

Bond Case Briefs

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PRIVATE CONDUIT BONDS - NEW YORK

State ex rel. Edelweiss Fund, LLC v. JPMorgan Chase & Co.

Supreme Court, New York County, New York - April 4, 2025 - Slip Copy - 85 Misc.3d 1250(A) - 2025 WL 1075257 (Table) - 2025 N.Y. Slip Op. 50457(U)

Plaintiff brought a qui tam action alleging that each of the Defendants in this case violated the New York False Claims Act (NYFCA) by fraudulently representing that they had exercised required “professional judgment” in determining the “minimum rate of interest necessary ... to enable [them] to remarket all of the [Variable Rate Debt Obligation Bonds (the VRDOs)]... at par plus accrued interest” in connection with their demands for payment to NY (and certain Companies in the case of conduit bonds) pursuant to certain remarketing agreements, indentures, interest rate obligations, and letters of credit—which were each executed as part of an integrated transaction.

The Supreme Court dismissed the New York False Claims Act claims involving private conduit bonds because Edelweiss Fund, LLC (Relator) failed to establish that the State of New York (NY) incurred damages—an essential element of a NYFCA claim.

“Simply put, according to Relator, the damages stemming from the alleged violations of the NYFCA were the payment of certain remarketing fees, liquidity fees and the payment of interest at a rate which was not the minimum rate necessary for the bonds to clear at par in the required judgment of the Defendants. On the fully developed record, with respect to the private conduit bonds at issue, none of these payments were made by NY such that NY suffered damages. As such, these claims must be dismissed with prejudice.”