

# Exhibit H

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEAN CUNNINGHAM, et al.,

Defendants.

Case No. 3:08CV709

**STIPULATION**

The parties hereby stipulate to the following:

1. On November 4, 2008, the Commonwealth of Virginia conducted a general federal election in which voters participated in the selection of candidates for, inter alia, President of the United States.
2. On or before October 5, 2008, Electoral Boards and General Registrars in Virginia received applications for absentee ballots from qualified UOCAVA voters for the November 4, 2008 general federal election.
3. Under Virginia law, absentee ballots must be received on the day of the election to be counted. Va. Code Ann. § 24.2-709. For the federal election held on Tuesday, November 4, 2008, the deadline for receipt of absentee ballots was the close of the polls on election day, namely, 7:00 p.m. Eastern Standard Time.

4. The Virginia State Board of Elections maintains a database with information on voters known as the Virginia Elections and Registration Information System (“VERIS”). The data within VERIS is entered by the local General Registrars, who are required by the Virginia State Board of Elections (“SBE”) to input such data directly into the VERIS database. The data includes, inter alia, the date on which a UOCAVA voter’s absentee ballot application was processed for the November 4, 2008 election; the date an absentee ballot was sent to such voter; and the date an executed ballot was received by the locality from such voter.

5. Based on the data from VERIS for overseas voters provided by the SBE on March 5, 2009, there were between 2,114 and 2,382 timely-requested absentee ballots that were mailed to UOCAVA voters less than 30 days before the November 4, 2008 election. Of these ballots, between 504 and 783 were received by the localities too late to be counted or were not received at all. Between 96 and 132 of the timely-requested absentee ballots that were mailed to overseas voters less than 30 days before the election were received by the localities after the November 4, 2008 deadline.

Date: August 11, 2009

Respectfully submitted,

FOR THE UNITED STATES:



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