

**ERIC SCHNEIDERMAN’S AGENDA FOR THE OFFICE OF  
 NEW YORK STATE ATTORNEY GENERAL:**

*A Blueprint for Economic Fairness, Social Justice &  
 Real Reform in New York State*

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# **THE SCHNEIDERMAN ATTORNEY GENERAL AGENDA:**

## ***A Blueprint for Economic Fairness, Social Justice & Real Reform in New York State***

### **Executive Summary**

Consistent with his lifelong record as a progressive Democrat, Eric's sweeping policy agenda for the Attorney General's office reflects an unrivaled commitment to justice on behalf of everyday New Yorkers. Eric will stand up to powerful special interests, insist that corporations play by the rules, and follow investigations wherever the facts lead – independent of political considerations.

In this first of policy books, Eric Schneiderman lays out his plans for eight subject areas over which the Attorney General's office has jurisdiction: Civil Rights; Consumer Protection; Criminal Justice; the Environment; Lesbian, Gay, Bisexual and Transgender Rights; Health Care; Public Integrity; and Wall Street enforcement.

In addition to being the most comprehensive public integrity agenda of any Attorney General candidate, this book includes Eric's plan to fight discrimination – in the workplace, in health care, in the criminal justice system, and in suffering environmental burdens. It describes how Eric will use the vast powers of the Attorney General's office to protect New Yorkers from securities fraud on Wall Street and consumer fraud on Main Street. Issue by issue, these proposals set forth how Eric will protect the taxpayers of this state by leading teams of the highest quality litigators.

Eric's record of success on so many issues central to the mission of the Attorney General is the reason that he has earned the support of the broadest, most diverse coalition of progressive leaders, civil rights groups, community organizations, environmental activists, consumer protection groups, LGBT leaders, and health care advocates.

And as his plan demonstrates, Eric will build on the work of Attorney General Cuomo to further expand the office's role in the fight for equal, independent and progressive justice for all New Yorkers.

Eric's proposals are:

## **Civil Rights: Equal Justice Under Law**

*As Dr. Martin Luther King, Jr. observed, injustice anywhere is injustice everywhere. In the fight for equal justice under the law, Eric will:*

- Sue businesses and localities that invidiously discriminate on the basis of color, creed, nationality, gender, sexual orientation, marital status, disability or perceived disability. This will include forcefully attacking in court any local ordinances enacted to harass immigrant day workers or to enforce improper “English only” regimes.
- Investigate and litigate subtle and entrenched discrimination in public and private institutions. The goal of such investigations will not only be restitution for victims, but also industry-wide and systemic reforms.
- Create a unit to investigate religious freedom violations, including protecting workers who do not receive reasonable accommodations from their employers – such as being permitted to wear certain clothes and work at certain hours.
- Use the bully pulpit of the Attorney General’s office to purge the criminal justice system of structural racism. Eric’s success in reforming the Rockefeller Drug Laws and in forbidding the use of electronic databases to document stops and frisks of law-abiding New Yorkers will be the starting point for this initiative. The Attorney General will examine and report on how attitudes about race infect and distort the criminal justice system in investigations, prosecutions, and sentencing, and make detailed recommendations for reform.
- Protect voting rights by ending prison-based gerrymandering and fully restoring the franchise to those who have paid their price to society and are seeking to fully participate as law-abiding citizens in our democracy.

## **Consumer Protection: Protecting Consumers One by One**

*Protecting consumers has been a core function of the Attorney General since the days of Louis Lefkowitz. Eric will:*

- Assure that the skills and technology of the Consumer Protection Bureau stay ahead of those seeking to exploit consumers as the economy becomes more digitally based, and the volume of online consumer transactions continues to increase.
- Focus on frauds spawned by hard economic times, such as illegally marketed loans or false promises to solve credit problems or avoid foreclosures.
- Create a new enforcement team dedicated to enforcing rules to be promulgated by the new federal Bureau of Consumer Financial Protection, rules designed by Congress to give state Attorneys General more enforcement authority. Eric will join with other Attorneys General to urge the new federal agency to promulgate rules with real teeth.

## **Criminal Justice: A Targeted Role for the Attorney General**

*Since starting his career as a young Deputy Sheriff when he developed his office's policy of drug and alcohol treatment for addicted offenders, Eric has worked to make our streets safer and to improve the way the criminal justice system functions. As a litigator and as a lawmaker he has battled gun violence, sexual predation of children, and human trafficking of young men and women. He has worked tirelessly to make the system more fair, from drafting and securing passage of the Rockefeller Drug Law Reforms, to forbidding police departments to retain electronic stop-and-frisk databases on law abiding New Yorkers, to working to prevent the tragedy of wrongful convictions.*

*Eric knows that the Attorney General is not the state's 63rd District Attorney and he will not be a roving super-prosecutor. He knows that the Attorney General is a powerful prosecutorial specialist in carefully defined areas. As Attorney General, Eric will:*

- Use the office's Organized Crime Task Force ("OCTF") to lead an "I-95 Anti-Gun Smuggling Coalition" to launch multi-county and multi-state cases and share intelligence across state and county lines about gangs smuggling guns.
- Deploy the OCTF not only to investigate and prosecute (with a referral under Executive Law 70-a) those who force women into the commercial sex industry, but also to craft investigative "best practices" to be shared with District Attorneys around the state. In 2007, Eric was a leader in the fight to pass the strongest human trafficking law in the country, but it has rarely been used.
- Create an Actual Innocence Unit within the Criminal Division staffed by experienced prosecutors, defense lawyers, and detectives. When there is credible evidence of actual innocence, the unit will have a simple task: find the truth and let the chips fall where they may. It is not the job of a prosecutor to win at all costs, but to assure that justice is done.
- Continue Attorney General Cuomo's groundbreaking program to prevent sexual exploitation of children by shutting down secret Internet sites and user groups in which pedophiles congregate to buy, sell or trade child pornography.
- Work for the statewide adoption of "best practices" in the criminal justice system, including the implementation of fairer and more reliable witness-identification procedures and post-conviction DNA testing.

## **The Environment: Working to Protect New York's Air, Water, and Soil**

*Named Greenest Senator in 2009, Eric will implement a sophisticated litigation approach to protect the environment. Most environmental violations are driven by economics. Corporations cut corners to lower costs. Eric's enforcement strategy will take the profit out of environmental crime through a "polluter pays" philosophy and tough civil actions and criminal prosecutions targeted to increase deterrence. He will:*

- Sue to prevent the dangerous natural gas drilling technique known as hydrofracking until it is proven safe. Our water supply should never be placed in harm's way. Where dangerous drilling is at issue, the BP oil spill demonstrates the consequences of a thoughtless rush to turn a profit in the absence of safe technology.
- Work toward an energy future without Indian Point, and urge the development of alternate clean energy sources, natural gas plants, and demand-reduction strategies to make its replacement possible. It is simply irresponsible to permit the relicensing of a dangerous, obsolete nuclear plant with a long history of safety violations that is only 35 miles from Manhattan and has no viable escape routes in the event of an accident or terrorist attack.
- Prosecute serious environmental violations criminally. Because environmental crimes are economically driven, prosecutions can be a potent deterrent. Prosecuting environmental crimes requires specialization because of the unusual nature of the environmental statutes and the complexity of scientific proof necessary to launch a successful litigation. Eric will expand the team of scientists and experts in the Attorney General's office because it is smart and effective law enforcement.
- Pursue environmental justice by challenging unfair local siting decisions and requiring abatement of existing pollution in poor and minority areas. Minority communities have too long borne unfair burdens ranging from exposure to lead paint to suffering increased rates of asthma.
- Continue use of the Martin Act to require more corporations in carbon-intensive industries to fully disclose the costs that they will bear because of global warming and regulations designed to prevent it. As shareholders recognize the effect on the price of stock, market forces will drive corporations to solve the problem instead of burying their heads in the sand.
- Crack down on companies that engage in "green fraud" by making false claims that a product is organic or produced using environmentally sound techniques.

## **Financial Services: Protecting Investors and Reforming Unfair Market Practices**

*The vitality of our national markets has propelled New York's economy for decades, providing many thousands of good jobs and steadily drawing international talent to our state. Keeping the securities industry strong in New York requires a strong regulatory regime that assures investors that the markets are fair and that the playing field is level.*

*For many years, our national securities regulatory regime was first rate, and, between the Great Depression and 1987, it prevented a major financial crisis. A de facto dismantling of the federal regulatory apparatus led to a crippling recession, and the federal government is now in a frantic period of rebuilding. During this transition, it is particularly important for an honest and independent Attorney General to stand guard. Eric will:*

- Use the powerful Martin Act forcefully. The Martin Act is the most effective securities regulation law ever written, and it has been used intensively over the last decade during a period of federal enforcement abdication. Today, after repeated regulatory failures, the federal government is completely remaking its enforcement apparatus, promulgating new rules, new responsibilities, and even creating entirely new agencies. It is particularly important that the Attorney General be vigilant and fight for progressive reform during this uncertain transitional time.
- Work for federal regulations that will assist state investigations. As part of the federal reform, agencies are writing regulations that will be crucial both to state and federal securities enforcement. Among the most important will be the forthcoming rules that will define who in the security industry owes a “fiduciary duty” to investors. Strong federal rules on this subject can supercharge state Martin Act investigations. Eric will participate in the rulemaking process to obtain the strongest possible protections for New Yorkers.
- Work to pass legislation he currently sponsors to allow private institutional investors to sue under the Martin Act. Pension funds cheated by Bernie Madoff currently have no private remedy under the Martin Act. Eric believes that they should, and will work to amend the law to give them their day in court.
- Create a working group of industry experts, academics, and regulators to make recommendations on how to keep New York the financial capital of the world.

## **Health Care: Protecting Quality While Fighting Waste, Fraud & Abuse**

*The enactment of the federal health care reforms creates an environment in which New Yorkers will be particularly vulnerable to fraud and abuse during the period of implementation. Eric's Health Care Bureau will prevent unethical insurers and providers from hurting patients (and unlawfully increasing corporate profits) either by skimping on care or cheating on fees. Eric will:*

- Fight healthcare industry abuses, including: preventing insurers from cheating on the percentage of money that the law requires them to spend on patient care (under a new law that Eric fought to pass); investigating unscrupulous brokers who market unnecessary plans to consumers, especially the elderly; and investigating whether HMOs are interfering with the doctor-patient relationship.
- Criminally prosecute fraud and patient abuse in the Medicaid system, and fully realize the extraordinary power of the False Claims Act in recovering monies and penalties from those who cheat. As a lawmaker, Eric has worked to strengthen this statute even further.
- Investigate disparities in health care treatment and outcome due to race, ethnicity, and economic status.
- Use the stature of the Attorney General's office to advocate for patients as the details of federal health care reform implementation are being crafted.

## **Lesbian, Gay, Bisexual and Transgender Rights: Plan for Equality**

*Progressive justice requires an activist approach to protecting the rights of all New Yorkers. A longtime leader in the fight to ensure equal rights for Lesbian, Gay, Bisexual and Transgender New Yorkers, Eric believes that no one should be denied civil rights on the basis of their sexual orientation or identity. He will:*

- Fight for marriage equality by: challenging the unconstitutional and cynically named federal "Defense of Marriage" law; organizing a coalition of state attorneys general to promote marriage equality; cracking down on private businesses and localities that fail to provide full spousal benefits to same-sex couples married out of state; and pushing Congress to pass the federal Employment Non-Discrimination Act (ENDA), and opposing any efforts to remove transgender rights from the legislation.
- Protect civil rights and promote equality whenever and wherever discrimination takes place – from the workplace to the hospital room.
- Fight hate crimes by bringing lawsuits against schools that tolerate bullying, investigating the under-reported problem of rape in prison (particularly in juvenile facilities), and prosecuting hate crimes as civil rights violations if necessary.
- Prevent price gouging and fraud in the sale of AIDS/HIV medications, a scandalous exploitation of the sick.



## **Public Integrity: There is a Better Way**

*If you have faith in the public sector, you must be among the harshest critics of corruption, waste, and fraud in government. That is why, as Attorney General, Eric will combat the corrosiveness of corruption and instill transparency, honesty and accountability in the public sector, to help give New Yorkers the government they deserve. As a lawmaker, he led the first effort in modern history to expel a sitting New York State senator and reformed little-known legislative rules that had quietly and effectively crippled Albany's legislative process for decades. As Attorney General, he will use the powerful tools of the office to take on corruption across the state. Eric will:*

- Use longstanding AG powers to investigate businesses that illegally conspire with public officials; dramatically expand the use of the 2007 New York State False Claims Act as a weapon to promote public integrity and fight public corruption; put a public integrity officer in the Attorney General's regional offices; assign prosecutors who are public integrity specialists to assist in prosecutions by district attorneys; and expand Attorney General Cuomo's "Project Sunlight."
- Request that the Governor use *existing law* to grant the Attorney General universal authority to investigate and prosecute political corruption cases under Executive Law sections 63(3) and 63(8). He will then work to have this grant of authority written permanently into law.
- Fight for broad legislative reform, including: creating a full-time legislature to reduce conflicts of interest; strengthening notoriously weak ethics and campaign finance laws; providing full public financing for campaigns; mandating fair and impartial redistricting; removing sole control of pension investments from the Comptroller; and mandating automatic expulsion from the Legislature upon a misdemeanor conviction for domestic violence.

# CIVIL RIGHTS AGENDA:

## *EQUAL JUSTICE UNDER LAW*

As a lifelong progressive Democrat, Eric Schneiderman is committed first and foremost to equal justice under law.

Achieving equality for all requires constant vigilance, creative strategies, and a willingness to look at society's structural problems. This approach to equal justice, matched with a relentless energy and determination, is a hallmark of Eric's work as an attorney and as an elected official.

Eric has litigated, organized, demonstrated and legislated in the fight for equal rights. Eric led the fight to end decades of manifest injustice against people of color under the Rockefeller Drug Laws. He succeeded in reforming those laws, and now mandatory sentences will no longer send a disproportionate number of poor people of color to prison for non-violent drug offenses. Eric has fought for years to end the disenfranchisement that is caused by New York's noxious policy of counting incarcerated people in the districts where they are incarcerated, rather than in their home communities. As the author of legislation to end this injustice, Eric is hopeful that his proposal will become law in the coming weeks. As a public interest lawyer, Eric used the Federal Civil Rights Act of 1964 to persuade a federal district court to grant an injunction to prohibit the Metropolitan Transit Authority (MTA) from raising subway fares because of disparate racial impact.

