



2010 QUESTIONNAIRE FOR CANDIDATES FOR THE OFFICE OF ATTORNEY GENERAL

Citizens Union would appreciate your responses to the following questions related to policy issues facing the State of New York and our interest in reforming how state government operates. Responses to these questions will be one of several factors Citizens Union will use to evaluate candidates running for office in order to determine our "Preferred Candidates" for the primary election and "Endorsed Candidates" for the general election.

We plan to make public your responses to this questionnaire in our Voters Directory and in other appropriate venues.

We thank you very much for your response.

Candidate Name: Daniel M. Donovan, Jr. Age: 53

Campaign Address: 126 5th Avenue, Second Floor, New York, NY 10011

Campaign Telephone Number: (646) 476-4673 Fax: (646) 476-5012

Party Affiliation(s): R/C Campaign Manager Name: Marcus Reese

Website & Email: www.dandonovan.org & info@dandonovan.org

Education: St. John's University, BA (SI Campus) Fordham University School of Law, JD cum laude

Occupation/Employer (or years in currently held elected office):Staten Island District Attorney since January 2004- Elected 11/2003; Re-elected 11/2007

Previous Offices and Campaigns: None. Served as Deputy Borough President of Staten Island from 2002-2003; Chief of Staff for Borough President Guy V. Molinari 1996-2002; Assistant District Attorney and Chief Trial Lawyer Special Narcotics Prosecutor Manhattan DA office 1989-1996.

Are you willing to be interviewed by CU's Local Candidates Committee? YES NO
(Please note: Citizens Union can grant its "Preferred Candidate" and "Endorsed Candidate" rating only to candidates we have interviewed.)

Have you completed requisite campaign finance filings? YES NO

Signature of Candidate: Daniel M. Donovan, Jr. /s/ Date: 7/30/2010

POLICY ISSUES

1. What would be your top priorities if elected to the Office of Attorney General?

As New York State Attorney General my top priority would be to eliminate the pattern of routine corruption in our state government. All other priorities will flow directly from that overarching goal. When the people of this state have confidence in their government, they will expect their government to work for them. Accordingly, our Government will cease its system of dysfunction and inaction, pass fiscally sound budgets on-time, stop acting in their own self-interest, and end the practice of lining their own pockets with taxpayer dollars. A strong and functioning government makes NY attractive to businesses, creates and retains jobs, and protects all citizens from crime. As part of this goal, the Attorney General must have "original jurisdiction" to investigate and prosecute public corruption. Additionally, we must eliminate redundancy and create a single ethics agency that refers ethics and other corruption cases to the Attorney General. To further these goals we will hold *legislators* themselves accountable for their "member items" and mandate full disclosure of any and all conflicts of interest. Moreover, my administration will focus on harnessing the powers and duties of the office to help counties shed portions of their Medicaid burden, by returning a large portion of fraud recoveries to the *local communities* where the fraud occurred, and to expand the Charities Bureau to end not-for profit abuse. I will not use the powers of the office to garner headlines, nor will I destroy entire industries under the guise of prosecution, and mete out collective punishment over the alleged malfeasance of a few bad individuals.

2. How would your approach to the position and priorities while in office differ or resemble that of your predecessor?

My approach to the office will differ in one significant respect: I will NOT use the office of Attorney General as a "stepping-stone" for higher office. I have already publicly pledged NOT TO SEEK any higher office for a period of at least two years from the end of my tenure and term as Attorney General. The people of this this state need to have the confidence that their Attorney General- their government "watchdog" - is bringing cases and starting investigations because he is focused on his job, his duty to the public, and on public integrity and not because of any political aspiration or consideration. Moreover, my approach will be strictly independent and I will not base any decision to prosecute or investigate because of political party or affiliation. To that end, to avoid even the appearance of impropriety, I have withdrawn my name from consideration for the ballot line of the NYS Independence Party, because its leadership is currently under investigation by my office. In the past as Staten Island DA, I have made prosecutorial decisions that could have hurt me politically, but I made these decisions so because it was my sworn duty to put the law before politics. I will maintain this approach as New York's next Attorney General.

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3. What are your thoughts on striking the appropriate balance between the attorney general's role as the lawyer representing the state's officials, and as an independently elected government official?

