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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEVIN CHAO,

Defendant.

No. 5:21-mj-71679-MAG

**STIPULATION AND ORDER (AS
MODIFIED)**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD SZE,

Defendant.

No. 5:21-mj-71680-MAG

**STIPULATION AND ORDER (AS
MODIFIED)**

1 Defendants Kevin Chao and Richard Sze, by and through their respective counsel, and
2 the United States, by and through Assistant United States Attorneys William Frentzen and Lloyd
3 Farnham, hereby stipulate and agree as follows:

4 The above-titled matters are currently scheduled for a status conference regarding
5 preliminary hearing on December 14, 2021. Defendants and the government stipulate that the
6 parties need additional time to meet and confer and to review materials relevant to this case. The
7 parties therefore agree and jointly request that the December 14, 2021 hearing be continued to
8 January 12, 2022 at 1:00 p.m.

9 The parties stipulate and agree that excluding time from December 14, 2021 through and
10 including January 12, 2022 will allow for the effective preparation of counsel and is appropriate
11 based on the complexity of the case and the amount of time necessary to return and file an
12 indictment under the circumstances within the time specified by 18 U.S.C. § 3161(b). *See* 18
13 U.S.C. §§ 3161(h)(7)(B)(ii), 3161(h)(7)(B)(iii), 3161(h)(7)(B)(iv); *see also United States v. Pete*,
14 525 F.3d 844, 852-53 (9th Cir. 2008) (“the STA makes no distinction regarding the applicability
15 of the exclusions under § 3161(h)(1) to the pre-indictment period (governed by § 3161(b)) and
16 the pretrial period (governed by §§ 3161(c) and (e))”); *United States v. Murray*, 771 F.2d 1324,
17 1328 (9th Cir. 1985) (“In cases of relative complexity, with multiple defendants and ongoing
18 investigations such as here, it may be quite unreasonable to expect the preparation and return of
19 an indictment within thirty days... In the case at bar, efficiency and economy were definitely
20 served by the sixty day extension.”).

21 The parties further stipulate and agree that the ends of justice served by excluding the
22 time from December 14, 2021 through and including January 12, 2022 from computation under
23 the Speedy Trial Act outweigh the best interests of the public and the defendants in a speedy
24 trial. 18 U.S.C. §§ 3161(h)(7)(A), (B)(ii)-(iv).

25 Defendants continue to waive the time for a preliminary hearing on the Complaints in
26 their respective cases under Rule 5.1 of the Federal Rules of Criminal Procedure until the
27 requested status conference on January 12, 2022.

1 IT IS SO STIPULATED.

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3
4 Dated: December 13, 2021

Respectfully submitted,

5 STEPHANIE M. HINDS
Acting United States Attorney

6
7 /s/ Lloyd Farnham
WILLIAM FRENTZEN
8 LLOYD FARNHAM
Assistant United States Attorneys
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10
11 Dated: December 13, 2021

/s/ Edward Swanson
EDWARD SWANSON
12 CARLY BITTMAN
SWANSON & McNAMARA LLP
13 Counsel for Kevin Chao
14

15
16 Dated: December 13, 2021

/s/ Frank Ubhaus
FRANK UBHAUS
17 CHRISTIAN E. PICONE
BERLINER COHEN LLP
18 Counsel for Richard Sze
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ORDER (AS MODIFIED)

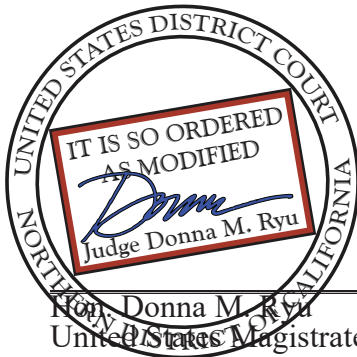
For the reasons stated above, the status hearing regarding preliminary examination currently set for December 14, 2021 is continued to January 12, 2022 at **2:00 p.m.**

Based upon the facts and representations set forth in the stipulation of the parties, and for good cause shown, the Court further finds that failing to exclude the time from December 14, 2021 through and including January 12, 2022, would unreasonably deny defense counsel and the defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court also finds that excluding the time from December 14, 2021 through and including January 12, 2022, is appropriate in light of the volume of discovery and the complexity of the case, and the amount of time necessary to return and file an indictment under the circumstances within the time specified by 18 U.S.C. § 3161(b). *See* 18 U.S.C. §§ 3161(h)(7)(B)(ii), 3161(h)(7)(B)(iii).

The Court further finds that the ends of justice served by excluding the time from December 14, 2021, through and including January 12, 2022 from computation under the Speedy Trial Act outweigh the best interests of the public and the defendants in a speedy trial.

Therefore, and with the consent of the parties, IT IS HEREBY ORDERED that the time from December 14, 2021, through and including January 12, 2022, shall be excluded from computation under the Speedy Trial Act. 18 U.S.C. §§ 3161(h)(7)(A), (B)(ii)-(iv). The Court also orders that the time for a preliminary hearing be extended under Rule 5.1 of the Federal Rules of Criminal Procedure.

Dated: December 13, 2021



Hon. Donna M. Ryu
United States Magistrate Judge