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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 NOVEMBER 2, 2010
14 v.	)	AT 8:30 A.M. AND EXCLUDABLE
	)	TIME
15 MOSES ONCIU, BEATA GIZELLA)	
16 PRIORE, and IRENE PEMKOVA,	)	New Trial Date: November 2,
	)	2010
17 Defendants.	)	Proposed New Time: 8:30 a.m.
	)	Place: Courtroom of the
	)	Honorable David O. Carter

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

27 1. Defendants Onciu and Priore first appeared before a
 28 judicial officer in the court in which this charge is pending on

1 August 4, 2008. The Indictment in this case was filed on July 2,
2 2008. The Speedy Trial Act of 1974, 18 U.S.C. § 3161 et seq.,
3 originally required that the trial as to defendants Onciu and
4 Priore commence on or before October 13, 2008. Defendant Pemkova
5 first appeared before a judicial officer in the court in which
6 this charge is pending on August 18, 2008. The Speedy Trial Act
7 of 1974, 18 U.S.C. § 3161 et seq., originally required that the
8 trial as to defendant Pemkova commence on or before October 27,
9 2008.

10 2. On August 4, 2008, defendants Onciu and Priore were
11 arraigned on the Indictment and the Court set a trial date of
12 September 30, 2008. On August 18, 2008, defendant Pemkova was
13 arraigned on the Indictment and the Court set the same trial date
14 of September 30, 2008.

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. The Court has previously continued the trial date in
19 this case from September 30, 2008 to June 8, 2010 upon the
20 parties' stipulation, and found the interim period, as well as
21 the period to July 27, 2010, to be excluded in computing the time
22 within which the trial must commence, pursuant to the Speedy
23 Trial Act.

24 5. By this stipulation, the parties jointly move to
25 continue the trial date from June 8, 2010 to November 2, 2010 at
26 8:30 a.m.

27 6. The parties request the continuance based upon the
28 following facts, which the parties believe demonstrate good cause

1 to support the appropriate findings under the Speedy Trial Act:

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

13 b) Pursuant to a request of defendant Pemkova, the
14 court granted an order permitting defendant Pemkova to travel to
15 the Czech Republic for medical treatment for 60 days. While
16 Defendant Pemkova is out of the country for this treatment, her
17 ability to consult with her counsel to prepare for trial will be
18 limited. In addition to the factors upon which the court
19 previously found the time period through July 27, 2010 to be
20 excludable, defendant Pemkova's counsel has federal trials
21 scheduled on the following dates prior to the new trial date
22 stipulated to herein: June 15, 2010, in United States v. Lin, a
23 multi-defendant narcotics case; July 27, in United States v.
24 Anderson, a bank robbery case in Los Angeles; August 3, in United
25 States v. Hernandez, a 28-defendant gang and drug case in
26 Riverside with a 3-month trial estimate; and September 21, in
27 United States v. Leiske, a seven-defendant investment fraud case.
28 Counsel for defendant Pemkova was just appointed in the above-

1 mentioned Hernandez case, which was filed in 2000, and, as a
2 result, has to become familiar with the record in that case in a
3 short period before the August 3 trial date. Due to the time
4 needed to prepare for and conduct these trials, defendant
5 Pemkova's counsel is need of additional time beyond that
6 previously found to be excludable to prepare for the instant case
7 and is unavailable to try this case on a new date that is earlier
8 than that stipulated to herein. Accordingly, defendant Pemkova's
9 counsel represents that failure to grant the continuance will
10 deny defendant Pemkova continuity of counsel and adequate
11 representation. In addition to the period of time covered by
12 this stipulation, these conflicts also provide additional bases
13 upon which the period to July 27, 2010 is excludable.

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

26 d) Defendants' counsel have discussed this
27 stipulation with defendants and defendants consent to the
28 requested continuance. The government does not object to the

1 continuance.

