

located throughout the United States. The so-called universal leases were purportedly connected to certain hotels, primarily in the Cancun, Mexico area, and offered as much as an 11% return per year for 25 years and the option to sell back the universal lease for 100% of the purchase price in as little as two years. The time period of the scheme according to the criminal complaint was in or about 1999 to the present.

2. Defendant Michael E. Kelly, a United States citizen and formerly a resident of the South Bend area of Indiana, is now a Mexican citizen and a Belize citizen and has resided in and operated his companies for at least the last several years from Cancun, Mexico. His arrest in Florida took place as a result of the FBI receiving a tip on or about December 21, 2006 that the defendant was returning to the United States for a medical procedure. In fact, the defendant entered the United States on a chartered plane on or about December 20, 2006 and had plans to leave on December 23, 2006.

3. On December 27, 2006, the defendant waived his right to a detention hearing and to a preliminary hearing in the Middle District of Florida, but reserved the right to have both in this district. On the same day, the presiding magistrate judge in the Middle District of Florida ordered that the defendant be transported in custody to this district.

4. On or about January 9, 2007, the defendant arrived in this district.

5. On January 16, 2007, the government moved for additional time in which to seek an indictment. United States District Court Chief Judge James F. Holderman granted the extension through March 22, 2007. In doing so, the Court made a finding that it did "not believe a further extension of time beyond March 22, 2007, will be necessary for the government's effective preparation for an indictment, taking into account the exercise of due diligence." (See copy of Order

attached).

6. On January 26, 2007, the defendant through counsel waived his right to a preliminary examination and United States Magistrate Michael Mason entered a finding of probable cause.

7. On February 20, 2007, after a detention hearing, United States Magistrate Judge Michael Mason ordered the defendant be detained as a serious risk of flight.

8. On March 20, 2007, Acting Chief Judge Charles R. Norgle, Sr. entered an order extending the time in which to seek the return of an indictment or to file an information to and including May 16, 2007. (See copy of Order attached.) This extension was sought primarily due to a change in the makeup of the defendant's legal representation.

9. The Speedy Trial Act mandates that an indictment or information must be filed within 30 days of the date of the defendant's arrest. 18 U.S.C. § 3161(b).

10. The Speedy Trial Act also permits the extension of time to return an indictment "upon the request of the defendant, his attorney or the attorney for the government if the Court finds that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A). Among the non-exclusive factors a court may consider are:

a. Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(B)(i);

b. Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts

upon which the grand jury must base its determination are unusual or complex. 18 U.S.C. § 3161 (h)(8)(B)(iii); and

c. Whether the failure to grant such a continuance in a case, which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the attorney for the defendant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. §3161(h)(8)(B)(iv).

11. This matter is complex involving allegations of a scheme to defraud involving over \$400,000,000 and thousands of financial transactions involved in the receipt and use of the funds as part of the alleged scheme. Documents, witnesses and other evidence are located both within the United States and in foreign countries such as Mexico and Panama.

12. On May 6, 2007, counsel representing defendant Michael E. Kelly notified the government that he intended to travel to Mexico to obtain information relevant to this matter; that the defendant himself may provide information relevant to the investigation; and, that the defendant wanted time to explore a possible resolution of this matter. Moreover, counsel for the defendant has also represented that it is the defendant's intention to produce documentary evidence previously sought by the government.


13. Neither the government nor the defendant objects to the requested reasonable extension of time to and including July 19, 2007. This time period takes into account the limited schedule of the Special September 2005 Grand Jury. This limited extension also should allow sufficient time for the defendant to provide information, personally or through counsel, and for the information to be reviewed and considered. The limited extension should also allow sufficient time to explore a disposition of this matter without a trial.

14. Nothing in the government's agreement to this request for an extension should be viewed as limiting the government in any way from seeking an indictment or filing an information earlier than July 19, 2007.

WHEREFORE, the government, with the defendant's agreement, agrees to the defendant's request to exclude time and respectfully requests this Court to exclude time from the period prescribed in 18 U.S.C. § 3161 to allow for the return of an indictment or information in this matter up to and including July 19, 2007.

Respectfully submitted.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 06 CR 964
)	Chief Judge James F. Holderman
MICHAEL E. KELLY)	
)	

ORDER

Upon the government's application under Title 18, United States Code, Section 3161(h)(1)(H) and (h)(8)(A), for an exclusion of time in computing the time within which an information or indictment must be filed and an extension of time to seek the return of an indictment or file an information in the above-captioned cause,


IT IS HEREBY ORDERED that time is excluded from computing the time within which to file an indictment or information against the named defendant and the time to file an indictment or information is extended to and including March 22, 2007. The Court finds that the ends of justice served by the extension to March 22, 2007, outweigh the best interests of the public and the defendant in a speedy trial for the following reasons:

1. The failure to grant such an extension would result in a miscarriage of justice;
2. It would be unreasonable, in the absence of an extension, to expect return and filing of an indictment in the time period specified in Section 3161(b) because of the time that the arrest occurred and because the facts upon which the grand jury must base its determination are complex concerning the nature of the prosecution;

3. The failure to grant such an extension to March 22, 2007, would deny the attorneys for the government reasonable time necessary for effective preparation, taking into account the exercise of due diligence; and

4. The court does not believe a further extension of time beyond March 22, 2007, will be necessary for the government's effective preparation of an indictment, taking into account the exercise of due diligence.

ENTERED:



JAMES F. HOLDERMAN
Chief Judge
Northern District of Illinois

DATED: January 16, 2007

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 06 CR 964
)	Acting Chief Judge Charles R. Norgle, Sr.
)	
MICHAEL E. KELLY)	
)	

ORDER

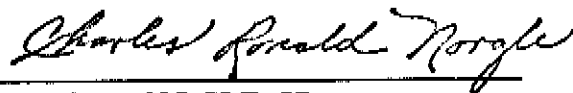
Upon the government's application, at the defendant's request and with the defendant's agreement, under Title 18, United States Code, Section 3161(h)(8)(A), for a second exclusion of time in computing the time within which an information or indictment must be filed and an extension of time to seek the return an indictment or file an information in the above-captioned cause,

IT IS HEREBY ORDERED that time is excluded from computing the time within which to file an indictment or information against the named defendant and the time to file an indictment or information is extended to and including May 16, 2007. The Court finds that the ends of justice served by the extension to May 16, 2007, outweigh the best interests of the public and the defendant in a speedy trial for the following reasons:

1. The failure to grant such an extension would result in a miscarriage of justice;
2. It would be unreasonable, in the absence of an extension, to expect return and filing of an indictment in the time period specified in Section 3161(b) because of the time that the arrest occurred and because the facts upon which the grand jury must base its determination are complex concerning the nature of the prosecution; and

3. The failure to grant such an extension to May 16, 2007, would deny the attorneys for the defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

ENTERED:



CHARLES R. NORGLER, SR.
Acting Chief Judge
Northern District of Illinois

DATED: March 20, 2007