As Attorney General, Eric will build on this record of change and capitalize on the proud Cuomo record in civil rights. Eric will break new ground – examining entrenched racism in the criminal justice system, investigating discrimination in the credit markets, and reviewing whether systemic employment discrimination is veiled by mandatory arbitration clauses.

Because of Eric's decades-long record of fighting for civil rights, he has been endorsed by a broad coalition of progressive reformers including: Congressman José E. Serrano, State Senators Eric Adams and José M. Serrano, former New York State Comptroller Carl McCall, the Fukien American Association, Hispanic Alliance of Western New York and 1199 SEIU United Healthcare Workers East.

Eric has a long record of fighting for civil rights, but we have a long way to go. To achieve justice, some laws need to be better enforced and additional laws need to be enacted. As Attorney General, He will:

- 1. Implement a Broad Anti-Discrimination Investigation and Enforcement Strategy**
- 2. Support and Advocate for the Rights of Women and Domestic Violence Victims**
- 3. Fight for Equal Justice in our Criminal Justice System**
- 4. Protect Voting Rights and Fair Political Representation**
- 5. Fight Business Crimes that Target Minorities and Immigrants**

# **1. Implement a Broad Anti-Discrimination Investigation and Enforcement Strategy**

The Attorney General has the power to enforce civil rights laws with a large and active Civil Rights Bureau. Eric will direct the Bureau will use a variety of strategies to ensure that every New Yorker is treated equally with respect to color, creed, nationality, gender, sexual orientation, marital status, disability or perceived disability.

Open and admitted acts of invidious discrimination by businesses and governments are becoming increasingly rare. To be effective, law enforcement agencies must focus on the more subtle and institutionally ingrained brands of discrimination. Eric will marshal the Office's resources to achieve long-lasting and widespread reform. He will:

- ✓ *Fight employment discrimination to achieve industry-wide and system-wide reforms*

Eric will have a Zero Tolerance policy for discrimination based on color, creed, nationality, gender, sexual orientation, marital status, disability or a perceived disability. His Civil Rights Bureau will be committed to major investigations across entire industries where discriminatory practices are suspected. Eric's goal will be to change corporate culture: he will not permit offenders simply to pay fines and move on, but will also require monitored compliance of newly imposed non-discrimination policies, internal enforcement mechanisms, and training programs for managers.

- ✓ *Focus enforcement where victims of civil rights violations cannot sue their employer in a court of law*

Under federal law, companies are allowed to force their employees to sign mandatory arbitration agreements as a condition of employment. These agreements mean that workers accusing an employer of a civil rights violation cannot go to court, but instead must go to binding arbitration. Arbitrations often are a hostile forum for victims of civil rights violations and less likely than courts to address a widespread pattern of discrimination. For this reason, in recent years the corporate use of mandatory employment arbitration agreements has skyrocketed.

Eric will use the Attorney General's powers to enforce civil rights laws in order to ensure that companies that have violated the law are not using arbitration agreements to shield themselves from the full consequences of their unlawful conduct.

- ✓ *Fight discrimination in the credit market such as "borrowing while black or brown"*

In a modern credit-based economy, civil rights enforcement actions cannot ignore discrimination in the credit markets – markets essential to obtaining housing and to one's ability to start and run a small business. Recent economic analyses have confirmed what many have long suspected – credit markets are often rigged against people of color.

Indeed, recent reports underscore the painful reality that discrimination on the basis of race and ethnicity continues to poison our credit markets. The ability of a homeowner to refinance a mortgage – even an "underwater" mortgage (a loan where the house is worth less than the outstanding loan) – too often is impacted by the homeowner's race or ethnicity. One recent

analysis documented that upper-income African Americans tend to pay higher interest rates on loans than whites with similar income profiles. There is a clear failure on the part of federal enforcement agencies to correct this disparity.

Eric knows and is proud of the fact that the Attorney General's office is renowned for stepping in when federal enforcement agencies fail to act – from Wall Street corruption to environmental protection to anti-trust enforcement. Eric will vigorously attack credit discrimination in New York, and seek the necessary structural remedies through effective settlement monitoring procedures and stronger legislation.

✓ *Launch a triple-bureau investigation into healthcare disparities*

Eric has always believed that health care is a universal and fundamental right. Sadly, in New York and elsewhere, race, poverty, ethnicity and language too often play a critical – and improper – role in health care options and outcomes.

That role often manifests itself in the disparate treatment that patients receive based on whether they have public or private health insurance. With passage of federal health care reform and the planned expansion of public health care, it is more critical than ever to enforce laws that prohibit Medicaid providers such as hospitals and clinics from discriminating against patients because they have public, as opposed to private, insurance.

The Attorney General's office is well-suited for a leading role in investigating racial and ethnic disparities in health care. As Attorney General, Eric will direct the Health Care Bureau, the Civil Rights Bureau and the Medicaid Fraud Control Unit to work together (and with community groups) to combat the issue of racial and ethnic disparities in health care. This triple-bureau approach will include continuing the work of Attorney General Cuomo in ensuring that pharmacies dispense medications with instructions printed in the patient's language, and broadening such initiatives to address language access issues in health care across-the-board.

✓ *Establish a Religious Rights Unit Within the Civil Rights Bureau*

We are blessed in New York with a rich history of religious diversity. In an era when some European democracies are forcing citizens to shed public signs of their faith, we can be proud that here we both protect an individual's right to practice and display their faith in public while maintaining church and state separation.

As Attorney General, Eric will create a unit dedicated to investigating religious freedom violations and ensuring that anti-discrimination laws are enforced. Religious New Yorkers who are not receiving reasonable accommodations from their employers – such as being permitted to wear clothes with religious significance or to work certain hours – will have a fervent ally in the Attorney General's office. What cannot be solved through education and mediation will be resolved through litigation.

✓ *Partner with civil rights groups, community leaders and faith-based groups*

Even the most dedicated Attorney General cannot effectively enforce civil rights laws or achieve equal justice without effective partnerships with civil rights groups, community leaders and faith-based groups.

When it comes to civil rights, Eric does not only believe in an “open door” policy at the Attorney General’s office, he believes in affirmative outreach. As Attorney General, he will require his staff to work in a visible and public way with leaders of New York’s diverse communities.

Eric will establish regular meetings and forge permanent relationships with community members who are interested in working with his office to address civil rights concerns. Eric will make it easier for people whose first language is not English to contact the Attorney General’s office with civil rights complaints, whistle-blowing reports and other concerns through improved website and phone services.

✓ *Draft and support legislation strengthening the state’s human rights laws*

As a lawmaker, Eric has a long record of sponsoring and supporting civil rights legislation, including groundbreaking bills concerning marriage equality, hate crimes, and environmental justice. As Attorney General, he will continue to fight for civil rights’ protections, including:

- Increasing penalties, damages and fees imposed on companies and individuals who unlawfully discriminate; and
- Preventing the state from contracting with companies that impose mandatory arbitration agreements on their employees as a condition for employment.

## **2. Support and Advocate for the Rights of Women and Domestic Violence Victims**

Since his days as an escort to women seeking abortions, Eric has been committed to women’s civil rights. He will:

✓ *Protect reproductive rights*

As *Roe v. Wade* comes under increasing attack by conservatives nationally, New York must remain a fervent defender of women’s right to choose. As Attorney General, Eric will litigate to protect the right to choose under New York State’s progressive constitution, and fiercely attack subversive acts intended to impair the practical availability of abortions. Eric will:

- Protect clinics and abortion providers that are illegally threatened with violence or intimidation from anti-choice groups;
- Investigate and shut down fake “pregnancy crisis centers” that lure vulnerable patients by falsely claiming to offer abortion-related services but instead offer only anti-abortion propaganda;
- Continue the fight to pass the Reproductive Health Act, which would codify the protections outlined in *Roe v. Wade*, lest the U.S. Supreme Court undermine existing federal constitutional protections.

✓ *Protect victims of domestic violence from discrimination*

Battered persons often find themselves victimized a second time by their employers or landlords who fire or evict them. Eric supported the passage of legislation making this discrimination

unlawful. As Attorney General, he will direct his Civil Rights Bureau to enforce these laws vigorously.

### **3. Fight for Equality in our Criminal Justice System**

#### **✓ *Support and monitor Rockefeller Drug Law Reforms***

With Eric's leadership, the State achieved a great victory with the passage of the Rockefeller Drug Law reforms. In 2009, Eric authored the legislation that expanded drug treatment as an alternative to prison, gave judges more discretion to divert drug-addicted individuals to treatment, and increased penalties for drug kingpins. Thanks to his leadership, the bill passed over the opposition of conservative Republican Senators, and even some Democratic District Attorneys.

The old Rockefeller Drug Laws were ineffective and unfair. Far too many young people of color, primarily men, lost years in prison because of unfair and punitive sentencing. Vanquishing the laws' mandatory minimum prison sentences and returning appropriate sentencing authority to judges are critical steps towards equal justice.

As Attorney General, Eric will closely monitor and report on the effects of the Rockefeller Drug Law reforms. He will continue to work to achieve a criminal justice system where a person's color, creed, nationality, gender and sexual orientation do not affect the outcome of the case.

#### **✓ *Monitor and report on "stop and frisk" practices***

Eric cosponsored the law that now forbids police agencies from keeping electronic files on innocent people who have been stopped and frisked. As Attorney General, Eric will closely examine stop and frisk practices to ensure that enforcement efforts do not discriminate against minorities.

Over a decade ago, the Attorney General's office issued a report showing that blacks and Latinos were stopped and frisked at higher rates than whites. Ten years later, front page articles in the *New York Times* show that we have made far too little progress. Of the 531,159 New Yorkers stopped in 2008, 51 percent were black, 32 percent were Latino, and 11 percent were white. This disparity represents a potential assault on liberty, and while Eric recognizes the importance of justified stop and frisks, he will be vigilant in demanding an end to unjustified stop and frisk practices.

#### **✓ *Examine the criminal justice system to identify system-wide biases***

The groundbreaking "Stop and Frisk" report issued a decade ago demonstrated how the Attorney General can investigate and report on unfair or discriminatory practices within New York's criminal justice system.

Eric will work with the Division of Criminal Justice Services (DCJS), District Attorneys, local police departments, and the Office of Court Administration to study and report on critical issues in the criminal justice system, including:

- whether hate crimes are being charged in appropriate cases;
- whether prosecutions or dispositions for certain offenses or in certain jurisdictions show bias or disparate impact; and
- whether sentences, verdicts or plea bargains entered in local town and village courts demonstrate bias or disparate impact.

✓ *Oppose discriminatory laws that unfairly target minorities or immigrants*

All that is needed for the forces of evil to succeed is for good people to remain silent.

Sadly, our times have seen regressive forces combine to pass unfair, discriminatory laws, from the federal so-called “Defense of Marriage Act” to Arizona’s assault on immigrants to some localities in New York that target immigrant workers or pass “English only” laws.

Eric will not stand silent. His Civil Rights Bureau will file lawsuits to enjoin unconstitutional local and federal laws and enforcement practices affecting New Yorkers, and will file “friend of the court” briefs attacking biased laws passed elsewhere.

## **4. Protect Voting Rights and Fair Political Representation**

The right to vote is the ultimate civil right.

As Attorney General, Eric will deploy the power of the Civil Rights Bureau to enforce laws designed to protect voting rights, and he will organize and speak out to improve laws and policies that affect voting rights. He will:

✓ *Protect and expand the rights of ex-offenders to vote*

New York, like nearly all other states, does not allow people to vote if they are incarcerated for a felony or on parole. While current law allows ex-offenders no longer on parole to vote, such voting rights are not always protected. Eric will use the Office of Attorney General to advocate for changes to help end disenfranchisement of ex-offenders. He will conduct a state-wide inquiry into the problem of local boards of election illegally denying ex-offenders the right to vote, and additionally advocate for two important changes for ex-offenders:

- Allow people on parole to vote; and
- Ensure that ex-offenders are informed of the restoration of their voting rights as part of the re-entry process.

Eric has stood alongside the Brennan Center for Justice and other groups to advocate for reforms to New York’s ex-offender voting laws. His record of advocacy foreshadows the dedication he will bring to efforts to reform these laws.

### ✓ *Defend the law to end prison-based gerrymandering*

New York has long rigged the political process against poor, urban communities of color by counting incarcerated individuals as residents of the communities in which they are incarcerated – rather than their home communities – for purposes of political apportionment.

Prison-based gerrymandering has a direct effect on democracy and voting power. Select geographical areas obtain enhanced voting power at the direct expense of other communities, often ones with significant minority populations. This pernicious scheme violates one of our most fundamental constitutional values – one person, one vote.

Eric authored the bill to end the discriminatory practice of prison-based gerrymandering, and is hopeful that the legislation will become law in the coming weeks. He not only understands the issue, he wrote the proposal to make change happen. He will be in the best position as Attorney General to passionately and effectively defend against the inevitable lawsuits that will be brought by those seeking to revert to the old, unfair status quo.

## **5. Fight Business Crimes that Target Minorities and Immigrants**

Unlike a District Attorney, the Attorney General does not have authority to prosecute many types of crimes without a referral from the Governor. However, the Attorney General has unrivaled power to bring civil actions to shut down businesses that operate in an illegal or deceptive manner. Eric will use these powers to stop frauds that target minorities and immigrants. He will:

### ✓ *Crack down on fraudulent immigration service providers*

Fraudulent immigration service providers prey on the dreams of immigrants who are desperate to obtain documents that can change their immigration status or allow them to bring family members into the country.

Crooked providers can charge thousands of dollars for fraudulent documents or for meaningless promises to expedite applications. While other types of frauds may involve only the loss of money, immigration scams can have enormous consequences: prejudice in deportation proceedings, accusations of filing false immigration papers, or the arrest of immigrants at the airport because the promised work was never done.

In 2004, Eric supported a tough new law to target immigration service provider fraud. This year, Eric continued the fight by proposing the Immigration Provider Enforced Disclosure Information & Registration Act (“IMPEDIR” – which means “to protect” in Spanish). This legislation would impose a mandatory licensing and registration system for immigrant service providers, and mandate that providers prominently display information about their services and fees.

