

New York AG's Martin Act Claims Fail in ExxonMobil Case

Yesterday, New York County Supreme Court Justice Barry Ostrager ruled that the New York Office of the Attorney General (“OAG”) failed to establish that ExxonMobil misled its investors in connection with its public disclosures concerning how the company accounted for past, present and future climate change risks.¹ This ruling followed a twelve day bench trial, in which the OAG had sought up to \$1.6 billion in damages. The case was the first climate fraud suit to go to trial and was based on a multi-year investigation by the OAG.

The OAG alleged ExxonMobil violated the Martin Act, a 1921 state law that prohibits companies from engaging in deceitful practices or making false promises to investors, when the company allegedly made misrepresentations and omissions, material to investors, about how the company managed the risks of climate change and increasing regulations. The disclosures were made in company reports, publications and investor presentations on energy and climate change. The OAG also alleged ExxonMobil violated Executive Law §63(12), which prohibits repeated or persistent fraudulent acts that violate the Martin Act. Notably, the Martin Act has a lower burden of proof than other federal and common law fraud statutes in that the Martin Act does not require a showing of reliance, damages or scienter. Despite this lower threshold, the Court found there was no proof offered at trial that established material misrepresentations or omissions contained in any of ExxonMobil’s public disclosures that satisfied the legal standards for claims under the Martin Act and Executive Law §63(12).

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If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to call or email Helene Banks at 212.701.3439 or hbanks@cahill.com; Landis C. Best at 212.701.3694 or lb主@cahill.com; Bradley J. Bondi at 202.862.8910 or bbondi@cahill.com; Brockton B. Bosson at 212.701.3136 or bbosson@cahill.com; Charles A. Gilman at 212.701.3403 or cgilman@cahill.com; Elai Katz at 212.701.3039 or ekatz@cahill.com; Geoffrey E. Liebmann at 212.701.3313 or gliebmann@cahill.com; Ross Sturman at 212.701.3831 or rsturman@cahill.com; Sean P. Tonolli at 202.862.8960 or stonolli@cahill.com; or Jennifer W. Potts at 212.701.3390 or jpotts@cahill.com.

¹ View the opinion [here](#).