The Attorney General's first job is to be the lawyer representing state government and the people of this state, free of any political consideration. That includes defending the state and enforcing the law and making sure that the rights of 19 million New Yorkers are not infringed upon. The proper way to strike this balance is to never substitute my own personal beliefs on a particular issue or law for my sworn duty to uphold the law. Furthermore, as the State's top lawyer, it will be my duty to counsel state agency's on the proper interpretation of the law and to issue legal opinions to ensure that government entities know what the law is, before any problems arise. By allowing my sworn duty to guide my approach to the office, I will always make the decision that is right for the people of this state. We will make sure nobody in New York is having their rights infringed upon, and will step up and protect the people of this state and look out for their best interests. When a national issue arises, we will look at the matter in a strictly legal, non-political fashion and decide whether it is appropriate to formally address the issue. We cannot get into the business of proposing local solutions for national problems, and we must never substitute our own judgment from our duty to uphold and enforce the law.

4. If elected, how would you leverage the Office of the Attorney General to protect the public from fraud and/or the misuse of taxpayer funds in the public or private sector?

A central component of my agenda will be to ensure that all "member item" funds flow directly and only into legitimate organizations. We will accomplish this by holding legislators accountable for their member items. To this end, we will require *legislative sponsors* to sign affidavits attesting to credibility of the organization and the veracity and need of the funding request. Currently, Article 7-A of the Executive Law authorizes non-profits to register with the Attorney General, and other regulations allows (Title 13 of the New York Code of Rules and Regulations Part 91- Charitable Organizations) the Attorney General to require any additional documentation from charities and non-profits as part of their registrations and annual submissions, and the legislative sponsors affidavits will be included among this documentation. Moreover, if we need to, we will utilize the "Tweed Law" which specifically allows the Attorney General to pursue the recoument of public funds misused by a public official. Additionally, will investigate and prosecute abusive state contractors and sue to recover funds on contracts and that over budget and not on time. We will also build upon the recently enacted Public Authorities reform act that was just passed and make sure that *all* public authority contracts become subject to review by the Comptroller, and not just contracts that are

valued at over \$1 million.

5. What, if any, are the key social issues of the state that you would address should you be elected to the Office of Attorney General. How would you address them?

New York must return to its natural perch as a national leader in the area of social justice. We must lead by the example when it comes to diversity in employment and expanding hiring to reflect the diversity of our state. For example, when I became Staten Island DA, only 8% of our office were members of minority groups. We made sure to correct that, and today 30% of our office are members of minority groups, more reflective of the minority population in Staten Island. I am very proud of that achievement and in 2006 the Association of the Bar of the City of New York awarded me its inaugural Diversity Champion Award, and I was similarly recognized by the Asian American Bar Association. As Attorney General, I will do the same. Additionally, as a prosecutor, I am intimately familiar with the challenges posed in prosecuting hate crimes, that's why I became the first prosecutor in Staten Island to prosecute crimes under NY State's hate crimes statute. We must make sure that local prosecutors have the tools necessary not just to prosecute these crimes, but to discern when certain crimes are viable bias crimes. Furthermore, the rights of the elderly must be protected. Through the Attorney General's role in prosecuting Medicaid fraud throughout the state, we will aggressively prosecute nursing home abuse and elder care companies that prey on our state's elderly, my office will work to protect the rights of the elderly and make sure that they are not being exploited for profit by unscrupulous care-givers.

6. What, if any, would be your top legislative priorities to pursue should you be elected to the Office of Attorney General. What specific solutions would you put forward?

My top legislative priority would be to eliminate corruption in Albany through sound legislation. To do this, the Attorney General must have original jurisdiction to prosecute public corruption. **Executive Law §70** confers power on the Attorney General to act as a "Special District Attorney" to investigate and prosecute election law and campaign finance violations *when appointed by the Governor to do so*. Therefore, we need to amend this law so the Attorney General can prosecute violations of the Public Trust without any hindrance. Absent this change, we will seek original jurisdiction from the Governor through a blanket Executive Order. Second, we will move to combine all Ethics agencies into a single agency with power to investigate and refer cases to the Attorney General. We need to bring the State Inspector General, Commission on Public Integrity, and Legislative ethics commission under one roof, controlled by a 7 member board serving staggered terms, that not only investigates corruption, but that is modeled after New

York City's Conflicts of Interest Board by instituting a system of requests and waivers for earning outside income and, reporting these letters and determinations to the public as well as all income earned and clients serviced.

REFORM ISSUES

7. How would you address public misconduct of elected officials and what novel approaches would you use to reform state government? How would you use the enforcement mechanisms provided to the Office of Attorney General in pursuing violations of the state's campaign finance and ethics laws? Do you believe that greater responsibility should be given to the office to investigate corruption and how would you achieve that?

