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October 20, 2010

Via E-mail and Regular Mail

Joel Graber
NY State Attorney General, Litigation
120 Broadway, 24th floor
New York, NY 10271

Stephen Edward Kitzinger
New York Law Department
100 Church Street
Room 2-126
New York, NY 10007

Re: Error on instructions of New York City Sample Ballot

Dear Counselors:

We write to inform you that we have obtained a copy of the New York City sample ballot and have noted a mistake on the instruction page.

Instruction (2) reads:

“To vote for a candidate whose name is printed on this ballot fill in the oval above or next to the name of the candidate.”

We understand that substantially the same instruction will be provided to voters in a notice in every privacy booth.

Unfortunately, in the sample ballot, the ovals connected to the candidate appear *below* the candidate’s name. A voter who follows the directions and chooses the oval above the candidate’s name will actually be voting for a different candidate than she intends.

We ask the City Board of Elections take immediate action to correct this mistake to ensure that voters are not confused and that ballots are counted as they were intended to be cast. This should include changing both the instructions on the ballot and the notice in the privacy booths.

If you do make changes to the notice in the privacy booths, we also ask you notify voters of the consequence of “double voting,” or voting for the same candidate on multiple party lines. We suggest the following language:

"Do not vote for a candidate more than once. If you wish to vote for a candidate who appears on more than one party line, then you should vote for the candidate on the party line that you wish to support. If you vote for a candidate on more than one party line, then the candidate will receive credit for the vote, but the vote will automatically be credited to the first party listed on the ballot, and no other party will receive any credit for the vote."¹

As soon as you can, please notify us of what action is being taken by the City Board of Elections to correct this error before Election Day.

Sincerely,

Lawrence Norden,
Senior Counsel

Wendy Weiser,
Director Voting Rights & Elections

cc: Jeremy Creelan & Eric Brown, Jenner & Block LLP

¹ We have asked the State Board of Elections to require such a change, but they cited insufficient time, among other factors, for refusing to add this notice in the privacy booths.