUDABLE TIME
16	PRIORE, and IRENE PEMKOVA,	)	PERIOD UNDER SPEEDY TRIAL ACT
17	Defendants.)	

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 August 6, 2009. The Court hereby finds
 21 that the Stipulation, which this Court incorporates by reference
 22 into this Order, demonstrates facts that provide good cause for a
 23 finding of excludable time pursuant to the Speedy Trial Act, 18
 24 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 shall be set for June 8, 2010
12 at 8:30 a.m.

13 2. The time period of August 4, 2009 to July 27, 2010,
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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26

27

Honorable David O. Carter
United States District Judge

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