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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 DECEMBER 4, 2012
15 v.	) AT 8:30 A.M. AND EXCLUDABLE
	) TIME
16 MOSES ONCIU, BEATA GIZELLA	)
PRIORE, and IRENE PEMKOVA,	) New Trial Date: December 4,
	) 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 February 21, 2012 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 February 21, 2012 to December 4,  
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 expert testimony at trial.

19 b) Rudolf Klika, who was designated as an expert  
20 witness by defendant Pemkova, suffered a series of heart attacks  
21 in August and September 2011. As a result of his medical  
22 condition, he will be unable to testify at trial in this case.  
23 Therefore, defendant Pemkova will be designating a new expert as  
24 a witness. However, this new expert, who is located in Europe,  
25 is in need of time to become familiar with the case and to  
26 prepare for testimony and also needs to obtain a certification  
27 necessary to testify. These tasks will not be completed until  
28 September 2012.

1           c)     In addition, if the trial is continued due to the  
2 unavailability of her expert witness, defendant Pemkova's counsel  
3 is unavailable to try this case on a new date that is earlier  
4 than that stipulated to herein because she has trials scheduled  
5 for February 28, 2012 in a narcotics case, March 27, 2012 in  
6 another high yield investment case in this court, September 11,  
7 2012 in a health care fraud case, and November 6, 2012 in a tax  
8 case. Accordingly, defendant Pemkova's counsel represents that  
9 failure to grant the continuance will deny defendant Pemkova  
10 continuity of counsel and adequate representation.

11           d)     Counsel for defendants represent that additional  
12 time is necessary to confer with defendants, conduct and complete  
13 an independent investigation of the case, conduct and complete  
14 additional legal research including for potential pre-trial  
15 motions, review the discovery and potential evidence in the case,  
16 including that produced by the government, to obtain additional  
17 discovery that defendants may seek from the government, to review  
18 that additional discovery after it is produced, and prepare for  
19 trial. Defense counsel represent that failure to grant the  
20 continuance would deny them reasonable time necessary for  
21 effective preparation, taking into account the exercise of due  
22 diligence.

23           e)     Defendants' counsel have discussed this  
24 stipulation with defendants and defendants consent to the  
25 requested continuance. The government does not object to the  
26 continuance.

27           7.     For purposes of computing the date under the Speedy  
28 Trial Act by which defendants' trial must commence, the parties

1 agree that the time period of February 21, 2012 to December 4,  
2 2012, inclusive, should be excluded pursuant to 18 U.S.C.  
3 §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the delay  
4 results from a continuance granted by the court at defendants'  
5 request, without government objection, on the basis of the  
6 court's finding that: (i) the ends of justice served by the  
7 continuance outweigh the best interest of the public and  
8 defendants in a speedy trial; (ii) failure to grant the  
9 continuance would be likely to make a continuation of the  
10 proceeding impossible, or result in a miscarriage of justice,  
11 that it is unreasonable to expect preparation for pre-trial  
12 proceedings or for the trial itself within the time limits  
13 established by the Speedy Trial Act; (iii) failure to grant the  
14 continuance would deny defense counsel the reasonable time  
15 necessary for effective preparation, taking into account the  
16 exercise of due diligence; and (iv) failure to grant the  
17 continuance would unreasonably deny defendants continuity of  
18 counsel and would deny defense counsel the reasonable time  
19 necessary for effective preparation, taking into account the  
20 exercise of due diligence.

21 8. In addition, the parties agree that the time period of  
22 February 21, 2012 to December 4, 2012, inclusive, should be  
23 excluded pursuant to 18 U.S.C. § 3161(h)(3)(A), because it  
24 results from the unavailability of an essential witness.

25 9. The parties further agree that the time period of  
26 February 21, 2012 to December 4, 2012, inclusive, should be  
27 excluded pursuant to 18 U.S.C. § 3161(h)(6), because it is a  
28 reasonable period of delay resulting from defendants' joinder for

1 trial with each other, the time for trial of defendants has not  
2 run, and no motion for severance has been granted.

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

10 IT IS SO STIPULATED.

11 Dated: January 25, 2012.

12 ANDRÉ BIROTTE JR.  
United States Attorney

13 DENNISE D. WILLET  
14 Assistant United States Attorney  
Chief, Santa Ana Branch

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16 /S/ \_\_\_\_\_  
17 LAWRENCE E. KOLE  
18 Assistant United States Attorney  
19 Attorneys for Plaintiff United  
20 States of America

21 I am Moses Onciu's attorney. I have carefully discussed  
22 this stipulation and the continuance of the trial date with my  
23 client. I have fully informed my client of his Speedy Trial  
24 rights. To my knowledge, my client understands those rights. I  
25 believe that my client's decision to give up the right to be

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1 brought to trial earlier than December 4, 2012 is an informed and  
2 voluntary one.

3 Dated: January 25, 2012

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\_\_\_\_\_/S/\*  
GERALD WERKSMAN  
\*pursuant to 1/25/12  
telephonic authorization

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Attorney for Defendant  
Moses Onciu

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9 I am Beata Gizella Priore's attorney. I have carefully  
10 discussed this stipulation and the continuance of the trial date  
11 with my client. I have fully informed my client of her Speedy  
12 Trial rights. To my knowledge, my client understands those  
13 rights. I believe that my client's decision to give up the right  
14 to be brought to trial earlier than December 4, 2012 is an  
15 informed and voluntary one.

16 Dated: January 25, 2012.

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\_\_\_\_\_/S/\*  
JOEL LEVINE  
\*pursuant to 1/24/12  
email authorization

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Attorney for Defendant  
Beata Gizella Priore

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24 I am Irene Pemkova's attorney. I have carefully discussed  
25 this stipulation and the continuance of the trial date with my  
26 client. I have fully informed my client of her Speedy Trial  
27 rights. To my knowledge, my client understands those rights. I  
28 believe that my client's decision to give up the right to be

1 brought to trial earlier than December 4, 2012 is an informed and  
2 voluntary one.

3 Dated: January 25, 2012.

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\_\_\_\_\_/s/\*  
DIANE BASS  
\*pursuant to 1/24/12  
telephonic authorization

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Attorney for Defendant  
Irene Pemkova

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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 DECEMBER 4, 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 January 25, 2012. 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 February 21,  
14 2012 to December 4, 2012 at 8:30 a.m.

15       2.     The time period of February 21, 2012 to December 4,  
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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