Yes (to the last question first), the office needs more **official** responsibility to investigate and prosecute corruption in Albany. The Attorney General is uniquely suited and positioned and the top lawyer in the state to prosecute these offenses. Local District Attorneys do not have the resources to prosecute these cases, and often may find political conflicts to prosecute local politicians. Legislation, or a blanket Executive Order from the Governor, is preferred. However, even if laws are not changed, we will not wait to eliminate corruption from Albany. There are existing laws on the books that we can utilize to reform the process. NY Executive Law 63-c also known colloquially as the "Tweed Law" (which I referenced earlier in my response to question 4) provides for the Attorney General to pursue the recoupment of public funds misused by a public official. Specifically, the law states that "The attorney-general shall commence an action, suit or other judicial proceeding, as prescribed in this section, **whenever he deems it for the interests of the state so to do**; or whenever he is so directed, in writing, by the Governor." This is a potentially powerful law that can address corruption, as well as abuse in state agency and public authority contracting process. With regard to ethics, conflicts of interest, and the disclosure of outside income, we will utilize existing state Lobbying Laws to require the disclosure of salaries and clients of legislators who hold outside jobs. A law firm must disclose all its lobbying activities, and should not be allowed to hide its activities and expenses simply because these expenses include a legislators' salary. Additionally, we will work the Board of Elections and Campaign finance board and investigate abuse of Campaign Finance laws and strengthen the penalties, so that legislators can't continue to run for office with outstanding fines and penalties.

8. Do you support measures to limit the role of money in elections and politics, such as substantially reducing contribution limits and/or instituting a matching public campaign financing system at the state level? Absent a change in the law, what would you do as a candidate, or attorney general, to set an example in diminishing the influence of money in campaigns?

We must achieve a common sense solution that limits the influence of money in the political process while simultaneously balancing any and all First Amendment rights and concerns. It is important to place this discussion in the context of the reality that NY is a big and expensive state, and it costs money to bring your message to 19 million people. To that end, I support common sense solutions with legislation that limits the maximum contribution per person and per household, as well as requiring public disclosures of a donor's employer, occupation and third party intermediaries (much like the system already in place in New York City). Furthermore, I support the elimination of all "housekeeping accounts" which are ostensibly unregulated "soft money" that flow all over this state that end up hijacking the entire political process. I will set an example, by complying with all existing campaign finance laws as they exist today, and fully disclose every contribution and expense on time. While public financing of campaigns is a good idea that seems to both work well and opens up the process in New York City, given the current budget crisis and financial challenges facing the state government, I find it difficult support the idea of public matching funds until the state budget is on a sound and balanced track, and we are protecting taxpayer funds from abuse.

9. What role do you see the Office of Attorney General playing in monitoring non-profits receiving member items funds?

I see the Attorney General playing a critical role in monitoring "member items," and we must, and will, HOLD LEGISLATORS ACCOUNTABLE not just the recipients. As I said earlier in my answer to question 4, we will expand the Attorney General's charities bureau and the public integrity unit, and continue the reforms already in place in the member item process, and allocate resources to review all non-for-profit documentation and finances. We will require as part of *required submissions* to my office, sworn affidavits from legislators in addition to charities themselves. In addition to the affidavits member item recipients submit, we will now require sworn affidavits from all *legislative sponsors* attesting to the fact that the legislator is accountable for his/her member item. Pursuant to Article 7-A of the Executive Law, NYS charitable organizations are required to register with the Attorney General while "Title 13 of the New York Code of Rules and Regulations Part 91" grants the Attorney General authority to require additional information or documentation from charities who must register with the Attorney General to maintain their status as a charity and non-profit. The new "Legislator Affidavit" requirement will require legislators to attest to the fact that the grant recipient is a non-profit, and not an affiliate of a for profit entity that receives pass-through money from it; the grant recipient does not employ his/her relatives and/or staffers relatives; the grant recipient does not maintain the legislators relatives and/or staffers relatives on its board or among its incorporators; the legislator understands the nature of the specific services provided by the grant recipient; the legislator understands the organizational need for this particular grant and the services it is to

be used for; that no political activities are performed by this organization on behalf of the legislative sponsor; and that this grant is not provided in lieu of political activities.

10. Do you support stricter limits on gifts and other benefits, such as honoraria, public officials may receive from lobbyists, contractors and others attempting to influence the political process?

