

## **A Letter from the Legal Community**

*in support of the NYS Attorney General's investigation of the fossil fuel industry*

Office of the New York Attorney General  
The Capitol  
Albany, NY 12224-0341

May 1, 2017

Dear Eric Schneiderman,

We write as attorneys and members of the legal community to support the investigation by Eric Schneiderman, the Attorney General for the State of New York, into potential fraud and misleading statements about climate change by the fossil fuel industry.

The powers invested in the State Attorney General under New York's Martin Act, for use in protecting the public against false statements and omissions affecting investment choice, are among the most powerful in the country. This Act gives the Attorney General not only the power but the duty to deploy those powers in service to the investing public.

Of special importance is the Attorney General's investigation of the claim against Exxon. The serious and plausible claim is simply that Exxon, for years, has promoted and financed public doubt over the established science of climate change and the dangers to life and property threatened by continued carbon emissions, while being knowledgeable about the science of climate change and aware that it was promoting misleading and false information.

The collection of first-hand evidence assembled by *Inside Climate News* and by the Columbia School of Journalism provide probable cause to believe a deliberate deception was undertaken by Exxon around 1989 under the leadership of CEO Lee Raymond and continued for many years thereafter. If proven, this deception could provide a solid basis for either a civil or criminal proceeding under the Martin Act.

Unlike the elements necessary for a violation of Rule 10b-5 of the Securities Exchange Act of 1934, which requires not only a misstatement of a material fact or an omission of a material fact, but findings of intent to defraud by the accused, reasonable reliance by investors on the misstatements or omissions, and a showing of actual damages, the Martin Act requires only a misrepresentation or omission of material fact in connection with securities transactions.

Corporate deception regarding the impact of fossil fuels on the planet is a matter of life or death. Harm to investors - through what evidence found by the Attorney General may show was a serious mispricing of Exxon's reserves and its capital stock - is only a small part of the gross harm being caused.

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