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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 FEBRUARY 21, 2012
15 v.	) AT 8:30 A.M. AND EXCLUDABLE
	) TIME
16 MOSES ONCIU, BEATA GIZELLA	)
PRIORE, and IRENE PEMKOVA,	) New Trial Date: February 21,
	) 2012
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 November 8, 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 November 8, 2011 to February 21,  
25 2012 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. Defendant Pemkova disclosed  
18 that she anticipates offering testimony from two expert witnesses  
19 at trial.

20 b) Defendant Pemkova has learned that one of her  
21 expert witnesses, Rudolf Klika, who is located in Europe,  
22 suffered a series of heart attacks in August 2011 and a major  
23 heart attack in September 2011. He is currently recuperating.  
24 Due to his medical condition, he is unable to travel to testify  
25 at the trial on the currently scheduled date and anticipates that  
26 it will be up to three months before he is able to travel again.

27 c) In addition, if the trial is continued due to the  
28 unavailability of her expert witness, defendant Pemkova's counsel

1 is unavailable to try this case on a new date that is earlier  
2 than that stipulated to herein because she has another federal  
3 criminal trial scheduled for January 24, 2012 in a narcotics  
4 case. Accordingly, defendant Pemkova's counsel represents that  
5 failure to grant the continuance will deny defendant Pemkova  
6 continuity of counsel and adequate representation.

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 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 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 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 8, 2011 to February 21,  
26 2012, 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 8, 2011 to February 21, 2012, inclusive, should be  
19 excluded pursuant to 18 U.S.C. § 3161(h)(3)(A), because it  
20 results from the unavailability of an essential witness.

21 9. The parties further agree that the time period of  
22 November 8, 2011 to February 21, 2012, inclusive, should be  
23 excluded pursuant to 18 U.S.C. § 3161(h)(6), because it is a  
24 reasonable period of delay resulting from defendants' joinder for  
25 trial with each other, the time for trial of defendants has not  
26 run, and no motion for severance has been granted.

27 10. Nothing in this stipulation shall preclude a finding  
28 that other provisions of the Speedy Trial Act dictate that

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

6 IT IS SO STIPULATED.

7 Dated: October 5, 2011.

8 ANDRÉ BIROTTE JR.  
United States Attorney

9 DENNISE D. WILLETT  
10 Assistant United States Attorney  
Chief, Santa Ana Branch

11 \_\_\_\_\_/S/  
12 LAWRENCE E. KOLE  
Assistant United States Attorney

13 Attorneys for Plaintiff United  
14 States of America

15 I am Moses Onciu's attorney. I have carefully discussed  
16 this stipulation and the continuance of the trial date with my  
17 client. I have fully informed my client of his Speedy Trial  
18 rights. To my knowledge, my client understands those rights. I  
19 believe that my client's decision to give up the right to be  
20 brought to trial earlier than February 21, 2012 is an informed  
21 and voluntary one.

22 Dated: October 5, 2011.

23 \_\_\_\_\_/S/\*  
24 GERALD WERKSMAN  
25 \*pursuant to 10/5/11  
email authorization

26 Attorney for Defendant  
27 Moses Onciu

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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 FEBRUARY 21, 2012  
 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 October 5, 2011. 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, (4) this continuance  
7 results from the unavailability of an essential witness, 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 November 8,  
14 2011 to February 21, 2012 at 8:30 a.m.

15       2.     The time period of November 8, 2011 to February 21,  
16 2012, inclusive, is excluded in computing the time within which  
17 the 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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