Eric will not tolerate those who prey on immigrant families working hard to achieve the American dream. He will use his strong ties in the immigrant rights community to identify and punish wrongdoers. He will launch an awareness program to educate potential victims. And he will use the strong powers of the Attorney General’s office to put those perpetrating these schemes out of business.



✓ *Protect against fraudsters who steal contracts intended for minority and women-owned businesses*

Eric was one of the leaders in obtaining the passage of a package of reforms that at long last expanded the state's minority-owned and women-owned businesses enterprise ("MWBE") program. These measures, now laws of the state, are a powerful tool in assuring inclusion and meaningful participation by MWBEs across the state.

But the law will achieve its goal only if not undermined by unscrupulous firms that set up fake corporations and lie about their MWBE status to get business unfairly. Such fraud, known as "pass-through" fraud, is suspected to be pervasive throughout government contracting. Yet there has been little, if any, litigation concerning MWBE pass-through fraud in New York.

As Attorney General, Eric has a strategy to deal with this problem. As New York prepares for the historic expansion of the state's MWBE program, he will use the state's powerful False Claims Act to launch civil prosecutions of "pass-through" fraud. The False Claims Act is one of the Attorney General's most potent weapons against crooked contractors. Eric's approach would be novel for New York, but this strategy has proven successful in MWBE "pass through" cases brought under the federal False Claims Act.

# CONSUMER PROTECTION AGENDA:

## *PROTECTING CONSUMERS ONE BY ONE*

Protecting consumers has been a core function of the Attorney General's office since the days of Louis Lefkowitz, and a priority of Eric's throughout his career.

As a public interest litigator, Eric sued the MTA four times to protect consumers. He fought to keep token booths open, prevent fare increases, force the MTA to open its books, and prevent a massive give-away of public property to a private corporation. As an elected representative, he has worked with the Attorney General's office to educate constituents about their rights as consumers.

Eric will bring his aggressive, progressive approach to the Attorney General's office. The new federal financial reform bill calls for new consumer protection rules that can be enforced by state Attorneys General. Eric will fight to make those rules strong and ensure they are enforced vigorously in New York. In addition, changing technology and difficult economic times have created new opportunities for fraud. Eric will ensure that the skills and technology of the Attorney General's Consumer Fraud Bureau stay a step ahead of those who would use new technologies to cheat consumers. Finally, in hard economic times, con artists prey on those in financial distress. Eric will protect hard working New Yorkers from these opportunists.

Because of his victories for consumers over many years, Eric has been endorsed by: current Public Advocate Bill de Blasio, former Public Advocate Betsy Gotbaum and the Citizen Action of New York. Eric will use the strong powers of the Attorney General's office to:

- 1. Enforce New Consumer Protection Rules**
- 2. Combat Frauds that Proliferate in Tough Economic Times**
- 3. Fight High-Tech Fraud**

# 1. Enforce New Consumer Protection Rules

- ✓ *Aggressively enforce the key consumer protections to be instituted by the new federal Bureau of Consumer Financial Protection*

In 2008, lax rules, lax enforcement and reckless activity on Wall Street resulted in a near-collapse of the global financial system, bailouts of the banking industry, and a deep national recession from which we are only beginning to recover.

As a response, President Obama signed into law the most sweeping set of financial regulatory reforms since the Great Depression. A crucial component of this overhaul is the creation of a powerful federal Bureau of Consumer Financial Protection. This new agency will establish new transparency rules and curb abusive practices by banks and other lenders in the areas of mortgages, credit cards, and bank fees.

Critically, the financial reform bill preserves the right of state Attorneys General to investigate and enforce state anti-fraud laws against national banks, and most importantly, ensures that state Attorneys General can enforce the new federal rules issued by the new federal agency.

Accordingly, Eric will:

- ✓ *Create an elite unit of litigators to enforce the rules issued by the new Bureau of Consumer Financial Protection*

Of the many tragedies that resulted from inadequate regulation and risky and predatory lending prior to 2008, the foreclosure crisis has had the most devastating impact on hard-working New York families. Starting with the subprime crisis in 2007, tens of thousands of New Yorkers have lost their homes and had their credit ratings destroyed because they were sold loans and homes that they could not afford. Whole neighborhoods throughout New York State are pockmarked with foreclosed property because of abuses in the mortgage industry.

Eric will sue companies that violate the new mortgage rules issued by the federal Consumer Protection Bureau. Lax consumer protection has caused immeasurable pain for tens of thousands of New Yorkers. Eric will ensure that the new protections will not just be on paper – but vigorously enforced in a court of law.

- ✓ *Press the new Bureau of Consumer Financial Protection to promulgate tough rules that protect consumers*

The history of the passage of the federal reform bill shows that state Attorneys General can have a strong impact on the substance of those rules and reforms.

During the U.S. Senate debate on the financial reform bill, Republicans attempted to eviscerate the power of state Attorneys General to enforce state anti-fraud rules. Several Attorneys General publicly opposed this amendment, and teamed up with activists and members of Congress to defeat it.

Given this history, Eric will ensure that federal rule-makers know that New York – and New

Yorkers – demand tough new protections, and tough new laws. In particular, we need tough new laws to protect consumers from deceptive practices in mortgages, credit card marketing, and hidden fees charged by banks, payday and tax-refund lenders.

Eric is the only candidate running for Attorney General who joined with progressive activists in New York and elsewhere in calling on President Obama to nominate Elizabeth Warren to lead the new federal Bureau of Consumer Financial Protection. Warren’s unparalleled, progressive record of fighting against abusive financial practices uniquely qualifies her for the job.

## **2. Combat Frauds that Proliferate in Tough Economic Times**

### **✓ *Establish a “Protect Your Home and Neighborhood” Agenda to fight mortgage and housing fraud scams, and secure restitution for victims.***

The financial crisis has engendered a host of con artists capitalizing on the fears of those in economic distress. Eric will focus on these new schemes. He will:

- Attack the new scourge of “finance fixers” that promise to relieve victims of mortgage fraud with fraudulent financial gimmicks that are often just new versions of the same schemes that were involved in the original mortgage fraud.
- Crack down on brokers and banks that fraudulently trick homebuyers into buying excessive amounts of insurance for their homes. The extra cost of this unneeded insurance adds unwarranted financial stress to the homebuyer while providing no benefit.
- Protect homeowners from home improvement rip-offs: Homeowners throughout the state have found themselves out-of-luck and out-of-pocket when contractors and lenders team up in scams related to lending against the equity of a home for home improvement or repairs. Some scams and unscrupulous practices involve unlicensed contractors, secret kickbacks by the lender to the contractor, “teaser” interest rates, and hidden fees.
- Eric is one of New York’s most active advocates for civil legal services assistance, which is often underfunded and understaffed, especially because of the surge of foreclosures caused by the credit and housing crisis.

### **✓ *Crack down on debt collection abuse***

Unscrupulous debt collectors file lawsuits against low-income New Yorkers and often fail to serve defendants while falsely certifying that they have done so. When the victims do not show up in court (for lawsuits they never knew existed), the debt collectors garnish their wages. This is a fraud on consumers and a fraud on the courts. Eric will continue Attorney General Cuomo’s fight against this shameful practice and continue his own fight for legislative reform in this area.

### **3. Fight High-Tech Fraud**

#### **✓ *Aggressively pursue online scams***

The age of the Internet has brought with it a whole new digital marketplace: online auctions, Internet shopping, and virtual classifieds such as Craigslist. For con artists, the digital marketplace is the new playground for swindling consumers by using the latest social networking and online purchasing mechanisms. To vindicate consumer interests, the Consumer Frauds Bureau must keep a step ahead. Eric will ensure that the Bureau maintains the technology and training to follow the criminals wherever they electronically go.

#### **✓ *Fight identity theft***

The Internet has also given thieves new tools to steal identities: “phishing,” hacking, spy-ware, malware and “wifi jacking.” Seniors are particularly vulnerable to sophisticated identity theft ruses. Losing one’s identity not only results in direct financial loss, it can also cause serious harm to one’s credit rating.

With such scams, Eric believes that the Attorney General has two distinct but critically important roles. The first is enforcement. The second is education. Under Eric, the Consumer Frauds Bureau will assist victims of identity theft in recovering their funds and having their credit ratings restored. Additionally, Eric will direct his staff to educate New Yorkers on the issue of identity theft by sponsoring “Protect Your Identity” seminars in senior centers, schools and appropriately, online.

# CRIMINAL JUSTICE AGENDA:

## *A TARGETED ROLE FOR THE ATTORNEY GENERAL*

Eric started his career as a Deputy Sheriff, where he launched a comprehensive drug and alcohol treatment program at his correctional institution. Ever since, Eric has worked to transform the criminal justice system with innovative, progressive and smart-on-crime policies that keep our streets safe and our communities whole. At the height of the crack epidemic, he was counsel to the West Side Crime Prevention Program, and evicted crack dealers from buildings. He went on to train private-sector attorneys to help tenants do the same.

As a lawmaker, Eric authored legislation ending the Rockefeller Drug Laws, which were not only unfair and unsustainable, but also an economic and moral threat to every New Yorker. These historic reforms expanded drug treatment as an alternative to prison, gave judges more discretion to divert drug-addicted individuals convicted of non-violent drug crimes to treatment, and increased penalties for drug kingpins.

Eric is regarded as a national leader in the fight against illegal guns. He serves as the co-chair of Legislators Against Illegal Guns, a bi-partisan coalition of legislators representing suburban, rural and urban districts from around the country, united by a shared commitment to public safety.

New York's Attorney General is not the state's 63rd District Attorney. The Attorney General is, instead, a powerful specialist in clearly defined areas. Eric will bring his progressive law-enforcement track record to the Attorney General's office. He will use its powers – particularly the specialized tools of the Organized Crime Task Force – to battle gun smuggling and human trafficking. He will focus on the serious issues of actual innocence and of adopting best practices in the criminal justice system.

As Attorney General, Eric will continue to advocate for smart on crime policies and progressive reform of our criminal justice system on a state and national level. He will:

- 1. Use the Organized Crime Task Force (OCTF) to Attack Human Trafficking**
- 2. Form an I-95 Anti-Gun Smuggling Coalition**
- 3. Protect Children From Sexual Predators**
- 4. Fights Gangs and Illegal Drugs**
- 5. Create an Actual Innocence Unit**
- 6. Work for Structural Reform of the Criminal Justice System**

## **1. Use the OCTF to Attack Human Trafficking**

In 2007, with Eric's strong support, New York passed a human trafficking law that made it a felony punishable by up to 25 years in prison to traffic people and coerce them into prostitution. Studies and press accounts repeatedly have shown how vulnerable young women from abroad are deceived into traveling to the United States with the promise of honest work and a vibrant future, only to be forced by traffickers into prostitution. Others run away from home domestically, and are lured by traffickers with promises of a safe place to stay, again only to be coerced into the sex trade. Studies have shown that the average age at which young women first become victims of prostitution is between 12 and 14 years old.

The traffickers use a variety of illegal tactics, all specifically enumerated in the statutes. They lure victims with false promises of employment. They take passports and visas away and hold them hostage. They threaten to do harm to the victim or the victim's family if they do not allow themselves to be prostituted.

Tragically, there have been too few cases brought under this new law. Too many in law enforcement continue to view women forced into the sex trade as criminals, and fail to understand that they are truly victims.

Eric will use the OCTF in two ways to combat this problem. First, he will marshal its special expertise in fighting multi-state criminal enterprises to pursue cases against local and international traffickers. The time-tested strategies used by the OCTF – wiretapping with court orders, conventional surveillance, stings, and tracing financial proceeds – are tailor-made for human trafficking cases.

Second, Eric will direct the OCTF to study why so few cases have been brought under the new law, and report back in 12 months with a set of best practices for investigating trafficking. All too often, street level law enforcement practices fail to recognize that young women forced into prostitution are victims, and, from a case-making point of view, that they are important potential witnesses against the rings or pimps that profit from commercial sex. The OCTF will examine best practices around the nation, consult with academics and advocates, and deliver an investigative and prosecutorial blueprint for how best to make these cases. The goal is to have the same effect on the crime of sex trafficking that the OCTF had in the sphere of labor racketeering when it released a seminal report on that subject in 1990: a ground-up transformation of how law enforcement tackles a widespread problem.

## **2. Form an I-95 Anti-Gun Smuggling Coalition**

As Attorney General, Eric will employ high-tech, multi-state strategies to fight illegal guns and gangs to protect our schools, streets and communities from violence. Over 90 percent of illegal guns seized in New York City originated in states with lax gun control laws, particularly states along Interstate 95. New York cannot solve this problem alone.

We must implement a new regional, interstate and multi-state approach to illegal gun trafficking. Using the Organized Crime Task Force, Eric will lead an "I-95" coalition of state Attorneys General, and state and local law enforcement agencies, to share and track data on gun crimes and

gun sales between states. With the OCTF sharing intelligence with other states and working jointly on trafficking cases, state and local agencies will, together, attack the flow of illegal guns at the source.

In addition, Eric will deploy the sophisticated tools of OCTF within New York State to stop the movement of illegal guns across county lines. He will aggressively use wiretaps and physical surveillance to track the gangs that arm their members with illegal firearms, often in support of their narcotics trade.

### **3. Protect Children from Sexual Predators**

The Internet is filled with adults seeking to sexually prey on our children. In the back alleys of the Internet, small groups of pedophiles use electronic communications to buy and sell child pornography. Eric will continue to use the powers of the Attorney General's office to force internet service providers to close the door on these criminals.

Additionally, Eric recognizes that pedophiles are constantly looking for new ways to facilitate the sexual exploitation of our children. In a recent case, a man was arrested for enticing an 11-year old girl to send nude pictures of herself from her Internet-connected video game console to his. As the Internet, social networking sites and other technologies continually evolve, Eric will ensure that the Attorney General's office uses the best technology available to prevent sexual predators from targeting children and will shut down sites that have inadequate safeguards.

### **4. Fight Gangs and Illegal Drugs**

Attorney General Cuomo has successfully partnered with federal and local officials to fight the scourge of drugs and gangs. This partnership must continue.

Eric will also build on the successes of Attorney General Cuomo's "Nowhere to Hide" program and ramp up civil prosecutions of absentee landlords who are indirectly profiting from drug activity at the expense of whole communities.

