Exhibit S

UNITED STATES OF AMERICA,

      Plaintiff,

v

STATE OF MICHIGAN; RICHARD AUSTIN,
SECRETARY OF STATE OF THE STATE
OF MICHIGAN,

      Defendants.
_____/

CONSENT DECREE

1:92 cv 529

Richard A. Enslen
U.S. District Judge

A. STIPULATIONS OF THE PARTIES

The United States of America, Plaintiff; the State of
Michigan; and Richard Austin, Secretary of State of the State of
Michigan, Defendants, stipulate and agree that:

1.   This action is brought by the Attorney General on
behalf of the United States pursuant to the Uniformed and
Overseas Citizens Absentee Voting Act, 42 USC 1973ff et seq,
which provides, in pertinent part, that "[e]ach state shall ...
permit absentee uniformed services voters and overseas voters
...to vote by absentee ballot in ... primary elections for
Federal office." This action seeks injunctive relief to ensure
that United States citizens living abroad, who are qualified to
vote in the federal primary election to be held in the State of
Michigan on August 4, 1992, and who have filed timely applica-
tions for absentee ballots, will be given a reasonable

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opportunity to execute and return such ballots and thus to have their ballots counted.

2. This Court has jurisdiction of this action pursuant to 42 USC 1973ff-4 and 28 USC 1345.

3. The Defendant State of Michigan is responsible for assuring that Michigan election laws, as applied, comply with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 USC 1973ff et seq.

4. The Defendant Richard H. Austin, sued in his official capacity as Secretary of State of the State of Michigan, is the chief election officer of the State and is responsible for assuring that elections in the State are conducted in accordance with the law. The principle office of the Secretary of State is in Lansing, Michigan.

5. On August 4, 1992, a primary election will be conducted in Michigan. This primary election is part of the process for selecting nominees for several state and federal offices, including the United States House of Representatives.

6. Election officials of the State of Michigan have received timely requests for absentee ballots from civilian and military citizens overseas who are entitled to vote pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act.

7. Under Michigan law, absentee ballots, received
after the polls close on the date of the election are not
counted. MCL 168.759a.

8. On July 15, 1992, Defendant notified the Director
of the United States Department of Defense's Federal Voting
Assistance Program that many counties in Michigan had experienced
ballot printing delays that caused absent voter ballots to be
available in many jurisdictions less than 30 days before the
August 4, 1992 primary election. Defendant stated a willingness
to enter into a Consent Decree on the acceptance of late ballots
from military personnel and citizens abroad.

9. In order to allow overseas voters a fair
opportunity to vote by absentee ballot, election officials of
Michigan must mail the ballots to the voters on a date suffi-
ciently in advance of election day to allow the voter to receive
the ballot, cast his or her vote, and return the ballot to the
appropriate election official by the time the polls on election
day. The United States Postal Service estimates that a period of
7 to 10 days is a reasonable benchmark from the time of posting
to the time of delivery on international mail; the United States
Department of State makes similar estimates. Thus, under these
estimates, ballots must be mailed to the overseas voters at least
14 to 20 days prior to the deadline for their return. The
Military Postal Service Agency estimates that at least 30 days

are necessary for mail to military personnel to make a complete round trip to and from overseas locales. This higher estimate takes into account the fact that some military personnel are stationed in remote areas. The Director of the Federal Voting Assistance Program of the Department of Defense recommends that states allow 40 to 45 days for round trip mailing of ballots to uniformed and overseas citizens.

10. Many election officials in the State of Michigan did not mail absentee ballots to overseas citizens (who have filed timely requests) on a date sufficiently in advance of August 4, 1992, in light of the foregoing estimates for mail delivery to and from an overseas locale, to allow such voters to receive the ballot, cast a vote and return the ballot to election officials by the time the polls close on August 4, 1992. Of 40 municipalities and townships which the Department of Defense surveyed in Michigan, only 7 began mailing the ballots to overseas citizens and military personnel more than 30 days before the election. Thus, only 63 out of 636 ballots in these counties were mailed more than 30 days before the election. More than 330 ballots were mailed to absent uniformed and overseas citizens within 20 days of the August 4, 1992 primary election.

11. The failure to mail absentee ballots to overseas citizens on a date sufficiently in advance of August 4, 1992, so as to allow the voting and return of ballots by the time the

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polls close on that date, may deprive United States citizens who are overseas of an opportunity to vote in the August 4, 1992 primary election in violation of the Act.

