

1 ANDRÉ BIROTTE JR.
United States Attorney
2 ROBERT E. DUGDALE
Assistant United States Attorney
3 Chief, Criminal Division
BRANDON D. FOX (Cal. Bar No. 290409)
4 Deputy Chief, Public Corruption & Civil Rights Section
MEGHAN A. BLANCO (Cal. Bar. No. 238171)
5 Assistant United States Attorney
Public Corruption & Civil Rights Section
6 1300 United States Courthouse
312 North Spring Street
7 Los Angeles, California 90012
Telephone: (213) 894-0284/2253
8 Facsimile: (213) 894-6436
E-mail: Brandon.Fox@usdoj.gov
9 Meghan.Blanco@usdoj.gov

10 Attorneys for Plaintiff
UNITED STATES OF AMERICA

11
12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 GARY EDWARD KOVALL,
PEGGY ANNE SHAMBAUGH, and
18 DAVID ALAN HESLOP,

19 Defendants.
20

No. CR 12-441(A)-MWF

[PROPOSED] ORDER CONTINUING
TRIAL DATE AND FINDINGS REGARDING
EXCLUDABLE TIME PERIODS PURSUANT
TO SPEEDY TRIAL ACT

NEW TRIAL DATE: 03-11-14

21 Having heard from plaintiff, the United States of America, by
22 and through its counsel of record, Assistant United States Attorneys
23 Brandon D. Fox and Meghan A. Blanco; defendant, Peggy Anne
24 Shambaugh, both individually and by and through her counsel of
25 record, Matthew Horeczko; and defendant David Alan Heslop, both
26 individually and through his counsel of record, David W. Shapiro and
27 Martha Boersch, at a status conference held before this Court on
28

1 February 21, 2014, and good cause appearing, the Court hereby FINDS
2 AS FOLLOWS:

3 1. The Indictment in this case was filed on May 9, 2012.
4 Defendants first appeared before a judicial officer of the court in
5 which the charges in this case were pending on May 11, 2012. The
6 Speedy Trial Act, 18 U.S.C. § 3161 originally required that the
7 trial commence on or before July 20, 2012.

8 2. Defendants are released on bond pending trial. Defendants
9 Shambaugh and Heslop are joined for trial and a severance has not
10 been granted.

11 3. Defendants are charged with violations of Title 18, United
12 States Code, Sections 371 (Conspiracy), and 666 (bribery of an agent
13 of an Indian tribal government). The government has produced
14 discovery to the defense, including tens of thousands of documents
15 consisting of investigative reports, pleadings from multiple civil
16 cases, deposition transcripts, bank records, summary charts,
17 photographs, tribal resolutions, real estate closing documents,
18 contracts, and tribal minutes.

19 4. The Court has previously continued the trial date in this
20 case to February 25, 2014, and found the interim period to be
21 excluded in computing the time within which the trial must commence,
22 pursuant to the Speedy Trial Act.

23 5. On February 21, 2014, this Court held a status conference
24 in this case. Defendant Shambaugh appeared in person with her
25 counsel of record. Defendant Heslop appeared telephonically with
26 his counsel of record, who also appeared telephonically. Upon the
27 request of defendants through their respective counsel, the Court
28 continued the trial date from February 25, 2014 to March 11, 2014.

1 This Order supplements that findings and orders made by the Court at
2 that conference.

3 6. On February 21, 2014, defendant Gary Edward Kovall pleaded
4 guilty pursuant to a cooperation agreement. That same day,
5 defendant Shambaugh represented that she wished to cooperate with
6 the government, and intended to resolve her case prior to trial. In
7 light of defendant Kovall and Shambaugh's cooperation, defendant
8 Heslop represents that he requires additional time to confer with
9 counsel and prepare his defense.

10 7. In light of the foregoing, counsel for defendants need
11 additional time to confer with defendants, conduct and complete an
12 independent investigation of the new information obtained in the
13 case, conduct and complete additional legal research including for
14 potential pre-trial motions, review the new discovery and potential
15 evidence in the case, and prepare for trial in the event that a
16 pretrial resolution does not occur.

17 8. On February 3, 2014, defendants filed a number of motions
18 in limine. On February 18, 2014, the court heard oral arguments and
19 ruled on several, but not all, of defendants' motions. At least one
20 motion remains outstanding.

21 9. Defendants' counsel have conferred with defendants
22 regarding defendants' rights under the Speedy Trial Act. In
23 addition, the Court inquired of defendants in open court regarding
24 their Speedy Trial Act rights. Defendants stated that they
25 understand their rights under the Speedy Trial Act and that they
26 knowingly and voluntarily waive those rights and agree to the trial
27 schedule included in this Order. Defendants further believe that
28

1 failure to grant the continuance will deny them continuity of
2 counsel and adequate representation.

3 10. The government does not object to the continuance.

4 11. The continuance is not based on congestion of the Court's
5 calendar, lack of diligent preparation on the part of the attorney
6 for the government or the defense, or failure on the part of the
7 attorney for the Government to obtain available witnesses.

8 12. The ends of justice served by the continuance outweigh the
9 best interest of the public and defendant in a speedy trial.

10 13. Failure to grant the continuance would be likely to make a
11 continuation of the proceeding impossible, or result in a
12 miscarriage of justice.

13 14. The case is so unusual and so complex, due to the nature
14 of the prosecution, that it is unreasonable to expect preparation
15 for pre-trial proceedings or for the trial itself within the time
16 limits established by the Speedy Trial Act.

17 15. Failure to grant the continuance would unreasonably deny
18 defendant continuity of counsel and would deny defense counsel the
19 reasonable time necessary for effective preparation, taking into
20 account the exercise of due diligence.

21 Accordingly, the Court finds that there are facts that support
22 a continuance of the trial date in this matter, and good cause for a
23 finding of excludable time pursuant to the Speedy Trial Act, 18
24 U.S.C. § 3161.

25 THEREFORE, FOR GOOD CAUSE SHOWN:

26 1. The trial in this matter is continued from February 25,
27 2014 to March 11, 2014.

28

1 2. The time period of February 25, 2014 to March 11, 2014,
2 inclusive, is excluded in computing the time within which the trial
3 must commence, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i),
4 (B)(ii), (B)(iv), (H)(1)(D), and (H)(6).

5 3. Defendants shall appear in Courtroom 1600 of the Federal
6 Courthouse, 312 North Spring Street, Los Angeles, California on
7 March 11, 2014 at 8:30 a.m.

8 4. Nothing in this Order shall preclude a finding that other
9 provisions of the Speedy Trial Act dictate that additional time
10 periods are excluded from the period within which trial must
11 commence. Moreover, the same provisions and/or other provisions of
12 the Speedy Trial Act may in the future authorize the exclusion of
13 additional time periods from the period within which trial must
14 commence.

15 IT IS SO ORDERED.

16
17 _____
18 DATE

_____ HONORABLE MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE

19 Presented by:

20 /s/

_____ MEGHAN A. BLANCO
21 BRANDON D. FOX
Assistant United States
22 Attorneys

23

24

25

26

27

28