### **5. Create an Actual Innocence Unit**

In recent years, DNA evidence and other crime solving tools have unveiled the grave mistakes too often made by our criminal justice system. When there is an error in a civil case, money is at stake. When there is error in a criminal case, an innocent person goes to jail and the perpetrator remains free to re-offend and jeopardize the lives and safety of others. All New Yorkers have a strong interest in ensuring that the criminal justice system is accurate – that it apprehends and punishes the guilty, and exonerates the innocent.

The Attorney General's office is charged by law to defend the state when it is sued by someone wrongfully convicted of a crime, and when it is sued under the writ of habeas corpus.

The Attorney General's mandated defensive posture creates both a moral and legal imperative.



In matters of liberty, it is not the job of the People's lawyer to win at all costs, but to do justice and to ensure fairness.

Eric, therefore, has pledged to establish an Actual Innocence Unit in the Criminal Division of the Attorney General's office. It will be multi-disciplinary, staffed by career prosecutors, defense lawyers, and experienced detectives and investigators. Its charge will be simple: discover the truth about wrongful convictions, and let the chips fall where they may. Under Eric, the Unit will follow the facts wherever they lead.

When the state is a defendant in a wrongful conviction action seeking damages, Eric will streamline the litigation by removing bureaucratic obstacles and expediting discovery in order to prevent unfair delays in justice.

## **6. Work for Structural Reform of the Criminal Justice System**

America's legal system is the envy of the world. Reformers have turned to the courts to end discrimination, enforce the right to counsel for indigent persons in criminal cases, correct injustices when law enforcement overreaches, and to ensure that every child receives a sound basic education.

But our criminal legal process is far from perfect. It is too slow to adopt best practices such as sequential line-ups or expanded post-conviction DNA testing. Researchers have found that structural racism endures at different stages of investigations, prosecutions, and sentencing. And we have painfully proved that innocent men and women are convicted at unconscionable rates.

The Attorney General's role as the chief lawyer for the state imposes a special duty on the office, a duty to see that the system is just and fair. The Attorney General must be a forceful voice for reform of the criminal justice system.

Eric will be that voice, as New Yorkers know from his record. With Eric's leadership, the State achieved a great victory in structural fairness with the historic passage of Rockefeller Drug Law reform. He was a driving force in enacting the new law prohibiting the retention of electronic stop and frisk data. Indeed, even in his years as a young Deputy Sheriff, he pioneered drug and alcohol treatment programs in his jail.

As Attorney General, Eric will continue to embrace his lifelong commitment to assuring best practices in the criminal justice system, and he will do it through litigation, negotiation, and fearless use of the bully pulpit.

# **ENVIRONMENTAL AGENDA:**

## ***PROTECTING NEW YORK'S AIR, WATER, AND SOIL***

Named Greenest Senator in 2009 by Environmental Advocates, Eric has a lifelong commitment to protecting our air, water, and soil, and will marshal the Office's teams of experienced litigators to counter the growing assaults on the state's environment.

As a lawmaker, Eric supported the Bigger Better Bottle Bill, passed vital environmental justice protections, and fought to protect wetlands. He has held community forums to educate the public on climate change and gain support for market-based solutions to the problem.

These progressive victories demonstrate that Eric will be an effective champion for the environment in the Attorney General's office. He will litigate to block the use of unsafe and unproven technologies like hydrofracking to protect against dangerous drilling accidents. He will pursue environmental justice. He will prosecute environmental criminals vigorously.

Because of his successes in protecting the environment, Eric has been repeatedly endorsed by New York's most prominent environmental groups, including the New York League of Conservation Voters. Eric will lead the Office's team of dedicated environmental litigators, scientists, and prosecutors to:

- 1. Sue to Prohibit Hydrofracking**
- 2. Work Toward an Energy Future without Indian Point**
- 3. Enforce a Wide Range of Environmental Protection Laws**
- 4. Prosecute Serious Environmental Violations Criminally**
- 5. Pursue Environmental Justice**
- 6. Use the Martin Act to Force Companies to Disclose Financial Risks Associated with Global Warming**
- 7. Crack Down on "Green" Fraud**

## **1. Sue to Prohibit Hydrofracking**

The catastrophic spill in the Gulf of Mexico reminded us once again that irresponsible drilling will destroy our fragile aquatic ecosystem. Such accidents destroy the economy as well. Specialized drillers known as “hydrofrackers” now target New York State and seek to extract natural gas from New York’s portion of the Marcellus Shale. Pioneered by Halliburton, hydrofracking is a technology in which a pressurized cocktail of toxic chemicals is injected underground to break up rocks and release natural gas for collection.

This drilling is of grave concern to Eric and many New Yorkers. There is a recent track record of serious environmental damage done by “fracking” in nearby Pennsylvania and elsewhere, including permanent contamination of local drinking water. Life cannot be sustained when we destroy our water supply. It’s that simple.

Eric has a proven record of fighting against this new and unproven technology. He voted, for example, for the bill to impose a moratorium on drilling.

The Attorney General’s office has an active and engaged Environmental Bureau, with independent scientists, and also houses the Watershed Inspector General who is charged with investigating threats and protecting the NYC water supply. Neither the New York State Department of Environmental Conservation (DEC) nor the U.S. Environmental Protection Agency (EPA) has determined that hydrofracking is safe, nor promulgated an appropriate set of rules and regulations governing the practice. Accordingly, Eric will sue drilling companies or related polluters if the drilling or related activity amounted to a dangerous public nuisance. He will make sure that no drilling took place until it was deemed to be safe and regulated by the DEC and EPA.

It is true that the Attorney General would have to defend any suit brought against the DEC, and could not sue DEC. However, neither drillers and related companies — nor the Federal Government — are immune from actions brought by the Attorney General. Indeed, the Attorney General has long had authority law to sue polluters on behalf of the people of New York to halt environmental and other nuisances.

If DEC and EPA solidly concludes that hydrofracking is safe under certain circumstances, Eric would sue the companies if the information given to the regulatory agencies was false or faulty, or sue to enforce related rules or regulations.

This last part is critical. No one believes that unregulated hydrofracking will be safe everywhere. If DEC and EPA solidly conclude that hydrofracking is safe in certain places, under certain conditions, and with certain safeguards, drillers can expect investigations and lawsuits to stop any drilling or related activity that runs afoul of those regulations.

## **2. Work Toward an Energy Future without Indian Point**

The Indian Point nuclear power station is 35 miles from Manhattan. Twenty million people live within its danger zone, many within lethal proximity if an accident or a terrorist strike occurs.

Opened in 1962, Indian Point is obsolete and dangerous. There is not – and cannot be – an adequate evacuation route given population densities, road capacities and other practicalities. Indian Point has persistently leaked radioactive material into groundwater, and has a history of repeated safety violations.

In addition to the extraordinary risk of a nuclear accident that Indian Point poses, its aged design also causes conventional environmental damage. Consequently, in April of this year, the New York Department of Environmental Conservation (“DEC”) ruled that the plant is violating the federal Clean Water Act, and does not comply with New York State’s clean water standards.

Eric will defend DEC’s decision finding Indian Point in violation of clean water laws and will work for an energy future without Indian Point. He will continue to petition the federal Nuclear Regulatory Commission to deny Indian Point relicensing. He will endeavor to hold Entergy Corporation, Indian Point’s owner, accountable for safety failures, spills and leaks of radioactive materials.

Indian Point provides about 30% of the energy used in New York City and Westchester. In order to decommission Indian Point, it is critical that we develop alternate clean power sources and take serious steps to reduce energy demand. Avoiding a devastating impact on the local economy requires that we act now to develop the facilities and prepare to responsibly replace the significant energy dependency of New York City and Westchester County on power generated at this dangerous facility.

### **3. Enforce a Wide Range of Environmental Protection Laws**

The Attorney General must be committed to enforcing the full range of environmental protection laws. Some of the more critical areas to which Eric will devote attention and resources include:

- Requiring companies that have contributed to toxic or polluted sites through illegal dumping or negligent spills or leaks to clean up these sites or reimburse taxpayers;
- Guarding the quality of New York City’s water supply. The New York City Watershed Inspector General (“WIG”) is housed in the Attorney General’s office and is charged with identifying dangers to the quality of New York City’s drinking water. Eric will make sure that the WIG remains a strong and active watchdog over this vital resource;
- Enforcing pesticide notification and use laws, especially around parks and schools;
- Ensuring compliance with the state’s recycling laws;
- Protecting wetlands from illegal encroachment and despoliation;
- Sheltering the forest preserves in the Adirondacks and Catskills from illegal development or other illegal activities;
- Making sure that industries housing large quantities of chemicals and other dangerous materials notify local officials, including fire departments, in accordance with the law;

and

- Bringing actions to increase compliance with state and local “anti-idling” laws.

#### **4. Prosecute Serious Environmental Violations Criminally**

Because many environmental crimes impact more than one county at a time, and because these crimes are complex, it is difficult for local District Attorneys to be wholly responsible for prosecutions. The environmental crime statutes require specialized legal knowledge, and the necessary proof often involves understanding sophisticated scientific testing. There is, therefore, a pressing need in the state for specially trained environmental prosecutors.

Working closely with the Commissioner of DEC, Eric will assure that the Attorney General’s Office possesses that expertise. Under Eric, the Office of the Attorney General will prosecute environmental criminals, work with local District Attorneys, and train local police forces in the enforcement of these complex laws.

In addition, Eric will couple his environmental prosecutions with vigorous civil forfeiture actions. Because environmental violations are economically motivated, taking the profit out of crime can be a tremendous deterrent. He will thus have civil litigators work in tandem with prosecutors to seize the proceeds and instrumentalities of environmental crimes, implementing a “polluter pays” philosophy. Using the forfeiture laws, Eric will deploy those seized monies to make victims whole and to beef up future environmental enforcement efforts.

#### **5. Pursue Environmental Justice**

Minority communities have too long borne the brunt of unfair environmental planning decisions. Highways, power plants, transfer stations, and treatment plants have been disproportionately sited in Black and Latino neighborhoods, dumping higher levels of toxins into the air, water, and soil. Asthma rates in poor neighborhoods are unacceptably high and children start life with a chronic illness as a result. Lead poisoning in poor neighborhoods is a modern day outrage, leaving children with permanent learning and behavioral disorders. Eric was proud to sponsor the bill requiring the state to take environmental justice into account in the development and enforcement of environmental laws.

The Attorney General can combat environmental injustice in two ways. As the primary enforcer of the civil rights laws, Eric will use the full powers of the Office to oppose local governments and private companies making discriminatory decisions as to where to build toxic or polluting plants.

And as the primary enforcer of the environmental laws, Eric will aggressively litigate to clean up existing damage in neighborhoods, removing the toxins and making our communities safe. This includes pursuing cases like that filed by Attorney General Cuomo against New York Organic Fertilizer for creating a public nuisance in the Hunts Point community, and the 2005 investigation that led to settlements limiting idling by diesel buses in the battle against asthma in

the inner city.

## **6. Use the Martin Act to Force Companies to Disclose Financial Risks Associated with Global Warming**

Big corporations, especially energy companies, must accept the scientific consensus on global warming. It is simply common sense that climate change, and laws aimed at preventing it, will begin to have an impact on the bottom line of corporations.

Failure to disclose to investors material information concerning the financial impacts of climate change is a fraud that can be policed under the Martin Act, New York's powerful securities fraud statute.

Attorney General Cuomo has begun an effort to require big-polluter energy companies to disclose timely and relevant information. Eric will continue and expand that initiative, and include where appropriate other companies and other industries that would be impacted by climate change.

## **7. Crack Down on “Green” Fraud**

New Yorkers are tremendously environmentally conscious, and often buy products because they are environmentally sound – organic, produced with natural products or produced using carbon-neutral technology. Some unscrupulous companies have tried to exploit this environmental consciousness, making environmental claims for products that are simply untrue, and charging a premium for them.

Eric will use the consumer protection laws, including Executive Law section 63(12), to stamp out this “green” fraud, and assure that consumer spending choices are respected.

# FINANCIAL SERVICES AGENDA:

## *PROTECTING INVESTORS AND REFORMING UNFAIR MARKET PRACTICES*

America's markets attract investments from every part of the world, including investments by foreign nations. The vitality of our national markets has propelled New York's economy for decades, providing many thousands of good jobs and drawing international talent to our state.

For many years, our national securities regulation regime was first-rate, and, between the Great Depression and 1987, prevented a major financial crisis. But a *de facto* dismantling of the federal regulatory apparatus led to tragedy. From the Madoff scandal to poor oversight of derivatives, federal regulators repeatedly dropped the ball, and Americans and New Yorkers have suffered mightily.

The case for strong and active state regulators never has been more compelling. An honest and independent Attorney General must continue in the Spitzer-Cuomo tradition and stand guard. As both Spitzer and Cuomo did, Eric will staff the Investor Protection Unit with tough, independent and knowledgeable lawyers who will focus on uncovering and ending fraud in the market. As have his predecessors, he will invest his investigative resources in cases aimed at structural fairness, cases that eliminate unfair and unlawful edges that unscrupulous firms use to cheat the public, and cases that recover hundreds of millions of dollars for wronged investors.

Eric's progressive record shows how effectively he would enforce the securities laws. He has stood up to influential people and powerful institutions his entire career, and he is not about to stop as Attorney General. He will use legal tools and tactics that he has championed for decades as a lawmaker. And he will focus resources in areas where fraud has done particular damage to investors, including frauds against public and private pension funds.

Indeed, Eric has described how the new state False Claims Act (which he helped pass and has worked to strengthen) can be used in tandem with the Martin Act in the area of public pension fraud, allowing treble damage recoveries from wrongdoers.

Eric's reputation for standing up to powerful institutions has drawn him praise and support from a broad coalition. In the field of securities enforcement, one stands out in particular. Harry Markopolos, the Madoff whistleblower, has praised Eric as a national leader in this area, and said that Eric's Investor Protection Plan would "undoubtedly" protect investors from Ponzi schemes and other securities frauds.

