

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 1:10MJ4079
)	
Plaintiff,)	
)	JUDGE NANCY A. VECCHIARELLI
v.)	
)	
EDWARD GURARY,)	
)	GOVERNMENT'S MOTION TO EXTEND
Defendant.)	<u>TIME FOR RETURNING INDICTMENT</u>
)	

The United States of America respectfully moves this Court to extend the time for filing an information or indictment until March 26, 2011, for the reasons set forth below.

On November 4, 2011, a criminal complaint was filed in this case against the defendant, EDWARD GURARY, charging the defendant with federal criminal tax offenses involving his failure to disclose the existence of and interest income from a foreign bank account. The defendant was arrested on January 25, 2011, upon his arrival at the Detroit airport, en route for a visit to the Cleveland area from Switzerland, where he has been living since obtaining

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Plaintiff,)	
)	JUDGE NANCY A. VECCHIARELLI
v.)	
)	
EDWARD GURARY,)	
)	WAIVER OF 30-DAY PERIOD FOR
Defendant.)	<u>GRAND JURY PRESENTATION</u>
)	

I, EDWARD GURARY, have discussed with my attorney the provisions of Title 18, United States Code, Section 3161 (b) and (h), and I understand that I am entitled to have a federal grand jury consider and vote a return of an indictment in the above referenced matter within 30 days of my arrest.

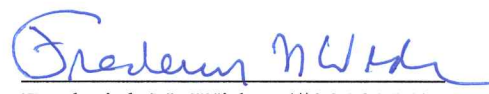
With full knowledge and understanding thereof, and deeming it in my best interest to fully explore pre-indictment negotiations with the government, I hereby waive the provisions of

- 2 -


18 United States Code, Section 3161(b) for a period of an additional 30 days, commencing on February 24, 2011, and continuing up to and including March 26, 2011.



John M. Siegel (#210336 (DC))
Assistant U.S. Attorney



Frederick N. Widen (#0029223)
Counsel for Defendant



Edward Gurary
Defendant

APPROVED:

NANCY A. VECCHIARELLI
United States Magistrate Judge

- 2 -

employment there approximately a year ago. The following day, he appeared before a United States Magistrate Judge in Detroit, who released him on a \$500,000 personal bond on condition that his attorney drive him to Cleveland and arrange lodging in a hotel that evening. On January 27th, the defendant appeared before Magistrate Judge Kenneth S. McHargh, who released him on a modified \$500,000 bond, consisting of a \$300,000 unsecured portion and \$200,000 cash to be delivered to the Court by Friday, February 4th. The defendant waived preliminary hearing and the matter was bound over to the grand jury. On Monday, January 31st, the defendant paid the \$200,000 cash portion of the bond.

Title 18, Section 3161 of the United States Code provides that an “information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges.” 18 U.S.C. § 3161(b). In the instant prosecution, the 30-day period would appear to expire on or about February 24, 2011. The grand jury that has been hearing evidence in this matter, however, will have its only February session next Tuesday and Wednesday, February 15 and 16, and will not meet again for another four weeks. More significantly, since almost the moment of the defendant’s arrest, his attorney’s have been working with the undersigned Assistant U.S. Attorney and a Department of Justice Tax Division attorney to seek a negotiated resolution of the case and have expressed an intent to work simultaneously to resolve civil tax issues with the IRS.

- 2 -

The government submits that a limited extension of the time for filing an information or indictment will serve the ends of justice by affording the parties a meaningful opportunity to continue the efforts to resolve the case. This case has the unusual aspect by which a settlement may involve not only the criminal charges but also significant tax penalties requiring prior review and approval by IRS officials. It is anticipated that the parties will use the proposed extension of time to ascertain all of the relevant facts and obtain necessary Tax Division and IRS approvals, which if accomplished, will serve the interests of justice by potentially rendering grand jury presentation and/or a trial unnecessary. *See United States v. Fields*, 39 F.3d 439, 445-46 (3d Cir. 1994) (approving “ends of justice” continuance to allow negotiations to continue); *United States v. Saltzman*, 948 F.2d 1087, 1090-92 (10th Cir. 1993) (extension of 30-day period requires judicial “ends of justice” findings). *See also United States v. Lewis*, 980 F.2d 555, 562 (9th Cir. 1992).

Undersigned government counsel has met with the defendant and his attorneys concerning this matter, who expressed a desire for this continuance in order to achieve a prompt settlement. The defendant and attorney Frederick N. Widen executed a Speedy Trial waiver, which is attached for the Court’s consideration.

CONCLUSION

For all of the foregoing reasons, the government, pursuant to 18 U.S.C. § 3161(h)(7)(A), respectfully moves this Court to extend the time for filing an information or indictment from on or about February 24, 2011, to March 26, 2011, and to enter a finding under that section that the

- 2 -

ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

Respectfully submitted,

STEVEN M. DETTELBACH
United States Attorney

By: s/John M. Siegel
John M. Siegel (#210336 (D.C.))
Assistant U.S. Attorney
801 West Superior Avenue
Cleveland, Ohio 44113
(216) 622-3820; (216) 522-2403 (fax)
E-mail: john.siegel@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2011, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

s/John M. Siegel
John M. Siegel (#210336 (D.C.))
Assistant U.S. Attorney
801 West Superior Avenue, Suite 400
Cleveland, Ohio 44113
Phone: (216) 622-3820; (216) 522-2403 (fax)
E-mail: john.siegel@usdoj.gov