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Attorneys for Plaintiff

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

12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 v.)
15 DAVID NOSAL,)
16 Defendant.)
17

No. CR 08-0237 EMC

STIPULATION AND [PROPOSED]
ORDER RE-SETTING STATUS
HEARING DATE

18 The United States and the defendant David Nosal submit this stipulation and
19 proposed order to continue the April 25, 2012, status hearing to July 18, 2012. The
20 parties stipulate, and jointly inform the Court, as follows:

21 1. On or about February 2, 2010, the United States filed its Notice of Appeal
22 in this matter, seeking reversal of the District Court’s dismissal of several counts of the
23 Superseding Indictment. At that time, the District Court vacated the trial schedule.

24 2. Oral argument before a panel of the Ninth Circuit Court of Appeals
25 regarding the United States’ appeal was held on February 14, 2011. On April 28, 2011,
26 the Court of Appeals issued an opinion reversing the District Court’s dismissal order.

27 3. On June 13, 2011, the defendant David Nosal filed his petition for rehearing
28 en banc in the Court of Appeals. The United States filed its response to that petition on

STIP. & [PROPOSED] ORDER RE-SETTING STATUS HEARING DATE
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1 July 20, 2011. On October 27, 2011, the Court of Appeals ordered that the case be
2 reheard en banc. The en banc oral argument occurred on December 15, 2011. On Apri
3 10, 2012, the en banc panel issued its opinion affirming the district court's dismissal
4 order.

5 4. On April 16, 2012, the United States moved in the Court of Appeals to stay
6 the mandate on the basis that the Solicitor General, in consultation with the Criminal
7 Division of the Department of Justice and the United States Attorney's Office, is
8 currently considering whether to file a petition for certiorari. A petition would be due on
9 July 9, 2012. On April 18, 2012, the Court of Appeals granted the United States' motion
10 to stay the mandate.

11 5. For these reasons, the parties jointly request that the Court **VACATE** the
12 April 25, 2012 status hearing, and re-set that hearing for July 18, 2012. If proceedings
13 terminate in the Court of Appeals before that date, the parties will contact this Court's
14 deputy clerk to schedule an appearance in the District Court forthwith.

15 SO STIPULATED.

16 DATED: April 24, 2012

MELINDA HAAG
United States Attorney

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/s/

KYLE F. WALDINGER
Assistant United States Attorney

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21 DATED: April 24, 2012

/s/

STEVEN F. GRUEL
Attorney for the defendant David Nosal

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~~PROPOSED~~ ORDER

For the reasons stated above, the parties' joint request that the April 25, 2012 status hearing be vacated is GRANTED. The parties are ORDERED to appear before the Court for a status hearing on July 18, 2012, at 2:30 p.m. If proceedings in the Court of Appeals terminate before that date, the parties are ordered to contact this Court's deputy clerk to schedule an appearance in the District Court forthwith.

DATED: April ²⁴ __, 2012

EDWARD M.
United States