2 7. For purposes of computing the date under the Speedy
3 Trial Act by which defendants' trial must commence, the parties
4 agree that the time period of July 27, 2010 to November 2, 2010,
5 inclusive, should be excluded pursuant to 18 U.S.C.
6 §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the delay
7 results from a continuance granted by the court at defendants'
8 request, without government objection, on the basis of the
9 court's finding that: (i) the ends of justice served by the
10 continuance outweigh the best interest of the public and
11 defendants in a speedy trial; (ii) failure to grant the
12 continuance would be likely to make a continuation of the
13 proceeding impossible, or result in a miscarriage of justice,
14 that it is unreasonable to expect preparation for pre-trial
15 proceedings or for the trial itself within the time limits
16 established by the Speedy Trial Act; (iii) failure to grant the
17 continuance would deny defense counsel the reasonable time
18 necessary for effective preparation, taking into account the
19 exercise of due diligence; and (iv) failure to grant the
20 continuance would unreasonably deny defendants continuity of
21 counsel and would deny defense counsel the reasonable time
22 necessary for effective preparation, taking into account the
23 exercise of due diligence.

24 8. In addition, the parties agree that the time period of
25 July 27, 2010 to November 2, 2010, inclusive, should be excluded
26 pursuant to 18 U.S.C. § 3161(h)(6), because it is a reasonable
27 period of delay resulting from defendants' joinder for trial with
28 each other, the time for trial of defendants has not run, and no

1 motion for severance has been granted.

2 9. Nothing in this stipulation shall preclude a finding
3 that other provisions of the Speedy Trial Act dictate that
4 additional time periods be excluded from the period within which
5 trial must commence. Moreover, the same provisions and/or other
6 provisions of the Speedy Trial Act may in the future authorize
7 the exclusion of additional time periods from the period within
8 which trial must commence.

9 IT IS SO STIPULATED.

10 Dated: April 1, 2010.

11 ANDRÉ BIROTTE JR.
United States Attorney

12 DOUGLAS F. McCORMICK
13 Assistant United States Attorney
Acting Chief, Santa Ana Branch

14 _____/S/
15 LAWRENCE E. KOLE
Assistant United States Attorney

16 Attorneys for Plaintiff United
17 States of America

18 I am Moses Onciu's attorney. I have carefully discussed
19 this stipulation and the continuance of the trial date with my
20 client. I have fully informed my client of his Speedy Trial
21 rights. To my knowledge, my client understands those rights. I
22 believe that my client's decision to give up the right to be
23 brought to trial earlier than November 2, 2010 is an informed and
24 voluntary one.

25 Dated: April 1, 2010.

26 _____/S/*
GERALD WERKSMAN

27 Attorney for Defendant
28 Moses Onciu
*pursuant to 4/1/10 authorization

1 I am Beata Gizella Priore's attorney. I have carefully
2 discussed this stipulation and the continuance of the trial date
3 with my client. I have fully informed my client of her Speedy
4 Trial rights. To my knowledge, my client understands those
5 rights. I believe that my client's decision to give up the right
6 to be brought to trial earlier than November 2, 2010 is an
7 informed and voluntary one.

8 Dated: April 1, 2010.

9
10 _____/S/*
11 JOEL LEVINE

12 Attorney for Defendant
13 Beata Gizella Priore
*pursuant to 3/29/10 authorization

14 I am Irene Pemkova'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 her 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 November 2, 2010 is an informed and
20 voluntary one.

21 Dated: April 1, 2010.

22 _____/S/*
23 DIANE BASS

24 Attorney for Defendant
25 Irene Pemkova
*pursuant to 4/1/10 authorization

1 ANDRÉ BIROTTE JR.
 United States Attorney
 2 DOUGLAS F. McCORMICK
 Assistant United States Attorney
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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
	)	TRIAL DATE TO NOVEMBER 2, 2010
14 v.	)	AT 8:30 A.M. AND REGARDING
	)	EXCLUDABLE TIME PERIOD UNDER
15 MOSES ONCIU, BEATA GIZELLA	)	SPEEDY TRIAL ACT
16 PRIORE, and IRENE PEMKOVA,)	
)	
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 April 1, 2010. 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 is continued from June 8, 2010
12 to November 2, 2010 at 8:30 a.m.

13 2. The time period of July 27, 2010 to November 2, 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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Honorable David O. Carter
United States District Judge

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