12. For purposes of this consent decree, jurisdictions that are not in compliance with the Act are:

a. Jurisdictions that did not have absent voter ballots available for delivery to military personnel and citizens located abroad on or before July 5, 1992; or

b. Jurisdictions that did not mail absent voter ballots on or before July 5, 1992 to military personnel and citizens located abroad who made timely application for an absent voter ballot, even though absent voter ballots were available for delivery.

13. To ensure that all citizens protected by the Act and qualified to vote in Michigan, have a reasonable opportunity to have ballots counted in the August 4, 1992 primary election, it is necessary for this Court to enter an order extending by twenty days the deadline for receipt of ballots from overseas citizens and military personnel voting in jurisdictions in the State of Michigan that are not in compliance with the Act. Under this extension, absentee ballots from overseas citizens and military personnel received by the close of business on August 24, 1992 in jurisdictions not in compliance with the Act, will be accepted and tabulated in the final primary results.

This Consent Decree is final and binding as to all issues resolved herein.

B. ORDER

WHEREFORE, the parties having freely given their consent, and the terms of the decree being fair, reasonable, and consistent with the requirements of the Uniformed and Overseas Citizens Absentee Voting Act for the purposes of the August 4, 1992 primary election only.

IT IS HEREBY ORDERED that:

1. The Defendants shall take all steps necessary to ensure that all ballots cast in jurisdictions that are not in compliance with the Act in the August 4, 1992 primary by military personnel and citizens located abroad under the Act and received before the close of business on August 24, 1992, by the appropriate election officials, are counted as validly cast ballots, so long as the ballots would have been counted if they had been received by the time the polls close on Tuesday, August 4, 1992.

2. That the Secretary of State or his designee is specifically authorized to make all administrative orders necessary to tabulate and canvass ballots consistent with this Order, including but not limited to, requiring all ballots received after 8:00 p.m. August 4, 1992 and before the close of business on August 24, 1992 by all jurisdictions that are not in compliance

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with the Act to be forwarded to their respective county clerks for tabulation.

3. The Secretary of State, with the cooperation of local election officials, shall notify John Dunne, Assistant Attorney General, Civil Rights Division, Department of Justice by August 6, 1992 of the jurisdictions that are not in compliance with the Act.

4. The Defendants shall notify the Director of the United States Department of Defense's Federal Voting Assistance Program ("FVAP") as soon as this decree has been signed and request that the FVAP take such action as is necessary to notify overseas voters of the extension of time for receipt of such ballots by Michigan election officials. The State shall assist the FVAP in whatever way reasonable to publicize such extension of time.

5. Within 45 days after August 24, 1992, Defendants shall file a report with this Court, with respect to the August 4, 1992 primary election, which sets forth the following information:

a) the dates on which election officials in the State of Michigan began and completed the process of mailing ballots to citizens located abroad;

b) the number of valid absentee ballots each municipality identified in subpart (a) received and counted by

the time the polls closed on Tuesday, August 4, 1992, from citizens living abroad;

c) the number of absentee ballots each municipality identified in subpart (a) received and counted after the polls closed on August 4, 1992, but prior to the close of business on August 24, 1992, from citizens living abroad; and

d) the number of absentee ballots each municipality identified in subpart (a) received from citizens located abroad later than the close of business on August 24, 1992, and for that reason were not counted.

6. Upon compliance with this Order, this matter shall be dismissed with prejudice and without costs or attorney fees to either party.
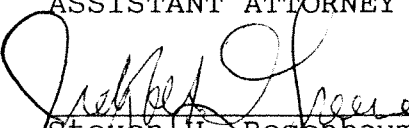
ORDERED this __3__ day of _August_, 1992.

[signature]

United States District Judge

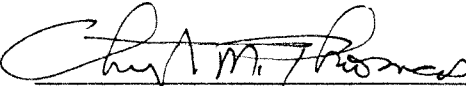The undersigned agree to the entry of this Decree.

For the Plaintiff
United States of America:

JOHN R. DUNNE
ASSISTANT ATTORNEY GENERAL

[signature]

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For the Defendants
State of Michigan and
    Secretary of State

[signature]

Christopher M. Thomas
Director of Elections

[signature]

Gary P. Gordon
Assistant Attorney General

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