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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 NOVEMBER 8, 2011
15 v.) AT 8:30 A.M. AND EXCLUDABLE
) TIME
16 MOSES ONCIU, BEATA GIZELLA)
PRIORE, and IRENE PEMKOVA,) New Trial Date: November 8,
) 2011
17 Defendants.) Proposed New Time: 8:30 a.m.
) Place: Courtroom of the
) 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 April 26, 2011 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 April 26, 2011 to November 8, 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. The
16 government has also disclosed its intent to offer testimony at
17 trial from two expert witnesses.

18 b) Defendant Pemkova recently disclosed that she
19 anticipates offering testimony from two expert witnesses at
20 trial. However, these witnesses are not available to testify at
21 the time that the trial is currently scheduled.

22 c) In addition, defendant Pemkova's counsel has a
23 federal trial scheduled for July 2011 and another investment
24 fraud trial scheduled in this court in September 2011 and, as a
25 result, is unavailable to try this case on a new date when
26 defendant Pemkova's expert witnesses are available. Accordingly,
27 defendant Pemkova's counsel represents that failure to grant the
28 continuance will deny defendant Pemkova continuity of counsel and

1 adequate representation.

2 d) Counsel for defendants represent that additional
3 time is necessary to confer with defendants, conduct and complete
4 an independent investigation of the case, conduct and complete
5 additional legal research including for potential pre-trial
6 motions, review the discovery and potential evidence in the case,
7 including that produced by the government, to obtain additional
8 discovery that defendants may seek from the government, to review
9 that additional discovery after it is produced, and prepare for
10 trial. Defense counsel represent that failure to grant the
11 continuance would deny them reasonable time necessary for
12 effective preparation, taking into account the exercise of due
13 diligence.

14 e) Defendants' counsel have discussed this
15 stipulation with defendants and defendants consent to the
16 requested continuance. The government does not object to the
17 continuance.

18 7. For purposes of computing the date under the Speedy
19 Trial Act by which defendants' trial must commence, the parties
20 agree that the time period of April 26, 2011 to November 8, 2011,
21 inclusive, should be excluded pursuant to 18 U.S.C.
22 §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the delay
23 results from a continuance granted by the court at defendants'
24 request, without government objection, on the basis of the
25 court's finding that: (i) the ends of justice served by the
26 continuance outweigh the best interest of the public and
27 defendants in a speedy trial; (ii) failure to grant the
28 continuance would be likely to make a continuation of the

1 proceeding impossible, or result in a miscarriage of justice,
2 that it is unreasonable to expect preparation for pre-trial
3 proceedings or for the trial itself within the time limits
4 established by the Speedy Trial Act; (iii) failure to grant the
5 continuance would deny defense counsel the reasonable time
6 necessary for effective preparation, taking into account the
7 exercise of due diligence; and (iv) failure to grant the
8 continuance would unreasonably deny defendants continuity of
9 counsel and would deny defense counsel the reasonable time
10 necessary for effective preparation, taking into account the
11 exercise of due diligence.

12 8. In addition, the parties agree that the time period of
13 April 26, 2011 to November 8, 2011, inclusive, should be excluded
14 pursuant to 18 U.S.C. § 3161(h)(3)(A), because it results from
15 the unavailability of essential witnesses.

16 9. The parties further agree that the time period of April
17 26, 2011 to November 8, 2011, inclusive, should be excluded
18 pursuant to 18 U.S.C. § 3161(h)(6), because it is a reasonable
19 period of delay resulting from defendants' joinder for trial with
20 each other, the time for trial of defendants has not run, and no
21 motion for severance has been granted.

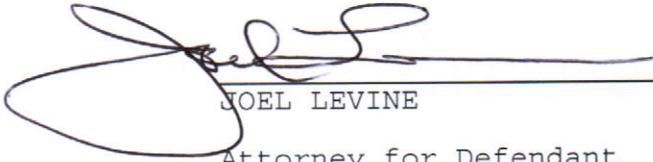
22 10. Nothing in this stipulation shall preclude a finding
23 that other provisions of the Speedy Trial Act dictate that
24 additional time periods be excluded from the period within which
25 trial must commence. Moreover, the same provisions and/or other
26 provisions of the Speedy Trial Act may in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

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1 to be brought to trial earlier than November 8, 2011 is an
2 informed and voluntary one.

3 Dated: March 30, 2011.

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JOEL LEVINE

7 Attorney for Defendant
8 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 November 8, 2011 is an informed and
15 voluntary one.

16 Dated: March __, 2011.

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19 DIANE BASS

20 Attorney for Defendant
21 Irene Pemkova

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1 to be brought to trial earlier than November 8, 2011 is an
2 informed and voluntary one.

3 Dated: March __, 2011.

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JOEL LEVINE

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Attorney for Defendant
Beata Gizella Priore

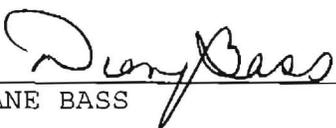
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9 I am Irene Pemkova's attorney. I have carefully discussed
10 this stipulation and the continuance of the trial date with my
11 client. I have fully informed my client of her Speedy Trial
12 rights. To my knowledge, my client understands those rights. I
13 believe that my client's decision to give up the right to be
14 brought to trial earlier than November 8, 2011 is an informed and
15 voluntary one.

16 Dated: March 31, 2011.

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DIANE BASS

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Attorney for Defendant
Irene Pemkova

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1 ANDRÉ BIROTTE JR.
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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

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

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 March 31, 2011. The Court hereby finds
 22 that the Stipulation, which this Court incorporates by reference
 23 into this Order, demonstrates facts that provide good cause for a
 24 finding of excludable time pursuant to the Speedy Trial Act, 18
 25 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, (4) this continuance
7 results from the unavailability of essential witnesses, and (5)
8 this continuance is a reasonable period of delay resulting from
9 defendants' joinder with each other for trial, the time for trial
10 of defendants has not run, and no motion for severance has been
11 granted.

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

13 1. The trial in this matter is continued from April 26,
14 2011 to November 8, 2011 at 8:30 a.m.

15 2. The time period of April 26, 2011 to November 8, 2011,
16 inclusive, is excluded in computing the time within which the
17 trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(3)(A),
18 (h)(6), (h)(7)(A), (h)(7)(B)(I), and (B)(iv).

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

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

3 Dated: _____.

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Honorable David O. Carter
United States District Judge

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