Eric will:

- 1. Use the Martin Act Forcefully while Washington, D.C. Recalibrates its Strategy**
- 2. Advocate for Strong and Tough New Financial Rules to be Promulgated Pursuant to the New Federal Regulatory Regime**
- 3. Reform and Modernize the Securities Registration Division**
- 4. Advocate for Additional State Financial Reforms to Protect New Yorkers**
- 5. Create a Working Group to Study How to Keep New York the Center of the International Marketplace**

## **1. Use the Martin Act Forcefully while Washington, D.C. Recalibrates its Strategy**

Eric knows full well that a tough and fair approach will be particularly important in the next few years, because the federal regulatory system is in flux. New federal laws will result in the slow promulgation of new federal regulations. New federal agencies will be created of whole cloth: new staff, new mandates, new powers. As these changes occur in Washington, it will be particularly important for the New York State Attorney General to stay constantly vigilant. Accordingly, Eric will:

- ✓ ***Police Wall-Street with the goal of securing industry-wide, system-wide and nationwide reforms***

The state's securities fraud statute, known as the Martin Act, is internationally known as an effective and powerful enforcement statute. It provides the Attorney General with broad investigative powers, and permits the Attorney General to proceed with cases either civilly or criminally. It has been used effectively by Attorneys General Cuomo and Spitzer, who have shed light on illegal industry practices and achieved wide-reaching reforms while recovering billions of dollars for victims and the state. Eric will continue in this tradition, with immediate focus on:

- Continuing to investigate fraud that occurred during the 2008 fiscal crisis, including any failures to appropriately disclose bonuses during that time; and
- Investigating the relationship between banks and credit rating agencies

- ✓ ***Investigate whether main street investors are being defrauded by systemic abuses and conflicts of interests in retail brokerage firms.***

The compensation system for retail brokers creates structural conflicts of interest when brokers are paid by volume of sales. Over time, this practice has led to sanctions and disciplinary actions in retail brokerage houses.

In addition, smaller regional and local branches of major banks have sometimes been poorly supervised. These supervisory failures can have a direct effect on the pocketbooks of small investors. Eric will launch an initiative to investigate the extent to which these failures are responsible for persistent instances of fraud.

- ✓ ***Focus on losses suffered by government pension funds***

Taxpayers are being asked to pay ever higher amounts of money to support government pension funds. Most, if not all, of these funds invest in the stock market. As Attorney General, Eric will investigate securities fraud scams that have damaged government pension funds. He will also partner with comptrollers looking to protect their investments.



✓ *Protect elderly investors*

Older investors are a growing segment of the investing public. Financial services firms are increasingly focusing their marketing and sales of investment products on those nearing retirement age. As Attorney General, Eric will investigate and shut down firms that target seniors with fraudulent and abusive sales practices.

✓ *Enforce the state's new "death bond" law*

Death bonds, formally known as "life insurance settlements," "life settlements" and "viatical settlements," are created when a person with life insurance sells his or her policy to an investor. The seller gets less money than the policy is ultimately worth (but gets it before he or she dies), while the investor becomes the new beneficiary of the policy, pays the premiums, and theoretically gets the payout when the insured person dies.

This area historically has been one in which brokers have defrauded both buyers and sellers, especially the elderly. As a consequence, reformers like Eric successfully fought to pass a new law that regulates this area for the first time. However, the law requires tough enforcement. As a lawmaker, Eric helped to pass the new law regulating death bonds. As Attorney General he will vigorously enforce it.

✓ *Leverage new federal regulations in Martin Act Enforcement*

The recently passed federal financial reform law will result in a new set of sweeping federal regulations designed to protect investors. The new regulations will outlaw many practices that are troubling but currently legal. While the Martin Act continues to be a more powerful tool than any of the new regulations, these new rules of the road will offer additional avenues to assist state prosecutors in pursuing Martin Act investigations. Where appropriate, Eric's team of lawyers will use the new regulations to supercharge state investigations, lawsuits and prosecutions. Of particular use will be the anticipated new regulations expanding who in the industry owes a fiduciary duty to investors. Eric will urge the SEC to define fiduciaries broadly to give maximum protection to New York investors.

## **2. Advocate for Strong and Tough New Financial Rules to be Promulgated Pursuant to the New Federal Regulatory Regime**

The history of the passage of the federal reform law shows that state Attorneys General can have strong impacts on the substance of national reforms. During the U.S. Senate debate on the financial reform bill, Republicans attempted to eviscerate the power of state Attorneys General to enforce anti-fraud rules against national banks. Several Attorneys General publicly opposed this amendment, and teamed up with activists and members of Congress defeat it.

Given this history, Eric will ensure that federal rule makers know that New York – and New Yorkers – demand tough new protections and tough new laws.

### **3. Reform and Modernize the Securities Registration Division**

The Attorney General currently employs a dedicated and talented team that collects registration filings from brokers, dealers and investment advisors. However, the New York State registration process needs to be updated and modernized, with basic information collected being made accessible in online databases.

Furthermore, as New York is the only state to require issuers of securities to register as dealers (in their own securities), the online data base needs to make clear when a registrant is a broker-dealer in the traditional sense versus when a registrant is merely a typical company engaged in a securities offering, and not a “broker-dealer” in the sense of being in the business of buying or selling securities, or advising financial consumers.

Regardless, Eric will enforce the law and shut down broker-dealers that are unregistered in accordance with the law.

### **4. Advocate for Additional State Financial Reforms to Protect New Yorkers**

As a lawmaker, Eric has long advocated for reforms and consumer protections – from leading a groundbreaking Senate hearing into mortgage fraud to fighting predatory lending and other abuses. As Attorney General, Eric will continue to fight for the enactment of state financial reforms and enforcement legislation, including:

- ✓ ***Empowering institutional investors and retirees to recover stolen funds under the Martin Act***

Eric has been the leader in the New York State Senate for tough enforcement of the Martin Act and the rights of victims of securities fraud. He stood up to Wall Street as the lead sponsor of the bill to empower retiree pension fund victims to sue crooked investment professionals under the Martin Act.

While Wall Street and their conservative allies are fighting against expanding the civil protections of the Martin Act to victims of securities fraud, Eric is leading the fight for reform – a fight he will continue as Attorney General.

- ✓ ***Enactment of a first-in-the-nation state securities fraud whistleblower program***

The financial reform bill contains a little-discussed but powerful enforcement mechanism that allows whistleblowers who provide the SEC with original information to receive a percentage of the fines collected as a result of the information provided.

Eric has been a strong advocate of tough and consistent enforcement of anti-fraud rules. Rewarding and protecting whistleblowers are cost-effective ways of enforcing securities fraud laws. Eric will fight for New York to follow the federal government’s lead and enact a first-in-the-nation state securities fraud whistleblower program.

## **5. Create a Working Group to Study How to Keep New York the Center of the International Marketplace**

As technology makes the world flat, New York must compete internationally. We must ensure that some other city – whether London, Hong Kong, Mumbai or any other – does not become more attractive to investors and the financial industry. We cannot afford to be complacent. We must anticipate problems and plan for the future.

As New York's securities regulator, Eric will create a working group comprised of experts from the securities industry, academics, city and state community leaders, regulators from around the world, and experts on homeland security to study the issue and make recommendations. We simply cannot afford to lose an industry that is so critical to New York's vibrant economy.

# HEALTH CARE AGENDA:

## *PROTECTING QUALITY WHILE FIGHTING WASTE, FRAUD & ABUSE*

Since Eric was 17 and worked to transport women to and from abortion clinics, he has fought fiercely for health care rights and against those who would deny care, whether because of ideology or profit.

As a private litigator and member of the board of Citizen Action, he successfully fought alongside healthcare reform advocates to pass a Managed Care Patients' Bill of Rights. As a lawmaker, he sponsored a bill to create a single-payer health care system in New York, pressed successfully to require insurers to obtain government approval before increasing premiums, and successfully advocated for the adoption of the law that requires insurers to spend a larger percentage of premiums on patient care. He also authored *Ian's Law*, a first-in-the-nation measure that will, when signed by the Governor, will prevent insurance companies from throwing the sickest New Yorkers off their rolls.

This record of success, over the opposition of the powerful insurance lobby, shows that Eric is the most committed and best qualified among the candidates to use the powers of the Attorney General's office to protect the health and wealth of New Yorkers. In particular, Eric will focus the experienced attorneys in the Health Care Bureau on preventing frauds that will inevitably emerge during the transition to the new federal health care system, when consumers are forced to navigate the new and often confusing rules. He will use every criminal and civil tool in the Attorney General's arsenal to fight fraud in the Medicaid system that harms patients and robs taxpayers. And he will investigate disparities in health care due to race, ethnicity and economic status.

As a result of his record of fighting for health care rights and justice, Eric has been endorsed by prominent health care rights advocates such as NARAL Pro-Choice New York, SEIU 1199 Healthcare Workers United East and the Long Island Progressive Coalition. His recent work enacting *Ian's Law* has been applauded by the Medical Society of the State of New York and Consumers Union.

As Attorney General, Eric will continue the fight for patients' rights. He will:

- 1. Enforce New Health Care Reform Laws and Fight Abuses by the Health Insurance Industry**
- 2. Prosecute Medicaid Fraud and Patient Abuse**
- 3. Advocate for Continued Health Care Reforms**

## **1. Enforce New Health Care Reform Laws and Fight Abuses by the Health Insurance Industry**

The recent federal health care reform bill signed by President Obama holds out the promise of greatly expanded health care coverage based on a reformed private insurance market. New laws passed in New York that fill in gaps left unaddressed by the federal law provide additional protections for New Yorkers in this new healthcare regime. These reforms will present special challenges in preventing fraud in New York State. The Attorney General will play a critical role in that fight.

Eric will:

- ✓ ***Enforce rules that require health insurance companies to spend money on patient care***

One of the most critical health insurance rules protecting insured patients is the state's new "medical loss-ratio" rule. Medical loss ratio rules require insurance companies to spend a set percentage of their revenue on patient care. When insurance companies evade medical loss-ratio rules, they evade treating patients.

In New York, we just passed tough loss-ratio rules that will require many insurance companies to spend 82% of the dollars they collect in premiums on patient care; the new federal law will eventually require most insurance companies to spend up to 85% on patient care.

Without tough enforcement, however, these rules will be useless and patients will suffer. There are many opportunities for insurance companies to manipulate the data and pretend that they spent more money on patient care than they actually did. Investigating and ending evasion of these patient care rules will be a priority for Eric as Attorney General.

- ✓ ***Ensure that the data submitted by insurance companies to justify premium rate increases under the new prior approval law is accurate and honest***

This year, with Eric's active support, New York adopted a so-called "Prior Approval" law that will prevent health insurance companies from implementing premium increases unless they justify the need for such increases to the state.

Unfortunately, insurance companies have the incentive and ability to "game" data, or produce profit and loss numbers that do not reflect reality. The New York Attorney General's Health Care Bureau already tracks and monitors health insurance companies' denial of care to patients. Eric will expand the role of that Bureau to closely examine insurers' submissions under the state's prior approval law. He will launch investigations or enforcement actions if false or manipulated data is presented.

- ✓ ***Crack down on marketing scams that exploit federal health care reform to sell "phony" health insurance plans***

In the wake of federal healthcare reform there have been reports of shady, fly-by-night companies lying to consumers about the new law to peddle unnecessary or fraudulent products.

As key provisions of the new federal law go into effect between now and 2014 – including the mandate for certain uninsured adults to buy private health insurance – the opportunities for such

frauds and scams will increase. Often the targets of these scams are senior citizens, who are generally enrolled in Medicare and thus don't need the insurance plans that crooked marketers are pushing.

As Attorney General, Eric will protect consumers from these scams, and, in doing so, protect the integrity of the new federal health care law that progressives fought so hard to enact.

✓ ***Advocate for patients and consumers in the establishment of the new statewide health insurance exchange***

The way many New Yorkers obtain health care coverage will change between 2011 and 2014, when the State establishes a new insurance exchange (a government-regulated marketplace where consumers can go to purchase a private health care plan) in accordance with the new federal health care reform law.

Although the Insurance Department will have the primary responsibility to set up this exchange, Eric will be a vocal and necessary advocate in ensuring that the exchange includes adequate protections for consumers, and adequate anti-fraud and enforcement provisions.

In this light, Eric will work to educate consumers about the advantages, opportunities and their rights afforded under the new exchange. Eric will closely monitor insurance companies that pledge to satisfy the required criteria to participate in the exchanges. He will also work to ensure that the government's contracting rules and selection procedures do not unduly burden the ability of the health exchange to secure and offer New Yorkers' the highest quality plans at affordable prices.

✓ ***Investigate Health Maintenance Organization (HMO) abuses***

As Attorney General Cuomo's Healthcare Industry Taskforce discovered with its ground-breaking investigation into manipulated reimbursement rates for out-of-network care, insurance companies have ample power and opportunity to increase profit margins at the expense of patients, providers and consumers.

In New York, HMOs have the power and opportunity to improperly interfere with the doctor-patient relationship. This power stems from the fact that insurance companies can reject a doctor or provider's application to renew membership in their network for just about any reason. Doctors and providers often can ill-afford to be rejected from an HMO network, especially in upstate markets where a limited number of HMOs often dominate the local marketplace.

Because HMOs have such power over providers, close enforcement is necessary to ensure that care is not improperly reduced. Enforcement is also needed to ensure that HMOs pay providers their bills, so that hospitals and taxpayers do not pay for the health care of *insured* patients. Accordingly, as Attorney General, Eric will:

✓ ***End HMO policies that put health industry bureaucrats in between doctors and patients***

HMOs are allowed, and indeed encouraged, to develop effective cost control mechanisms. However, they are *not* allowed to secretly pressure doctors to avoid providing adequate care, and they cannot violate state laws, such as the Managed Care Bill of Rights.

As Attorney General Eric will prevent HMOs from violating the rules by pressuring doctors to avoid providing care to people with insurance. He will sue to stop illegal practices, including:

- HMOs secretly deciding that a course of treatment for a specific medical condition is not medically necessary across-the-board (as opposed to allowing doctors to use their judgment on a case-by-case basis).
  - HMOs that issue misleading rankings or profiles of doctors for patients. HMOs are not allowed to rank doctors negatively because they choose to treat a large number of severely ill or high-cost patients.
- ✓ *End HMO policies that leave New York hospitals or taxpayers with unpaid bills*

HMOs often resist and delay paying providers and hospitals for services they have provided to patients, sometimes leaving taxpayers or charities to foot the bill. Indeed, the failure and delay of HMOs to pay bills is one reason why so many New York hospitals are experiencing financial troubles.

