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6 ATTORNEY FOR DEFENDANT
KARI SONOVICH

7 IN THE UNITED STATES DISTRICT COURT FOR THE
8 EASTERN DISTRICT OF CALIFORNIA

9	UNITED STATES OF AMERICA,)	CR.NO. 2:14-CR-0023-GEB
10)	
11	PLAINTIFF,)	STIPULATION BETWEEN THE PARTIES TO
12	v.)	CONTINUE THE STATUS CONFERENCE TO
13	KARI SONOVICH,)	FRIDAY, DECEMBER 2, 2016 WITH
14)	EXCLUSION OF TIME FROM THE SPEEDY
15	DEFENDANT.)	TRIAL ACT AND FINDINGS OF FACT AND
16)	PROPOSED ORDER
17)	
18)	
19)	
20)	

17 The parties to this litigation, the United States of
18 America, represented by Assistant United States Attorney, Jean
19 M. Hobler, and for the defendant, KARI SONOVICH, James R.
20 Greiner, hereby agree and stipulate to the following:

21 1. This case was previously before U.S. District Judge John
22 A. Mendez, but was reassigned to Senior U.S. District Judge
23 Garland E. Burrell, Jr. by order dated January 8, 2016.

24 2. Judge Mendez previously determined this matter was
25 complex under Local Code T-2, based on voluminous discovery in
26 the instant case and its relation to three other, resolved cases
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28

1 in which voluminous additional discovery was made available to
2 counsel in this case. C.R. 9, 19.¹

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4 3. By previous order, this matter was set for status on
5 Friday, September 23, 2016.

6 4. By this Stipulation, the defendant now moves to continue
7 the status conference until Friday, December 2, 2016, at 9:00
8 a.m., and to continue to exclude time pursuant to the Speedy
9 Trial Act between Friday, September 23, 2016, and Friday,
10 December 2, 2016, under Local Codes T-2 (complexity) and T-4
11 (time for adequate attorney preparation).

12 5. The government has produced the following voluminous
13 amount of discovery in this case:

14 a- A CD with 10,970 pages of discovery has
15 been produced to the defense to date and

16 b- the related case of: USA v. Vassallo, 09-
17 179; SEC v. Vassallo, 09-665; USA v. Sanders, 090-459 and USA
18 v. Kenitzer, 09-459, there is approximately 65,000 pages of
19 discovery, and

20 c- In addition, the government had issued to
21 Google a search warrant for two e mail addresses, the government
22 produced 7 DVD's of information that were in zip drive (meaning
23 a lot of information). The defense completed the transfer of the
24 7 DVD's to an external 4 TB hard drive (so the zip drives could
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26
27
28 ¹ Note that the docket entry indicates an exclusion only under Local
Code T4, but the underlying order makes findings under both T2 and T4.

1 be open in full) by the early part of November 2014 and has been
2 reviewing the information since that time.

3
4 d- The government has recently produced
5 (June, 2015) additional discovery consisting of e mails from
6 Google of the g-mail account of Joseph Birch. A rough estimate
7 of the number of e mails is that there are between 5,000 to
8 9,000 e mails (there is approximately 1,201 Mb of documents
9 produced).

10 E - The defense viewed the evidence at the
11 local FBI office on August 2, 2016 along with a copy service for
12 an estimate of the discovery to be scanned. The FBI and copy
13 service mutually worked out a date for the scanning. This has
14 taken place. Defense counsel is waiting to receive the following
15 scanned discovery: approximately 11,000 pages and 22 CD Dics
16 that were copied. In addition, the FBI has indicated that there
17 is additional discovery that will require an external hard drive
18 and the FBI will let the defense know of the approximate size
19 needed.

20 F - The parties agree on the continuance,
21 however, the parties disagree on is the relevance of the
22 referenced materials to this case. All of the discovery
23 addressed in this and the above paragraph is from the Vassallo
24 Ponzi scheme or the Sanders impersonation of federal officers
25 case, both related to this one. The vast majority is from the
26 Vassallo Ponzi scheme. The allegations in this case related to
27 the Vassallo Ponzi scheme are that Sonovich came in at the end
28

1 and victimized the Vassallo victims; the government's position
2 is that the majority of the evidence in the Vassallo case is
3 irrelevant to this case. The Sanders impersonation case
4 discovery is very limited in volume and complexity, and was made
5 available for defense review as early as March 2014. The items
6 at the FBI relating to the Sanders case are separate, mostly
7 physical items (tactical vests used during the impersonation
8 scheme, etc.) and primarily the result of search warrants. The
9 government's position is that either the vast majority of the
10 discovery is not relevant - which may or may not be true but the
11 defense will not know until it has at a minimum an opportunity
12 to review the material - or does not need to be reviewed - and
13 again this may or may not be true but without at least the
14 opportunity for the defense to review the material with the
15 defendant the defense does not have any knowledge of what the
16 discovery is. Thus, the parties agree on the continuance.

