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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,)	No. CR 08-0463 JSW
14 Plaintiff,)	STIPULATION AND [PROPOSED]
15 v.)	ORDER
16 CARL BERNARD,)	
17 Defendant.)	

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19 The parties stipulate as follows:

20 1. Defendant filed a motion to suppress on September 25, 2008. Under the latest
21 briefing schedule ordered by the Court, the United States' opposition to this motion is due on
22 October 16, and defendant's reply is due on October 30. A hearing on the motion is currently
23 scheduled for November 13.

24 2. The parties have been engaged in settlement negotiations and have reached
25 conceptual agreement on a resolution of the case, pending successful drafting and final approval
26 by defendant and the United States of the text of a plea agreement. Accordingly, defendant
27 withdraws without prejudice his pending motion to suppress. The parties respectfully request
28 that the Court convert the November 13 hearing from a motion hearing into a change-of-plea

1 hearing.

2 3. The parties believe that, in light of the above, an exclusion of time under the
3 Speedy Trial Act, 18 U.S.C. § 3161(c)(1), is appropriate through and including November 13,
4 2008. Failure to grant the requested continuance would unreasonably deny counsel reasonable
5 time necessary for effective preparation, taking into account the exercise of due diligence, in this
6 case. As described above, the parties' counsel require the requested increment of time in order to
7 reduce to writing the conceptual agreement they have reached and to seek final approval of the
8 written agreement by their principals. Accordingly, the parties respectfully believe that the ends
9 of justice served by excluding the period through and including November 13, 2008, outweigh
10 the best interest of the public and the defendant in a speedy trial. Id. at § 3161(h)(8)(A). They
11 thus request that the Court order this time excluded under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

12 IT IS SO STIPULATED.

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14 DATED: October 9, 2008

/s/

DANIEL BLANK
Attorney for Defendant

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17 DATED: October 9, 2008

/s/

ANDREW P. CAPUTO
Assistant United States Attorney

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[PROPOSED] ORDER

22 Defendant has withdrawn without prejudice his motion to suppress. The Court will hold
23 a change-of-plea hearing in this matter on November 13, 2008, at 2:30 p.m. For the reasons
24 specified in the parties' stipulation, the Court hereby orders that the time through and including
25 November 13, 2008, shall be excluded in calculating the time by which trial must commence in
26 this matter under 18 U.S.C. § 3161(c)(1).

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IT IS SO ORDERED.

DATED: _____

JEFFREY S. WHITE
United States District Judge