Yes, I support a strict ban on gifts and honoraria, and would institute a system that is modeled after the system in place at the NYC Conflicts of Interest Board that limits gifts and requires full disclosure of any and all gifts and honoraria. We must clean up what is a form a legalized bribery that confers a different set of rules for all public officials. As such, I support restrictions that are similar to the NYS Conflicts of Interest Board Title 53 of the Rules of the City of New York Chapter § 1-16 defining the restrictions on any and all lobbyist gifts as well as common sense exceptions to the ban, that are specifically enumerated in the regulation, such as normal meals and standard promotional items. These new restrictions will be put in place as part of the reforms that we will institute in my proposed new single ethics agency that will police our state government. All gifts that are remotely linked to any official business, contract or official action must be banned, and this applies to all legislators and all decision makers and staffs of commissions and public authorities. Currently there are too many loopholes in our ban on lobbying gifts, including but not limited to exceptions for the "unpaid" board members and decision makers of Commissions and Authorities as well as the allowance for a gift that can be "reasonably inferred" to be unrelated to official duties. These exceptions are ripe for abuse.

11. Do you believe there is a conflict of interest in raising funds from companies you may regulate and have to take action against? Are there parameters you set or you believe should be established in statute to limit potential conflicts of interest?

Yes, it is improper to accept any contribution from any individual or company which may have a matter before my office, or a matter likely to come before my office. Therefore, I have refused to take any contribution from any person who has a case that I know is pending before the office of Attorney General. In the past, as Staten Island DA, I have always made the decision on whether to prosecute or recuse myself based not just on the law, but also based on appearances of impropriety, regardless of the political consequences. I have done this to my political detriment, as in the widely reported Molinaro case, and will continue to do this as Attorney General.

12. Do you support a system of selecting Supreme Court judges through an appointment process where candidates are recommended by citizens' committees on the basis of merit and qualifications? If not, what judicial selection mechanisms do you support?

I support the selection of judges based on merit and qualification, and support a constitutional convention to amend the entire selection process. This merit process can be modeled after the system that selects federal judges. We must have a system that encourages excellent jurists to want to be state judges. Absent that, the current Judicial nomination and convention process must be reformed, so that judges are nominated based on merit and not political affiliation. I also support real reform to the process of selecting Surrogate judges and the elimination of patronage appointments that are routine in the Surrogates' Courts and Public Administrators' offices. Furthermore, I support any and all efforts to de-link Judicial salaries from the salaries of our state legislators, and will support defining salaries as part of the amendment to the State Constitution, and propose that salaries rise in lockstep with the standards for Judges living in New York State. I support the reforms of the 2007 commission led by Justice Judith Kaye that recommended the consolidation of redundant court systems in our state that would have modernized our justice system.

13. What do you believe is the proper role of the Office of Attorney General in overseeing public authorities?

The role is manifold. There are nearly 700 Public Authorities in this state that hold over 90% of the states total debt. The Attorney General as the State's lawyer must be willing to investigate state authorities for wrongdoing, because they often operate outside public scrutiny. The Attorney General must also sue to recover funds from under-performing and wasteful contractors who take advantage of the little

CAMPAIGN PROMISES MADE TO VOTERS (PAST and CURRENT)

In addition to evaluating their stances on the issues above, Citizens Union will assess incumbents on how well they kept the promises they made to voters during the previous election.

As an elected official who currently holds an office other than the one for which you are running,

- a. what were the top five promises or goals you made to your constituents when you ran for your current seat and what progress has been made in keeping those promises, and
- b. what are the top five promises or goals you are making to the voters during this campaign?

We thank you very much for your response. Please feel free to use additional paper if the space provided is not sufficient.

TOP FIVE CAMPAIGN PROMISES OR GOALS FROM 2008 or BEFORE AND ACTION ON THEM

1. Promised to reform the Staten Island DA's office. Result: Staten Island went from worst record of felony convictions in the City to the best record of felony convictions in the city, and nearly 100% of repeat drunk driving offenders now serve time in jail.

2. Promised to establish Staten Island's first witness protection program. Result: Created county's first witness protection program funded entirely by civil recoveries and forfeitures.

3. Promised to modernize office. Result: pioneered the use of DNA in prosecutions, indicted a DNA profile to beat an expiring statute of limitations, utilized GPS technology to enforce orders of protection, and targeted video voyeurs.

4. Promised to improve diversity of the Staten Island DA's office. Result: Office has gone from 8% diversity in hiring to 30%.

5. Promised to improve services to victims of domestic violence by providing "one-stop shopping" in my office, and hired a full-time advocate to provide these services so that victims would not need to travel to other boroughs.

TOP FIVE 2010 CAMPAIGN PROMISES OR GOALS

1. Eliminate corruption, create a system of real transparency.

2. Increase Medicaid fraud prosecutions and return more of the recoveries to local counties
3. Expand the charities bureau and end non-profit abuse.
4. Bring public trust to prosecutions and not seek headlines which destroy individuals and industries to advance a political career.
5. Will not run for higher office for at least two years after the completion of tenure as AG.

**Please return to: Citizens Union, Local Candidates Committee
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