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7 Attorneys for Plaintiff  
 8 United States of America

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

13 UNITED STATES OF AMERICA,	)	Case No. SA CR 08-180-DOC
	)	
14 Plaintiff,	)	STIPULATION RE CONTINUANCE OF
	)	TRIAL DATE TO APRIL 26, 2011 AT
15 v.	)	8:30 A.M. AND EXCLUDABLE TIME
	)	
16 MOSES ONCIU, BEATA GIZELLA	)	New Trial Date: April 26, 2011
PRIORE, and IRENE PEMKOVA,	)	Proposed New Time: 8:30 a.m.
	)	Place: Courtroom of the
17 Defendants.	)	Honorable David O. Carter
	)	
	)	

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 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 November 2, 2010 upon the  
20 parties' stipulation, and found the interim period to be excluded  
21 in computing the time within which the trial must commence,  
22 pursuant to the Speedy Trial Act.

23 5. By this stipulation, the parties jointly move to  
24 continue the trial date from November 2, 2010 to April 26, 2011  
25 at 8:30 a.m.

26 6. 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 approximately 500 pages of discovery  
3 including search warrants and a written affidavit, voluminous  
4 email messages and attachments, memoranda of interviews,  
5 investigative reports, criminal history printouts, IP address  
6 printouts, and other documentation. In addition, the government  
7 produced to defendants many hours of audio recordings of dozens  
8 of telephone conversations and an in-person meeting, had these  
9 recordings transcribed, and produced to defendants draft  
10 transcripts of these recordings, which encompassed over 400  
11 pages. Subsequently, the government located additional portions  
12 of some of these audio recordings that were incomplete at the  
13 time of the original production, had those portions transcribed,  
14 and produced to defendants the additional portions of the  
15 recordings and draft transcripts of these recordings.

16           b) A medical problem with the wife of defendant  
17 Priore's counsel has unexpectedly arisen and, as a result,  
18 defendant Priore's counsel anticipates that he will not be  
19 available for trial in this case as currently scheduled and that  
20 he will need additional time to prepare for the trial.  
21 Accordingly, defendant Priore's counsel represents that failure  
22 to grant the continuance will deny defendant Priore continuity of  
23 counsel and adequate representation.

24           c) If a continuance is granted based on the situation  
25 of defendant Priore's counsel, defendant Pemkova's counsel has  
26 federal narcotics trials scheduled on January 18, 2011 and  
27 February 22, 2011, and has an investment fraud trial scheduled in  
28 this court on March 29, 2011 and, as a result, is unavailable to

1 try this case on a new date that will accommodate the situation  
2 of defendant Priore's counsel and that is earlier than that  
3 stipulated to herein. Accordingly, defendant Pemkova's counsel  
4 represents that failure to grant the continuance will deny  
5 defendant Pemkova continuity of counsel and adequate  
6 representation.

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 produced by the government, to obtain additional  
13 discovery that defendants may seek from the government, to review  
14 that additional discovery after it is produced, and prepare for  
15 trial. Defense counsel represent that failure to grant the  
16 continuance would deny them reasonable time necessary for  
17 effective preparation, taking into account the exercise of due  
18 diligence.

19 d) 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 7. 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 November 2, 2010 to April 26, 2011,  
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 8. In addition, the parties agree that the time period of  
18 November 2, 2010 to April 26, 2011, 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 9. 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 to be brought to trial earlier than April 26, 2011 is an informed  
2 and voluntary one.

3 Dated: October 8, 2010.

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6 \_\_\_\_\_  
7 JOEL LEVINE

8 Attorney for Defendant  
9 Beata Gizella Priore

9 I am Irene Pemkova's attorney. I have carefully discussed  
10 this stipulation and the continuance of the trial date with my  
11 client. I have fully informed my client of her Speedy Trial  
12 rights. To my knowledge, my client understands those rights. I  
13 believe that my client's decision to give up the right to be  
14 brought to trial earlier than April 26, 2011 is an informed and  
15 voluntary one.

16 Dated: October \_\_, 2010.

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19 DIANE BASS

20 Attorney for Defendant  
21 Irene Pemkova

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\_\_\_\_\_  
JOEL LEVINE

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Attorney for Defendant  
Beata Gizella Priore

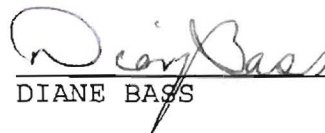
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9 I am Irene Pemkova's attorney. I have carefully discussed  
10 this stipulation and the continuance of the trial date with my  
11 client. I have fully informed my client of her Speedy Trial  
12 rights. To my knowledge, my client understands those rights. I  
13 believe that my client's decision to give up the right to be  
14 brought to trial earlier than April 26, 2011 is an informed and  
15 voluntary one.

16 Dated: October 8, 2010.

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\_\_\_\_\_  
DIANE BASS

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Attorney for Defendant  
Irene Pemkova

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

12  
 13 UNITED STATES OF AMERICA, ) Case No. SA CR 08-180-DOC  
 )  
 14 Plaintiff, ) [PROPOSED] ORDER CONTINUING  
 ) TRIAL DATE TO APRIL 26, 2011 AT  
 15 v. ) 8:30 A.M. AND REGARDING  
 ) EXCLUDABLE TIME PERIOD UNDER  
 16 MOSES ONCIU, BEATA GIZELLA ) SPEEDY TRIAL ACT  
 PRIORE, and IRENE PEMKOVA, )  
 )  
 17 Defendants. )

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18  
 19 The Court has read and considered the Stipulation re  
 20 Excludable Time Period under Speedy Trial Act filed by the  
 21 parties in this matter on October 11, 2010. The Court hereby  
 22 finds that the Stipulation, which this Court incorporates by  
 23 reference into this Order, demonstrates facts that provide good  
 24 cause for a finding of excludable time pursuant to the Speedy  
 25 Trial Act, 18 U.S.C. § 3161.

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

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

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

12 1. The trial in this matter is continued from November 2,  
13 2010 to April 26, 2011 at 8:30 a.m.

14 2. The time period of November 2, 2010 to April 26, 2011,  
15 inclusive, is excluded in computing the time within which the  
16 trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(6),  
17 (h)(7)(A), (h)(7)(B)(I), and (B)(iv).

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

25 Dated: \_\_\_\_\_.

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