Recent mergers in the HMO industry (often between providers with different computer systems) have made some HMOs more prone to billing and claims errors. In some cases HMOs have even refused to pay for care they authorized. Other HMOs allegedly avoid New York's "prompt payment" law, which requires HMOs to pay their bills to providers within 45 days, by raising frivolous audits and demands for repayment. Eric will sue to stop such deceptive or illegal practices.

- ✓ *Expand advocacy for patients when insurance companies deny care*

One of the ways that insurance companies inflate their profits is by unfairly denying coverage based on questionable medical necessity determinations. A critical role of the Health Care Bureau is to advocate for patients victimized by corporate bureaucracies when they are at their sickest and most vulnerable.

## **2. Prosecute Medicaid Fraud and Patient Abuse**

Medicaid fraud is fraud that can kill. Nursing homes, home care providers and other providers that bill the State while providing substandard care do more than just defraud the government – they threaten patients' health and patients' lives.

Eric has two priorities for fighting Medicaid fraud: protecting patients and protecting New Yorkers' investment in public health care programs. He will continue the work of Attorney General Cuomo, whose Medicaid Fraud Control Unit (MFCU) won a national award as the best such unit in the country, and will:

- ✓ *Use the False Claims Act to encourage whistleblowers to report fraud and abuse*

Eric is uniquely positioned to use the state's False Claims Act to fight Medicaid fraud. The New York False Claims Act is the state's most effective Medicaid fraud-fighting tool. Like the United States False Claims Act, it protects, empowers and rewards whistleblowers who come forward with evidence of fraud against the government. Offenders must pay triple damages plus

mandatory civil penalties.

The New York False Claims Act was enacted in 2007 after an 11-year fight, during which the GOP-controlled New York State Senate thwarted several attempts to pass the legislation. As a lawmaker, Eric was a leader in the passage of this critical tool to combat Medicaid fraud. In the three years since its passage, the New York False Claims Act has helped the Attorney General's office recover over \$200 million in stolen Medicaid funds for New York taxpayers.

Eric's commitment to tough Medicaid fraud enforcement led him to draft yet another reform – the *Fraud, Enforcement & Recovery Act* – a series of amendments that have passed both houses of the Legislature and that would strengthen the False Claims Act in critical ways. The new law would create further incentives for whistleblowers by making it easier to report fraudulent schemes, creating anti-blacklisting provisions, and strengthening anti-retaliation protections for contractors. It also would clarify that a health care provider who knowingly retains an overpayment by the state Medicaid system is liable for fraud under the False Claims Act.

Similar amendments to the United States False Claims Act were heralded by *The New York Times*, and Eric's bill would go beyond the federal amendments in strengthening the Act.

✓ ***Investigate and prosecute patient abuse***

The Attorney General's Medicaid Fraud Control Unit has one of the most effective and aggressive patient protection units in the country. The Unit handles criminal investigations and prosecutions of patient abuses in nursing homes, home health care, hospitals and other Medicaid-financed health care institutions. Eric will ensure that this standard of excellence continues.

The Unit has also fought systemic fraud that jeopardizes patient care. For example, Attorney General Cuomo's groundbreaking "Operation Home Alone" uncovered system-wide abuses in the home health care industry, including "certification mills" that handed out phony certifications to home health care aides who had not been properly trained to care for patients.

✓ ***Investigate multinational drug companies***

With the increased role pharmaceuticals have in our health care system – and with the new and increased federal subsidies of drugs for seniors – we must work harder than ever to hold the drug companies accountable to consumers and taxpayers.

As Attorney General, Eric will continue and expand investigations and prosecutions of drug companies that engage in illegal practices, including:

- The unlawful marketing of drugs to Medicaid patients for unapproved uses;
- Selling counterfeit, diluted, or diverted pharmaceuticals;
- Price gauging; and
- Using fraudulent scientific data to obtain government approval for the sale of medications.



### **3. Advocate for Continued Health Care Reform**

When President Obama signed the health care reform bill, he promised that the battle for more reform would continue, and predicted that many of the next battles would occur at the state level.

As Attorney General, Eric will continue to advance a bold legislative agenda of health care reform. His success as a legislator in sponsoring and passing major health care reforms – most recently the near-unanimous passage of *Ian's Law* in the Legislature – is testimony to his commitment and ability to advance health care measures. In particular, Eric will propose legislation that:

- Creates a private cause of action for consumers against insurance companies that maliciously refuse to pay legitimate claims; and
- Supports the rights of doctors to collectively bargain with HMOs.

# LESBIAN, GAY, BISEXUAL & TRANSGENDER RIGHTS AGENDA:

## *A PLAN FOR EQUALITY*

Eric believes in progressive justice that takes an activist approach to protecting the rights of all New Yorkers. He is a longtime leader in the fight to ensure equal rights for Lesbian, Gay, Bisexual and Transgender New Yorkers.

Eric strongly supports marriage equality for same-sex couples and fought to bring the marriage equality bill to a vote on the Senate floor. As Attorney General, Eric will keep fighting to make sure that every New Yorker has access to the fundamental civil rights that come with a marriage license.

Eric fought to pass the Hate Crimes Bill that increased penalties for more than fifty kinds of crimes if it is proven that the act was committed as a result of a victim's age, gender, sexual orientation, religion, race, disability or ethnic background. Eric was also part of the coalition that passed the Sexual Orientation Non-Discrimination Act (SONDA), which expanded civil and human rights laws, making it illegal to discriminate against a person because they are gay, lesbian or bisexual. And Eric is fighting to pass the Gender Expression Non-Discrimination Act (GENDA), which will help to ensure that all New Yorkers are free from discrimination.

Because schools must be a safe space for all of our children, Eric is a sponsor and strong supporter of the Dignity for All Students Act (DASA), which would create legal protections for public school students from harassment and bullying, including verbal abuse and physical violence.

As Eric fought to enact a series of laws to protect LGBT rights, he is running for Attorney General to ensure those laws are enforced – and to aggressively fight to fulfill the state and federal constitutional principle that all people are equal under the law.

Because they believe that Eric is the best candidate to achieve the goals of the LGBT community, Eric has been endorsed by a host of LGBT organizations and elected officials including all four major LGBT democratic clubs in New York City, and New York City Council Speaker Christine Quinn.

As Attorney General Eric will:

- 1. Fight for Marriage Equality and the Constitutional Rights of LGBT New Yorkers**
- 2. Protect the Civil Rights of LGBT New Yorkers**
- 3. Protect LGBT New Yorkers from Hate Crimes and Violence**
- 4. Prevent Fraud in HIV/AIDS Treatments**

## **1. Fight for Marriage Equality and the Constitutional Rights of LGBT New Yorkers**

As Attorney General, Eric will take a stand whenever marriage equality or other fundamental constitutional rights are at stake. Accordingly, Eric will:

- Join the ongoing fight in the courts against the federal government to overturn the ill-named and unconstitutional *Defense of Marriage Act*. Eric will also join a challenge to the military’s “Don’t Ask, Don’t Tell” policy and the FDA’s discriminatory, outdated and irrational ban on blood donations from men who have sex with men.
- Aggressively crack down on any state agency or private sector business operating in New York that does not provide full spousal benefits to same-sex couples married out-of-state.
- Actively push Congress to pass the federal Employment Non-Discrimination Act (ENDA), and oppose any efforts to remove transgender rights from the legislation.

## **2. Protect the Civil Rights of LGBT New Yorkers**

The Attorney General’s Civil Rights Bureau has dozens of prosecutors and investigators dedicated to enforcing civil rights laws. Eric will unleash the resources of this bureau to fully protect gay, lesbian, bisexual and transgender New Yorkers. This means:

### **✓ *Fighting job and housing discrimination***

There have always been those who downplay the issue of discrimination against LGBT New Yorkers. Many have wrongfully assumed that most LGBT New Yorkers would stay “in the closet” rather than risk discrimination. Law enforcement agencies are also content to rely on victims filing lawsuits to fight LGBT discrimination, while reserving the comparatively heavy hammer of state action for more “traditional” civil rights actions.

Eric does not believe in this wrongheaded, outdated and failed approach. Accordingly, as Attorney General, Eric will not just fight discrimination when it shows up in the newspapers or in court records. Eric will actively investigate corporations and industries where discrimination or hostile workplaces exist for LGBT New Yorkers, and he will invite LGBT and civil rights leaders to report any incidents to the Attorney General’s office. Furthermore, Eric will fight not only for individual victims, but will work to achieve industry-wide reforms so that all forms of discrimination, including hostile work environments for LGBT workers, are eliminated.

### **✓ *Enforcing equality in the hospital room***

New civil rights laws that impose obligations on businesses are those that most need quick, effective and “loud” law enforcement action so that the protections embodied in the law become a reality. Recent victories at the state and federal level to ensure that LGBT patients are allowed to have their loved ones visit them in the hospital room or make critical medical decisions when necessary are no exception.

This year, New York passed — with Eric’s longtime support — the *Family Health Care*

*Decisions Act.* This act allows LGBT partners to make important medical decisions in the event of a partner's incapacitation. And President Obama recently announced that all hospitals receiving federal Medicare and Medicaid dollars must not discriminate against sexual orientation or gender identity when allowing hospital visitation. These new laws must be vigorously enforced. As Attorney General, Eric will aggressively fight any intentional or negligent policies or practices that violate the letter or spirit of these LGBT patient protection laws.

Of course, with marriage equality, these laws would not be necessary – and that's why Eric will keep fighting for full marriage rights for all New Yorkers.

### **3. Protect LGBT New Yorkers from Hate Crimes and Violence**

The targeting of gays and lesbians for violence and abuse is a hate crime. Eric also believes it is a civil rights violation and that institutions – including schools and local governments — that encourage or allow anti-LGBT bullying or environments hostile to LGBT New Yorkers are breaking our civil rights laws. As Attorney General, Eric will:

✓ *Prosecute hate crimes as a civil rights violations*

If District Attorneys fail to do their jobs by putting criminals who intentionally target those perceived to be gay, lesbian, bisexual or transgender behind bars, Eric will either request and obtain a referral from the Governor, or (if applicable) use section 63(10) of the Executive Law to prosecute those hate crimes as civil rights violations.

✓ *Bring actions against schools that ignore anti-LGBT bullying or harassment*

Eric believes that it is a civil right for LGBT youth to be educated in a safe environment free of harassment and bullying. Yet, too often school officials look the other way at bullying or excessive taunting of LGBT students or students perceived as LGBT students, by their peers. In the worst cases, such bullying has led LGBT students to tragic outcomes, including suicide. Eric has four words for bullies and school administrators who tolerate this abusive conduct: *NOT in New York!*

✓ *Examine prisons, especially juvenile prisons, to address the sexual abuse of LGBT prisoners*

There is a huge but largely ignored national problem involving the sexual abuse of LGBT inmates, including young inmates in juvenile detention centers. Recent research has documented a "catastrophically high rate" of sexual victimization of LGBT inmates, including youth offenders. Many prisons not only fail to protect these inmates, but also fail to take their reports of sexual abuse seriously: some even blame them for their own victimization.

Eric believes that New York State cannot tolerate sexual abuse in its prisons, especially when LGBT inmates are so clearly targeted. Such abuse is not only immoral – but also illegal. As Attorney General, Eric will work not only to examine the problem of prison-rape and the sexual assault of LGBT inmates in New York, but also work in concert with U.S. Attorney General Eric Holder and civil rights advocates to develop a standard to protect the safety of LGBT inmates.

## **4. Prevent Frauds in HIV/AIDS Treatments**

The war against HIV/AIDS has many fronts. One of these fronts is law enforcement. Eric believes the Attorney General can – and must – have an impact in this fight. Eric’s priorities when it comes to addressing the HIV/AIDS crisis include:

### **✓ *Price gouging of anti-AIDS drugs by drug manufacturers***

This year, the largest US HIV/AIDS health care provider charged Merck Pharmaceuticals with price-gouging its AIDS treatment *Isentress* and banned the drug giant's sales representatives from its US-based AIDS clinics, or from contacting doctors in its clinics. Other drug companies have been similarly implicated in AIDS drug-pricing schemes.

Eric believes the Attorney General must investigate, sue, and potentially prosecute drug companies that engage in price gouging of AIDS medications.

### **✓ *False marketing of AIDS medications or cures***

Two decades after the height of the AIDS crisis, AIDS patients are still vulnerable to false marketing scams and drug marketing schemes. Serono Laboratories, Abbott Laboratories, and others have all been found in the past to exploit the real hope of AIDS patients with false hype over their AIDS medications.

Eric will ensure that the Attorney General’s office, through the Consumer Frauds Bureau and the powerful Medicaid Fraud Control Unit, will continue to be a national leader in the fight against such schemes. Eric knows that until we all win the fight against AIDS, we cannot let our guard down in the fight against AIDS-related scams and rip-offs.

# **PUBLIC INTEGRITY AGENDA:**

## ***THERE IS A BETTER WAY***

As a lifelong progressive Democrat, Eric contends that if you believe that the public sector is a force for good, you must be among the harshest critics of corruption, waste, and fraud in government.

For his entire career, Eric has been active in the struggle to reform New York's government. Even before he was an elected official, Eric served as a legal advisor for the successful Clean Money, Clean Elections campaign, which led to the expansion of New York City's campaign finance system and other rules governing city elections.

As a lawmaker, Eric chaired the committee that investigated Hiram Monserrate, resulting in the first expulsion of a sitting Senator in modern history.

Eric has also fought for the reform of unfair Senate rules that concentrated power in the hands of a few leaders at the expense of the democratic process. He worked with the Brennan Center for Justice as they wrote their landmark reports on dysfunction in Albany, and he has published articles on the subject of government and rules reform. In 2009, Eric's efforts began to bear fruit when the New York State Senate passed the first real Senate rules reform in decades, creating more transparency and shifting power to rank-and-file legislators.

Eric successfully negotiated a compromise ethics reform bill that passed both houses of the legislature. Had this bill become law, it would have been the most sweeping government ethics reform since Watergate, and would have created a strong foundation for further ethics reforms. In addition to the compromise legislation, Eric is the sponsor of other more comprehensive ethics and campaign finance reform bills.

Eric's record shows that no one is more qualified and committed to creatively apply the power and the influence of the Attorney General to clean up Albany and local governments throughout the state. Indeed, Eric was a target of the former Republican Senate Majority's attempts to redistrict him out of office. He has always supported independent redistricting – whether as a member of the Senate minority, and a target of Republican redistricting abuse, or as a member of the majority party in power.

