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9  
10 IN THE UNITED STATES DISTRICT COURT  
11  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA, ) No. 2:12-cr-0309-JAM  
14 )  
15 Plaintiff, ) STIPULATION AND  
16 ) ORDER TO MODIFY  
17 v. ) MOTIONS SCHEDULE  
18 )  
19 NATHAN V. HOFFMAN, et al., ) Date: September 1, 2015  
20 ) Time: 9:15 a.m.  
21 Defendants. ) Hon. John A. Mendez

22 IT IS HEREBY STIPULATED, by and between Assistant United States  
23 Attorney Jason Hitt, counsel for the plaintiff United States of America, and  
24 defendant Nathan V. HOFFMAN, by and through his counsel Robert Helfend,  
25 defendant Hung NGUYEN, by and through his counsel Donald M. Re, defendant  
26 Steve MARCUS, by and through his counsel Donald M. Heller, and defendant  
27 Brook MURPHY, by and through his counsel John Balazs, stipulate and request  
28 that the Court continue the current motions schedule to the following dates:

1 Defendants' motions due: May 5, 2015

2 Government's responses due: July 21, 2015

3 Defendants' reply briefs due: August 18, 2015

4 Hearing on motions: September 1, 2015, at 9:30 a.m.

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6 Defendants' anticipate filing multiple motions, including one or more  
7 motions to dismiss and to suppress evidence and need additional time to  
8 investigate, prepare, and file such motions. All remaining defendants are out of  
9 custody. Further, the defense anticipates filing a motion to dismiss similar to the  
10 one filed in *U.S. v. Schweder, et. al.*, 2:11-CR-0449-KJM, and believe it would be  
11 helpful for the parties and the court to await the final ruling on the motion, which is  
12 expected to be filed by April 15, 2015. (The district court's ruling was expected on  
13 or before the status conference on March 25, 2015, but the court recently continued  
14 that status conference to April 15, 2015). Defense counsel believe it would be  
15 prudent and efficient to await that ruling before pretrial motions are filed in this  
16 case. Finally, the defense intends to incorporate Section 538 of the recent Budget  
17 Appropriations Law (signed 12/16/14) into one or more motions and requests more  
18 time to research its bearing on this case.

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20 In addition, the parties stipulate and agree that time should be excluded  
21 under the Speedy Trial Act. The government provided more than 7,000 pages of  
22 discovery as well as video and audio materials. The government has also provided  
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1 notice that significant additional, privacy-protected discovery is available for  
2 viewing at the U.S. Attorney's Office. As a result, counsel for each defendant  
3 needs additional time to review the voluminous materials, conduct necessary  
4 investigation, prepare a defense, and research and prepare motions.  
5

6       The discoverable material spans four search warrants served at locations in  
7 Southern California and seven search warrants from seven sites in Northern  
8 California. The underlying Criminal Complaint in this case is more than 50 pages  
9 and incorporates an even longer affidavit from a previously-executed search  
10 warrant related to defendant HOFFMAN. In addition, this case is directly related  
11 to pending cases charging more than ten defendants in the Eastern District of  
12 California: United States v. Ebyam, no. 2:11-cr-00275 JAM, and United States v.  
13 Ebyam, et al., no. 2:11-cr-00276 JAM.  
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18       Counsel further stipulate that an exclusion of time from the filing of this  
19 stipulation (April 2, 2015) to September 1, 2015 is appropriate under the Speedy  
20 Trial Act because of defense counsel's need to review the discovery, investigate,  
21 prepare motions, and prepare a defense for trial. In addition, each defendant's  
22 counsel stipulates that this matter is "complex" within the meaning of 18 U.S.C.  
23 § 3161(h)(7)(B)(ii) (Local Code T2) because of the voluminous discovery, the  
24 complexity and unusual nature of the underlying conspiracy, and the pending  
25 indicted defendants in two related cases. As a result, counsel for all parties  
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1 stipulate the ends of justice are served by the Court excluding such time and  
2 outweigh each defendant's interest in a speedy trial, as well as the public's interest  
3 in a speedy trial, so that counsel for each defendant may have reasonable time  
4 necessary for effective preparation, taking into account the exercise of due  
5 diligence under 18 U.S.C. § 3161(h)(7)(A) & (B)(ii) & (iv) (local code T4).  
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7

8 BENJAMIN B. WAGNER  
9 United States Attorney

10 Dated: April 2, 2015

11 /s/ Jason Hitt  
12 JASON HITT  
Assistant U.S. Attorney

13 Dated: April 2, 2015

14 /s/ John Balazs  
15 JOHN BALAZS  
Attorney for defendant  
BROOK MURPHY

16 Dated: April 2, 2015

17 /s/ Robert Helfend  
18 ROBERT HELFEND  
Attorney for defendant  
19 NATHAN V. HOFFMAN

20 Dated: April 2, 2015

21 /s/ Donald M. Re  
22 DONALD M. RE  
Attorney for defendant  
23 HUNG NGUYEN

24 Dated: April 2, 2015

25 /s/ Donald Heller  
26 DONALD M. HELLER  
Attorney for defendant  
27 STEVE MARCUS  
28

**ORDER**

Based upon the representation by counsel and the stipulation of the parties,

**IT IS HEREBY ORDERED** that:

1. The motions schedule in this case is modified as set forth above with a hearing on September 1, 2015, at 9:15 a.m.; and

2. Based upon the above representation and stipulation of the parties, the Court finds that the ends of justice outweigh the best interest of the public and each defendant in a speedy trial. The Court further finds that the requested continuance is needed for defense preparation and that this case is complex and unusual because of the voluminous discovery supporting the charges, the unique drug conspiracy in the case, and the large number of pending indicted defendants in two related cases, United States v. Ebyam, No. 2:11-cr-00275 JAM, and United States v. Ebyam et al., No. 2:11-cr-00276 JAM. Accordingly, time under the Speedy Trial Act shall also be excluded through September 1, 2015, pursuant to 18 U.S.C. §3161(h)(7)(A) and (h)(7) (B)(ii)&(iv) (Local Codes T2 & T4).

**IT IS SO ORDERED.**

Dated: April 2, 2015

/s/ John A. Mendez  
HON. JOHN A. MENDEZ  
U.S. District Court Judge