17
18 6. All of this discovery is being reviewed with
19 the client which is generating additional investigation and
20 potential leads to investigate by the defense which requires the
21 additional time to adequately prepare this case and to
22 adequately discuss the case with the client.

23
24 7. In addition, the additional investigation
25 requires sufficient reasonable time to adequately investigate
26 since some of the investigation is out of the State of
27 California, for example, Nevada (the Las Vegas area), Washington
28 State, and in addition, there is investigation outside the

1 United States (England) which requires further additional
2 reasonable amount of time to adequately investigate.

3
4 8. An unindicted co-conspirator pleaded guilty in
5 June 2016 on related charges in a case brought in the United
6 Kingdom. The resolution of that case may impact how the defense
7 proceeds in this case, a matter counsel continues to discuss
8 with the defendant on how best to proceed in this case.

9 9. The parties agree and stipulate to the
10 following facts and request the Court to find the following:

11 a. The government has produced discovery to date
12 which consists of 10,970 pages and

13 b. the related cases of: USA v. Sanders, 09-459,
14 USA v. Kenitzer, 09-459, USA v. Vassallo, 09-179 and SEC v.
15 Vassallo,09-665; there is approximately 65,000 pages of
16 discovery and

17 c. The 7 DVD's in zip drive which have been
18 transferred to a 4 TB external hard drive, this is
19 conservatively estimated to contain over approximately 250,000
20 documents.

21 d. The government has recently produced (June,
22 2015) additional discovery consisting of e mails from Google of
23 the g-mail account of Joseph Birch. A rough estimate of the
24 number of e mails, since review of the g-mail account has not
25 fully occurred, is that there may be upwards between 5,000 to
26 9,000 e mails (there is approximately 1,201 Mb of documents
27 produced).
28

1 e. The evidence available at the FBI from the
2 Vassallo and Sanders matters has been scanned so that the
3 defense can review the material with the defendant and the
4 defense is waiting for the FBI's estimation on the size of the
5 external drive to copy the digital evidence.
6

7 f. Counsel for defendant Kari Sonovich needs
8 time, to continue to review all of the discovery described
9 above, to review the discovery with the client and investigator,
10 to continue to carry out and modify as investigation continues
11 the investigation plan, to conduct investigation into this case,
12 do research, which includes legal research, in this case, and to
13 otherwise do review and investigation, using due diligence, that
14 this complex case requires. Counsel for defendant Kari Sonovich
15 further represents that other cases demand significant attention
16 between now and the end of September 2016, which will slow the
17 review of evidence at the FBI even with the exercise of
18 appropriate due diligence.
19

20 f. Counsel for defendant Kari Sonovich represents
21 that the failure to grant the above requested continuance would
22 deny counsel for the defendant Kari Sonovich the reasonable time
23 necessary for effective preparation, taking into account the
24 exercise of due diligence.

25 g. The government, based on all of the above,
26 does not object to the continuance.

27 h. Based on the above stated findings, the ends
28 of justice are served by continuing the case as requested

1 outweigh the interest of the public and the defendant in a trial
2 within the original date prescribed by the Speedy Trial Act.

3
4 i. For the purpose of computing the time under
5 the Speedy Trial Act, Title 18 U.S.C. section 3161, et seq.,
6 within which trial must commence, the time period from Friday,
7 September 23, 2016, to and including Friday, December 2, 2016,
8 inclusive, is deemed excludable pursuant to Title 18 U.S.C.
9 section 3161(h)(7)(A), (B)(ii), (iv) corresponding to Local
10 Codes T-2 and T-4, because it results from a continuance granted
11 by the Court at defendants' request, based on the facts provided
12 and the totality of the complex case as set forth, and on the
13 basis of the Court's finding that the ends of justice served by
14 taking such action outweigh the best interest of the public and
15 all of the defendants in a speedy trial.

16 10. Nothing in this stipulation and order shall
17 preclude a finding that other provisions of the Speedy Trial Act
18 dictate that additional time periods are excludable from the
19 period within which a trial must commence.

20 11. The government fully reviewed and approved of
21 the contents and language in this stipulation and granted
22 authority to file the stipulation with the Court.
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1 IT IS SO STIPULATED.

2 Respectfully submitted:

3 Phillip A. Talbert
4 ACTING UNITED STATES ATTORNEY

5 DATED: 9/21/2016 /s/ Jean M. Hobler

6 _____
7 Jean M. Hobler
8 ASSISTANT UNITED STATES ATTORNEY
9 ATTORNEY FOR THE PLAINTIFF

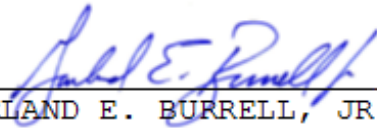
10 DATED: 9/21/2016 /s/ James R. Greiner

11 _____
12 James R. Greiner
13 Attorney for Defendant
14 KARI SONOVICH

15 **ORDER**

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17 **IT IS SO FOUND AND ORDERED.**

18 Dated: September 21, 2016

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22 _____
23 GARIAND E. BURRELL, JR.
24 Senior United States District Judge
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