As an independent Attorney General, Eric will continue his long battle against the status quo. He will use long-standing AG powers to investigate businesses that illegally conspire with crooked public officials and will dramatically expand the use of the 2007 state False Claims Act, a powerful whistleblower law that Eric is working to strengthen as a lawmaker. He will request that the Governor use existing law to grant the Attorney General universal power to investigate and prosecute public corruption cases criminally. And he will put a public integrity officer into each of the Attorney General's Regional Offices to help combat local fraud.

Because of his history battling the political status quo, Eric has been endorsed by State Senator Liz Krueger, Citizen Action, and the Long Island Progressive Coalition. His ethics reform work

has been specifically praised by Citizens Union, NYPIRG and the League of Women Voters.

Eric will:

- 1. Launch New OAG Public Corruption Initiatives**
- 2. Fight for Broad Legislative Reform**
- 3. Expand the Powers of the Attorney General's Office**

## 1. Launch New OAG Public Corruption Initiatives

Eric will aggressively pursue a series of initiatives – including an expansion of the size and scope of the Attorney General’s Public Integrity Bureau – to enhance enforcement of current New York law.

- ✓ *Eric will investigate and launch civil prosecutions against businesses and special interests that illegally corrupt public officials or violate election or campaign finance laws through their business activities.*

Eric will make it a priority to vigorously launch civil investigations and prosecutions of businesses or corporations that flout laws involving government corruption.

Although current law does not generally grant the Attorney General unilateral authority to investigate public officials for violations of the Public Officers Law or the Election Law, such violations often involve illegal acts by a business or special interest over which the Attorney General does have enforcement authority. Accordingly, Eric will crack down on public corruption by using the Attorney General’s broad powers to investigate and commence enforcement actions against businesses and special interests to combat public corruption and campaign finance violations.

- ✓ *Eric will go after public officials who engage in an act of wrongdoing that violates a business law, government fraud law, or other law over which the Attorney General has jurisdiction.*

As Attorney General, Eric will investigate, prosecute or sue public officials for violating laws governing the conduct of business, the operation of charities, the misuse of public funds, and other laws. For example, Eric will:

- Crack down on state officials who conspire with businesses or take kickbacks or bribes to manipulate the public contract bidding process with civil prosecutions under the New York False Claims Act, a law that would be significantly strengthened by Eric’s *Fraud Enforcement and Recovery Act*;
- Prosecute state or local government pension fund officers who violate the state’s securities fraud law under the criminal or civil provisions of the Martin Act;
- Investigate public officials who loot charities or non-profits to which they are connected as part of his broad powers to ensure that non-profit organizations operate honestly; and
- Enforce regulations under New York City’s campaign finance laws related to candidates receiving public funds as part of the Attorney General’s power to investigate the misuse of public funds and recover such funds along with civil penalties.



✓ ***Protect the government pension funds from corrupt dealing or looting***

Eric will continue the current Attorney General's tough investigations into "pay to play" practices and corruption related to New York's public pension funds. Eric also will continue to investigate private sector professionals who team up with politically connected government officials to enroll in the State pension fund.

✓ ***Expand the use of the "False Claims Act" – the state's powerful triple damage whistleblower law***

In the fight against the theft of government funds by corrupt contractors, there is no more important weapon in the Attorney General's arsenal than the False Claims Act – the state's triple-damage whistleblower law that Eric helped pass in 2007.

The False Claims Act empowers, protects and rewards whistleblowers who report fraud. Critically, the Act enables whistleblowers to team up with the Attorney General's office to take contractors who rip-off the government to court. It imposes the highest civil damages and penalties of any civil anti-fraud statute under New York law. Indeed, these penalties would soon be expanded under Eric's *Fraud, Enforcement & Recovery Act*, which has passed the Legislature and is awaiting the governor's signature.

As a Senator, Eric has been recognized by national taxpayer advocates, whistleblower advocates, fraud-fighters, labor leaders, school boards and local governments for his work to pass and enhance this important anti-fraud and anti-corruption tool.

As Attorney General, Eric will fully deploy it in the fight against fraud against the government. His agenda for using the enhanced False Claims Act against fraudsters and corrupt businesses includes the following:

○ **Broaden use of the False Claims Act in areas other than Medicaid fraud**

The passage of the False Claims Act has resulted in the recovery of hundreds of millions of dollars in stolen funds for taxpayers. However, the vast majority of those recovered monies have been stolen Medicaid funds. There have only been a few recoveries involving non-Medicaid fraud cases. And reported use of the False Claims Act by local governments is practically non-existent.

Eric will unleash the power of the False Claims Act against contractors who file false claims against taxpayers in *any* area. Eric will establish a False Claims Unit ("FCU") within the Public Integrity Bureau to specifically encourage and handle whistleblower cases.

Eric will also reach out to local governments and school districts and train them to use the False Claims Act to address fraud against local governments. This training is critical because Eric's recently-passed *Fraud, Enforcement & Recovery Act*, when signed by the Governor, would increase the ability and incentives for local governments to use the False Claims Act to protect local

taxpayers against corrupt contractors and employees. Several local government organizations and a leading association of school boards have praised Eric for his leadership in protecting local taxpayers and schools from fraud.

- **Impose triple damages and mandatory penalties against those who defraud the state or local governments whenever possible**

Many candidates running for Attorney General have focused – sometimes singularly – on using the “Tweed Act” (Executive Law § 63-c) as a tool to combat fraud against the government or improper or secret government spending.

The Tweed Act, like the False Claims Act, allows the Attorney General to launch a civil lawsuit against people who defraud the state or a local government. However, the Tweed Act does not allow the Attorney General to subpoena information, impose mandatory civil penalties on defendants, or impose mandatory triple damages against defendants.

Eric will use the Tweed Act in those rare cases where the False Claims Act would not apply or where use of the Tweed Act is otherwise advantageous. But if the facts of a given case present a choice between using the 1875 Tweed Act versus the more powerful 2007 False Claims Act – Eric will elect to use the latter, stronger, law whenever possible.

- ✓ ***Investigate and bring civil prosecutions against government employees who engage in hidden fraudulent spending, including those who falsify time sheets or reimbursement forms for travel, meals, lodging, or per-diem expenses***

As Attorney General, Eric will crack down on government employees who defraud the state or local governments for their own personal enrichment. To accomplish this, he will launch investigations and civil fraud actions against government employees who falsify time sheets, reimbursement requests for travel, lodging, or meals, expense reports, per diem charges, or who create “no show” jobs for politically connected bosses or other individuals.

Since the Attorney General can already launch such investigations without the need of any agreement with, or permission from, the Governor or the agencies or entities to be investigated, Eric will investigate this type of conduct by public officers whenever it appears that a government employee has violated the state’s anti-fraud laws in a personal capacity, for personal gain.

Eric will never merely ask permission or seek an agreement from agencies to investigate employees for such misconduct. If a government employee with knowledge about an inflated or false lodging, travel or meal reimbursement refuses to cooperate with a subpoena, then Eric will simply exercise his power to seek a court order forcing them to comply or face contempt – which could mean jail-time.

✓ ***Put a public integrity officer in the Attorney General's regional offices to police local government corruption and work with local government***

The Attorney General has regional offices all across the state – from Buffalo to Plattsburgh to Mineola. Eric will place a public integrity officer in each of these regional offices, with an eye not only to ending corruption in state government, but cleaning up local government as well. These officers will give citizens a local place to take complaints to be examined on the merits without the fear that local politics might unduly influence the outcome.

Local governments and special districts in New York too often operate with little oversight and few ethical rules. Yet, these local entities award billions of taxpayer dollars to businesses. Eric believes we need to take both a “top-down” and “bottom-up” approach to protecting public integrity. We cannot clean house in Albany while leaving corruption hidden in the nooks and crannies of local governments and special districts.

✓ ***Assign public integrity specialists to help District Attorneys with public corruption prosecutions***

The battle in the war on public corruption need not be weakened by battles over turf. Eric will not only work with District Attorneys and other local officials to combat corruption, but will also offer to assign Assistant Attorneys General to work with local District Attorneys' offices on public corruption cases.

✓ ***Expand 'Project Sunlight'***

Project Sunlight, Attorney General Cuomo's successful initiative to bring government information into the light of day, will be expanded to include more detailed information on government business.

As Attorney General, Eric will work to expand Project Sunlight so that the website includes and displays more detailed information about member items requested by organizations and sponsored by legislators, including whenever possible the following information:

- A description of the request or grant;
- The board of directors of the organization;
- Incorporation papers or registration documents of the organization;
- Executive officers of the organization;
- Financial statements of the business or group; and
- Public information on subcontracts into which such businesses or groups have entered.

Project Sunlight should also include detailed information on the state budget and

government spending, including:

- The actual contracts entered into by the state where the value of such contract exceeds \$50,000;
- Detailed information on contractors who do business with the State, including incorporation papers and the identification of key board members and senior executives;
- Reports and audits issued by inspectors general, the State Comptroller, and other oversight entities on government contractors or government program performance; and
- Information on reimbursement receipts and expenses submitted by elected officials and other public officers.

## **2. Fight for Broad Legislative Reform**

Eric has a long record as an author of and advocate for reform legislation. This year, he introduced and fought for a bill that overwhelmingly passed both houses of the legislature and would have implemented the most sweeping overhaul of the state's ethics rules in a generation. As Attorney General, Eric will continue to fight for the enactment of the most comprehensive set of government, ethics and campaign finance reforms ever to be endorsed by a sitting New York State Attorney General. Key aspects of his legislative reform agenda will include:

### **✓ *Public financing of campaigns***

The ultimate fear of the special interests is true campaign finance reform that ends the golden rule of politics – that those who have the gold make the rules.

As a lawmaker, Eric has long called for the public to have a primary role in financing campaigns in order to dilute and eventually eliminate the power of special interests in elections. Indeed, this isn't just talk: Eric was a legal advisor to New York City's Clean Money, Clean Elections campaign, and has long-sponsored legislation that would create a public financing system for New York State elections.

As Attorney General, Eric will fight for the creation of a public financing system for all elected positions of state government. New York should adopt a voluntary public financing system based on New York City's system that has set the standard for public financing around the country. Such a program would:

- Empower individual small-donor voters in New York by awarding candidates a match for small in-state donations;
- Require that candidates abide by a spending cap, and qualify for a possible candidacy by initially raising a specified amount, in-state, from small donors; and
- Prohibit incumbents who are running unopposed, or are facing token opposition, from receiving public funds.

✓ *Lower “fat-cat” donor contribution limits*

Currently, New York law allows an individual donor to contribute over \$55,900 to a candidate running for statewide office – more money than should be allowed, and among the highest limits in the nation. Moreover, an individual can contribute a total of \$150,000 in aggregate political donations in any given year.

The maximum contribution for a statewide campaign should be reduced from \$55,900 per individual donor for combined primary and general elections to \$4,800. This is in accordance with legislation that Eric has sponsored as a lawmaker. In addition, the aggregate \$150,000 per year cap is too high and should be lowered considerably. Loopholes that allow corporations to escape these donation limits by creating or manipulating LLCs or subsidiaries are also unacceptable and must be closed.

Also in accordance with legislation supported by Eric – the current ability of donors to give virtually unlimited so-called “housekeeping” amounts to political parties must be curtailed. Eric’s proposed legislation as Attorney General will limit the number and type of party committees that may be established by state political parties as an end-run around donor limits, and will also seek to reduce the maximum allowable donation to party organizations.

✓ *Mandate more disclosure for campaign donors*

Eric’s mantra for political contributions is simple: the more sunlight the better. Currently, donors are required to disclose only their name and an address. More disclosure is needed. Donors should be required to disclose the name of their employer, their business address (if any), and their profession. Furthermore, corporations and independent groups must be required to disclose the source of funds when engaging in political communications.

✓ *Require candidates to “use or lose” campaign funds*

In New York, campaign funds can long outlive a political career or even the officeholder. Political officials or relatives can spend “campaign” money long after the retirement of an elected official, or even after his or her death. Similarly, elected officials convicted of a felony and thrown out of office continue to access their campaign funds. As Attorney General, Eric will propose legislation to require campaigns to use funds within four years of receipt, or disburse them to either other campaigns (as donations) or to charities. He will additionally seek to require any officeholder convicted of a felony to immediately disburse those funds to an independent charity or to the state.

✓ *End “Pay to Play”*

Eric believes that “pay to play” is the ultimate bribery “loophole” that allows private parties to corrupt our democracy.

Eric's public integrity plan includes both expanded disclosure rules and expanded enforcement powers to end pay to play. Ideally, donations by corporations that do business with the State should be banned. However, such strict limits likely would trigger constitutional concerns. At the very least, political contributions from these corporations should be subject to lower contribution limits than those for other corporations or groups. In New York City, a company doing business with the City can only donate one-sixth of what other donors can contribute. Eric will work to adopt this approach for donations to candidates running for state offices as well.

Eric also believes that lobbyists must be required to more fully disclose information about their clients, including the amounts of money they are paid by their clients to influence legislators, and more detailed information on the subject matters on which they are lobbying.

✓ *Impose tougher criminal and civil penalties for violating campaign finance laws*

We cannot be serious about enacting new campaign finance rules and enforcement mechanisms without stronger civil and criminal penalties for breaking them. As Attorney General, Eric will support both.

This is why the comprehensive ethics reform bill sponsored by Eric and passed overwhelmingly by the Senate and Assembly would have:

- Doubled the current penalties for a candidate who fails to file critical campaign disclosure statements;
- Created tough new penalties for the repeated failure of a candidate to file these statements; and
- Established a new penalty for accepting an excess contribution.

As a lawmaker, Eric has sponsored and fought for bills imposing new and tougher penalties for campaign finance violations. As Attorney General, he will continue to fight to increase the consequences for violating campaign finance law.

✓ *Address the loopholes in independent expenditures created by the Supreme Court's recent "Citizens United" decision*

This year, the U.S. Supreme Court ignored 100 years of precedent and ruled that corporations – including foreign corporations – can spend unlimited amounts of money in election advertising. In response to this radical ruling, Eric has worked to pass legislation that would require greater disclosure and transparency of campaign finance information. This will continue to be a priority bill for him as Attorney General. Among other things, this legislation would:

- Require that corporations and special interest groups identify the source of any funds used for electioneering;
- Penalize violators by the greater of either \$1,000 or the cost of the independent expenditure;

- Impose a requirement that independent special interest and corporate expenditures opposing or supporting a candidate or ballot initiative in excess of \$1,000 be subject to the same filing and disclosure requirements that apply to candidates and political committees; and
- Prohibit a person, campaign committee or political party from falsely identifying the source of a political communication.

