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September 2, 2010

VIA MAIL & E-MAIL

Thomas E. Perez, Esq.
Assistant Attorney General
U.S. Department of Justice
Office of the Attorney General
Civil Rights Division
Washington, D.C. 20035

Re: U.S. Virgin Islands Compliance with Section 102(a)(8) of UOCAVA, 42 U.S.C. § 173ff-1(a)(8)

Dear Attorney Perez:

The Election System of the Virgin Islands has received correspondence dated August 27, 2010, from the Under Secretary of Defense denying the U.S. Virgin Islands' April 6, 2010 request for a waiver, pursuant to Section 102(g) of the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA'), 42 U.S.C. § 173ff-1(g), of the 45-day requirement under Section 102(a)(8) of UOCAVA, 42 U.S.C. § 173ff-1(a)(8). On August 27, 2010 we also received correspondence from the U.S. Department of Justice, Civil Rights Division, alleging failure of the U.S. Virgin Islands to comply with the provisions of Section 102(a)(8) of UOCAVA, 42 U.S.C. § 173ff-1(a)(8) which requires the Territory to send absentee ballots to absent uniformed services voters and overseas voters not later than 45 days before an election for Federal Office. On September 1, 2010 territorial representatives also had discussions with representatives from the U.S. Department of Justice, Civil Rights Division, Voting Section, regarding the August 27, 2010 letters and the Territory's plan to meet the 45-day requirement set forth in UOCAVA. This serves as our formal response to the August 27, 2010 correspondence and memorializes the Territory's plan, as discussed in the September 1, 2010 conference, to meet the 45-day requirement under Section 102(a)(8) of UOCAVA, 42 U.S.C. § 173ff-1(a)(8).

Section 102(a)(8) of UOCAVA, 42 U.S.C. § 173ff-1(a)(8) applies exclusively to elections for federal office. As you are aware the only federal office that is elected by Virgin Islands voters is a non-voting delegate from the Virgin Islands to the United States House of Representatives. In April 2010, the Election System of the Virgin Islands requested a waiver of the 45-day requirement in anticipation that the office of the Delegate to Congress may be in the primary election. We have recently confirmed that no federal positions will be on the ballot in the upcoming September 11, 2010, primary election— as there are no competing party nominations for the office of Delegate to Congress. Thus, the office of the Delegate to Congress

will only be contested in the November 2, 2010 general election. In light of this development, the Virgin Islands would be able to send absentee ballots for the federal office to absent military and overseas voters within the time set forth in Section 102(a)(8) of UOCAVA.

In order to meet the 45-day requirement under UOCAVA, the U.S. Virgin Islands must send the absentee ballot for the federal office to absent military and overseas voters who are registered to vote in the Virgin Islands and has requested an absentee ballot ("UOCAVA voters") no later than September 18, 2010. As we informed you yesterday, the Election System of the Virgin Islands shall send to UOCAVA voters two separate ballots. The first absentee ballot with the names of all the candidates for the office of Virgin Islands' Delegate to Congress office shall be sent to UOCAVA voters on or before September 18, 2010. After the certification of the primary elections, in which only local offices are contested, a second absentee ballot with the names of the candidates for local offices shall be sent to UOCAVA voters. The Election System of the Virgin Islands anticipates that the second ballot will be forwarded to UOCAVA voters by October 2, 2010.

During our meeting, U.S. Department of Justice representatives had no objection to our course of action and agreed that such action would resolve the issue raised in the August 27, 2010 letters to the Virgin Islands Supervisor of Elections. We hope that this formal response satisfies your concerns, and resolves all issues regarding the U.S. Virgin Islands' compliance with of the 45-day requirement set forth in Section 102(a)(8) of UOCAVA, 42 U.S.C. § 173ff-1(a)(8).

Sincerely,

Carol Thomas-Jacobs
Chief, Civil Division

cc: Vincent F. Frazer, Esq., Attorney General
Raymond Williams, Chair, Board of Elections St. Croix District and Chair Joint Board of Elections
Lorna Thomas, Chair, Board of Elections St. Thomas & St. John District
John Abramson, Jr., Supervisor of Elections
Terryln Smock, Esq., Assistant Attorney General