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 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,) STIPULATION RE EXCLUDABLE TIME
) ORDER
 15 v.)
)
 16 IRENE PEMKOVA,)
)
 17 Defendant.)
)
 18)
)
 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 defendant Irene Pimkova, by and
 23 through her counsel of record, Diane Bass, stipulate as follows.

24 1. The Indictment in this case was filed on July 2, 2008.
 25 Defendant first appeared before a judicial officer in the court
 26 in which this charge is pending on August 18, 2008. The Speedy
 27 Trial Act of 1974, 18 U.S.C. § 3161 et seq., originally required
 28 that the trial as to defendant commence on or before October 27,

1 2008.

2 2. On August 18, 2008, defendant was arraigned on the
3 Indictment and the Court set the same trial date of September 30,
4 2008.

5 3. Defendant is released on bond pending trial. The
6 parties estimate that the government's case-in-chief in the trial
7 of this matter will last approximately 6 days.

8 4. The Court has previously continued the trial date in
9 this case from September 30, 2008 to September 17, 2013 upon the
10 parties' stipulations, and found the interim period, as well as
11 the period to October 15, 2013, to be excluded in computing the
12 time within which the trial must commence, pursuant to the Speedy
13 Trial Act.

14 5. By this stipulation, the parties jointly move for the
15 court to enter the contemporaneously filed excludable time order.
16 On September 17, 2013, the parties appeared to commence trial.
17 Before starting trial, court held a hearing on defendant's
18 counsel's request for an evaluation of defendant's mental
19 competency to stand trial. The court granted this request and
20 ordered defendant to undergo a mental competency evaluation. The
21 court ordered that defendant be severed for trial and took the
22 trial off calendar as to defendant. This Order supplements the
23 findings made by the court at that hearing.

24 6. The continuance is based upon the following facts,
25 which the parties believe demonstrate good cause to support the
26 appropriate findings under the Speedy Trial Act:

27 a) Pursuant to defendant's requests, the government
28 produced to defendant discovery including search warrants and a

1 written affidavit, voluminous email messages and attachments,
2 memoranda of interviews, investigative reports, digital files
3 that include correspondence and investment documents, financial
4 records, internet connection records, expert witness disclosures,
5 and other documentation. In addition, the government produced to
6 defendant audio recordings of telephone conversations and an in-
7 person meeting, along with transcriptions of these conversations.

8 b) A mental competency examination of defendant will
9 be conducted and the results reported to the court.

10 c) Counsel for defendant represents that additional
11 time is necessary to confer with defendant, conduct and complete
12 independent investigation of the case, conduct and complete
13 additional legal research including for potential pre-trial
14 motions, review the discovery and potential evidence in the case,
15 including that produced by the government, and prepare for trial.
16 Defense counsel represent that failure to grant the continuance
17 would deny them reasonable time necessary for effective
18 preparation, taking into account the exercise of due diligence.

19 e) The Court inquired of defendant in open court
20 regarding her Speedy Trial Act rights. Defendant stated that she
21 understood her rights under the Speedy Trial Act and that she
22 knowingly and voluntarily waived those rights and agreed to have
23 her trial taken off calendar and postponed while her evaluation
24 is underway. The government does not object to the continuance.

25 7. For purposes of computing the date under the Speedy
26 Trial Act by which defendants' trial must commence, the parties
27 agree that the time period of September 17, 2013 until the
28 completion of examinations and proceedings to determine

1 defendant's mental competency should be excluded pursuant to 18
2 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv) because the
3 delay results from a continuance granted by the court at
4 defendants' request, without government objection, on the basis
5 of the court's finding that: (i) the ends of justice served by
6 the continuance outweigh the best interest of the public and
7 defendants in a speedy trial; (ii) failure to grant the
8 continuance would be likely to make a continuation of the
9 proceeding impossible, or result in a miscarriage of justice;
10 and (iii) failure to grant the continuance would unreasonably
11 deny defendants continuity of counsel and would deny defense
12 counsel the reasonable time necessary for effective preparation,
13 taking into account the exercise of due diligence.

14 8. The parties further agree that the time period of
15 September 17, 2013 until the completion of examinations and
16 proceedings to determine defendant's mental competency should be
17 excluded pursuant to 18 U.S.C. § 3161(h)(1)(A), because it is a
18 period of delay resulting from examination of and proceedings
19 about defendant's mental competency.

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

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

3 IT IS SO STIPULATED.

4 Dated: September 17, 2013

5 ANDRÉ BIROTTE JR.
United States Attorney

6 DENNISE D. WILLETT
Assistant United States Attorney
7 Chief, Santa Ana Branch

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_____/S/_____
10 LAWRENCE E. KOLE
Assistant United States Attorney

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Attorneys for Plaintiff United
States of America

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Dated: September 17, 2013

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_____/S/*_____
15 DIANE BASS
*pursuant to 9/17/13
16 email authorization

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Attorney for Defendant
17 Irene Pimkova

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9 UNITED STATES DISTRICT COURT
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 13 UNITED STATES OF AMERICA,) Case No. SA CR 08-180-DOC
)
 14 Plaintiff,) [PROPOSED] ORDER CONTINUING
) TRIAL DATE AND REGARDING
 15 v.) EXCLUDABLE TIME PERIOD UNDER
) SPEEDY TRIAL ACT
 16 IRENE PEMKOVA,)
)
 17 Defendant.)

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 September 17, 2013. The Court hereby
 21 finds that the Stipulation, which this Court incorporates by
 22 reference into this Order, demonstrates facts that provide good
 23 cause for a finding of excludable time pursuant to the Speedy
 24 Trial Act, 18 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 deny defense counsel the reasonable
3 time necessary for effective preparation, taking into account the
4 exercise of due diligence; and (4) this a period of delay
5 resulting from examination of and proceedings about defendant's
6 mental competency.

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

8 1. The trial in this matter as to defendant Pimkova
9 scheduled for September 17, 2013 is taken off calendar.

10 2. The time period of September 17, 2013 until the
11 completion of examinations and proceedings to determine
12 defendant's mental competency is excluded in computing the time
13 within which the trial must commence, pursuant to 18 U.S.C.
14 §§ 3161(h)(1)(A), (h)(7)(A), (h)(7)(B)(i), and (B)(iv).

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

22 Dated: _____.

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Honorable David O. Carter
United States District Judge

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