✓ *Strengthen the State Board of Elections*

The New York State Board of Elections’ record of ensuring that election laws are enforced and that violations are referred to the appropriate authorities is, at best, one of benign neglect. Candidates understand that while the laws governing elections and election campaigns are notoriously weak, the Board’s history of enforcing these laws is even weaker.

In addition to requesting that the Governor grant the Attorney General powers to enforce election laws, and fighting for legislation to give the Attorney General *permanent* enforcement powers over these laws, Eric believes that this enforcement power should be coupled with a revitalized and strengthened Board of Elections.

Indeed, as a lawmaker, Eric has long advocated giving the Board of Elections increased power and responsibility to enforce the election laws. His 2010 ethics reform bill required that at least 35 percent of the Board of Election’s annual budget be dedicated to a special enforcement unit to crack down on election law violations.

✓ *Simplify voting and remove unnecessary hurdles to the political process*

A fundamental precept of democracy is that everyone has a right to vote – and everyone can run for elective office. Yet, New York law contains Byzantine rules for how to petition to run for office, and, worse, a myriad of hyper-technical regulations for how petition sheets must look. These rules and regulations serve no purpose other than to disregard voters’ intent and allow party bosses to control who is on a ballot. Indeed, some obscure election processes contain a vestigial requirement of property ownership to petition and have a voice on the matter.

One should not need a law degree or a team of legal advisors to petition to run for office. And one should not need to own property to petition or have a political voice on anything in this day and age. As Attorney General, Eric will fight to change election rules that serve to restrict the democratic process rather than open up and expand that process. This includes:

- Allowing same-day registration and voting in general elections;
- Shortening the length of the time one must wait to vote in a primary election after joining a party;
- Ending the need for voters to justify a request for an absentee ballot; and
- Opening up and reforming the judicial selection process; and encouraging more qualified individuals to become judges by raising judicial compensation.

In addition, state laws setting shorter hours for polls to be open in upstate counties in primary elections should be changed to give counties the option to implement longer hours for primary elections. Such a change should be optional to avoid yet another unfunded state mandate on local governments and overburdened taxpayers.

Attorney General Cuomo demonstrated with his successful drive to simplify the petition process for consolidating local governments that the Attorney General has a powerful voice in advancing these kinds of critical pro-democratic reforms. As Attorney General, Eric will lend his voice to the calls for reform. He will call for:

✓ ***Increased enforcement of ethics and conflict of interest rules***

Unenforced ethics rules are not acceptable. Accordingly, as Attorney General Eric will propose legislation to:

- Give the Attorney General power to investigate and enforce violations of the Election Law, the Public Officers Law, and other public integrity laws; and
- Create an independent ethics commission with jurisdiction over lobbyists, legislators, executive branch officials and all public officers, including former officers covered by the revolving door ban, with strong investigatory and enforcement powers that are concurrent with enhanced enforcement powers to be given to the Attorney General.

✓ ***Establish an unambiguous statutory duty for all public officers to provide “faithful public services” to the public, with enhanced civil and criminal penalties for violations***

The federal government has long had an “honest public services” law that allows federal prosecution of public officials for violating the public’s right to their honest services. Former New York State Senate Majority Leader Joe Bruno was convicted of violating this law last year. That conviction and future prosecutions under the federal statute have been called into question by a recent decision of the United States Supreme Court.

Now more than ever, New York needs its own “faithful public services” law to further the simple rule that public servants on public time serve the *public’s* interest, and not their own.

Eric introduced what would become New York’s first “faithful public services” law, and will fight for that law as Attorney General. Mindful of the constitutional problems in the federal statute, Eric’s bill would create a clear and unambiguous duty of public servants to serve the public, and imposes stiff criminal and civil penalties on public officials who do any the following:

- Engage in undisclosed self-dealing;
- Act in a way that improperly benefits themselves at the expense of the public; or
- Engage in a scheme to defraud the state.



✓ *Create a full-time legislature*

Too often the public has seen legislators improperly mix their private business dealings with official state business. It is time that New York adopts a full-time Legislature.

✓ *Mandate increased disclosure of legislators' outside business activity, income and gifts*

Until a full-time Legislature is established, legislators who earn outside income should be required to fully and timely disclose their outside business interests. As a lawmaker, Eric has fought to require legislators to disclose more information about their outside business interests, real estate and securities investments and other outside income. As Attorney General, Eric will fight to:

- Require legislators to fully disclose their outside income in exact amounts, and not in ranges that serve to hide rather than shed light on outside income;
- Require legislators who are lawyers to disclose information about their clients and the nature of their work, unless the public disclosure of such information would violate existing law on attorney-client privilege, or expose a client (such as a domestic violence victim) to physical danger;
- Require legislators to disclose gifts, including gifts to relatives;
- Require legislators to disclose the source and amount of contributions given for their personal legal defense; and
- Require these disclosures to be put online, in real-time.

✓ *Reform the “member item” process*

The process by which legislators annually dole out special grants or contracts as “member items” has repeatedly been exposed as rife with self-serving conflicts of interest and outright corruption. In 2007, Attorney General Cuomo imposed new disclosure and accountability standards in an effort to reduce conflicts of interest in the member item process, but serious problems remain. Eric has long been an advocate for reforms of the member item process from within the legislature. As Attorney General, he will continue this fight. Eric will push hard to reform the process from top-to-bottom, including:

- Adopting structural reforms of member item grants and limitations;
- Banning for-profit groups from receiving member items, and banning for-profit companies from setting up non-profit “front groups” to obtain member items in violation of this ban;
- Requiring member items to be distributed fairly throughout the state, with the amount of money given to be based on population of the district as opposed to the party or political clout of a particular legislator;
- Requiring appropriate state agencies to oversee and publicly report on how recipients of member items spend funds;
- Adopting new disclosure rules to shed much-needed light on the member item process, including full disclosure by fund recipients of their legal status, boards,

executive officers, subcontracts and tax reports. Such disclosures should be posted on the “Project Sunlight” website; and

- Codifying the Attorney General’s disclosure and accountability rules for member items, which include:
  - Barring a legislator from sponsoring a member item when the legislator or a related party, including a staff member, has a financial interest in the proposed recipient.
  - Barring member items given to a business when such business, or its affiliates or principals, have within the past five years:
    - been barred by a government agency from entering into any government contract as a result of inappropriate activity or unlawful conduct;
    - been declared in default and/or terminated for cause by the government;
    - received an overall unsatisfactory performance rating from any government agency on any contract;
    - been convicted of, or charged with, a felony or misdemeanor; or
    - failed to file federal, state or city tax returns or pay taxes owed; or failed to file any and all required forms with any government agency regulating the entity.
  - Barring member items given to a business when such business, or its affiliates or principals, have within the last seven years been involved with a bankruptcy proceeding.

✓ ***Ban the use of government resources for private business or campaign purposes***

Eric has been a leader in legislative efforts to close the so-called “Bruno Gap” – the gap in state law that allows public officials to use public resources for private business purposes. As Attorney General, he will continue to fight for common-sense legislation to end this kind of corruption.

✓ ***Mandate automatic expulsion from the legislature upon conviction of a misdemeanor involving domestic violence***

Current law automatically expels any legislator from office upon conviction of a felony or any misdemeanor that violates the legislator’s oath of office. However, as we found out this year, this law needs to be changed. As the person who successfully prosecuted Hiram Monserrate before his colleagues in the Senate – which resulted in the first vote in the legislature to expel a senator in over a century – Eric knows all too well the need to clarify and expand the law to include misdemeanor convictions involving domestic violence..

✓ ***Improving New York’s whistleblower laws***

Eric has been a longtime leader in sponsoring legislation that promotes rights for whistleblowers. Notably, he was the lead force in the Senate for the 2007 passage of the False Claims Act, which protects, rewards and empowers whistleblowers who report

fraud committed against the state or a local government.

In June, the Legislature passed Eric's "*Fraud Enforcement & Recovery Act*" ("FERA") that received both statewide and national recognition from whistleblowers, local governments, school boards, labor, and taxpayer advocates as the strongest anti-government fraud whistleblower legislation in the country.

If this legislation is signed by the Governor it will, among other things:

- Reverse a series of decisions by the U.S. Supreme Court that made it more difficult for whistleblowers to expose a fraud against the government;
- Increase the ability of citizens to expose the pilfering of government funds and to team up with government prosecutors to recover those funds;
- Institute a first-in-the-nation ban on employers suing people for transmitting inside information related to the theft of government funds;
- Adopt novel anti-blacklisting protections for whistleblowers, so company "y" cannot refuse to hire a qualified worker, contractor or agent because he or she reported company "x" for defrauding the government; and
- Further empower citizens to use the Freedom of Information Law (FOIL) to bring corrupt government contractors to justice.

Additionally, Eric sponsored and supported a host of *other* proposed whistleblower reforms as a lawmaker – reforms for which he will continue to fight as Attorney General. These include:

- The "*Whistleblower Empowerment And Notification Act*" that in June 2010 passed the Senate overwhelmingly. The Act would require that government contractors notify their employees of whistleblower rights at workplaces, and prominently display the number of the Attorney General's public integrity hotline, and the hotline of the relevant Inspector General with oversight of the project; and
- Legislation eliminating the special protection afforded to legislators and senior government officials and judges that helps to shield them from accountability in corruption-exposing whistleblower lawsuits involving the theft of public funds.

✓ ***Institute independent and non-partisan redistricting***

Eric sponsored groundbreaking legislation to reform the redistricting process when he was a member of the Senate minority – and continues to push for reforms in the majority. That is because Eric has a fundamental belief that voters should choose their elected officials – and not the other way around.

Eric knows this from experience. In the last round of redistricting Senate Republicans targeted him specifically for standing up to their attempts to hold onto their long-term monopoly on power. They gerrymandered his district entirely, forcing him to run in a then-unfamiliar area, which Eric has now represented for nearly eight years.

As Attorney General, Eric will vigorously advocate for these and other critical

redistricting reforms, many of which have been proposed by “New York Uprising” headed by former New York City Mayor Ed Koch, including:

- Establishing a diverse, non-political, non-partisan redistricting commission on which no elected official, their relatives, lobbyists or party officials may serve;
  - Making all districts as equal in population as reasonably possible;
  - Ensuring districts are as competitive as possible;
  - Ensuring districts support the voting rights of minorities; and
  - Making districts compact and contiguous.
- ✓ ***Create a board of trustees to run the common retirement fund, with more transparency, and accountability***

The power of the New York State Comptroller is staggering. In addition to being the state’s auditor and fiscal watchdog, the Comptroller is the sole trustee and manager of the state’s public pension fund. He or she can unilaterally invest funds without any oversight or second-guessing.

Currently, the assets of the New York State pension fund exceed \$130 billion. As only two smaller states allow an elected official to be the sole trustee of their pension fund, this makes the New York State Comptroller the most powerful elected government investment official in the country.

Eric believes that we need a board of experts to run the retirement system as trustees along with the comptroller. Simply put, being the sole trustee over our state’s retirement funds entails having more power than a good state comptroller should want – and more power than a corrupt one should have.

Electing a sole trustee to manage the pension fund means tolerating inherent appearances of a conflict of interest. Attorney General Cuomo recently uncovered a series of shocking “pay to play” abuses involving political cronies who skimmed tens of millions of dollars from investments that were supposed to be made for the sole benefit of New York State’s retired workers.

Common sense dictates that a single person should not have sole discretion over more than one hundred billion state dollars. New York needs to modernize its pension fund structure. Our pension funds need to have an accountable and transparent structure in line with the demand by voters for integrity and openness.

- ✓ ***Require executive agencies to report and take corrective action against improper payments***

New York has not adopted protocols and reporting requirements concerning improper payments by state agencies to the same extent as the federal government has for federal agencies.

That is why as a lawmaker, Eric voted for the Improper Payments Reduction & Reform Act (“IPRRA”), which would require state agencies to: (1) annually estimate and publicly report on the amount of taxpayer dollars lost to improper payments – such as

overpayments to contractors, double payments, and the failure of state agencies to collect debts; and (2) annually report on their activities and strategies to reduce improper payments. IPRRA would bring to New York the same effective protocols and protections against improper payments that have been adopted by the Federal government.

Eric also supports adopting for New York State the federal requirement that companies that do a significant amount of business with the government adopt internal policies and programs designed to reduce the likelihood of fraud against the government.

### **3. Expand the Powers of the Attorney General's Office to Enforce Public Integrity Laws**

Though there is much that can be done now, it is clear that existing state law does not give the Attorney General sufficient jurisdiction to fully investigate or prosecute public officials who violate the Election Law, including campaign finance laws, or the Public Officers Law. The powers of the Attorney General to root out public corruption must be expanded. Eric will actively work to expand those powers and as Attorney General will fully exercise them to tackle Albany's culture of corruption.

- ✓ *As Attorney General, Eric will, on January 1, 2011, request special enhanced powers from the Governor to prosecute public officials who violate provisions of the Public Officers Law, the Election Law, campaign finance laws, and other government ethics laws.*

Governors have long possessed the unquestioned authority to unilaterally, without additional legislation, grant Attorneys General power to investigate and launch investigations or prosecutions against virtually any offense. The failure of governors to grant Attorneys General these powers in the realm of public integrity has been a primary reason that public integrity laws currently on the books have been under-enforced for decades.

The Office of the Attorney General has a dedicated Public Integrity Bureau and a Criminal Prosecutions Bureau that are ready and able to meet the challenge of launching statewide investigations of corrupt state and local officials. The Governor should empower the Attorney General to use the resources that already exist to fight public corruption in both the state and local government. Eric will also establish a dedicated unit in the Public Integrity Bureau to commence those investigations and prosecutions.

- ✓ *Eric will write and advocate for legislation to empower the Attorney General to investigate and enforce the Public Officers Law, the Election Law, campaign finance laws, and other government ethics laws.*

In addition to immediately requesting that the Governor grant the Attorney General expanded power to fight public corruption, Eric's *first* program bill, which he will send to legislative leaders on January 1, 2011, will call for such investigatory and enforcement powers to be codified into law.

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