

[the "Mass Mutual Fund"]. On June 15, 2000, Epstein borrowed an additional \$10 million from Citibank, that Epstein agreed to invest in the Mass Mutual Fund. (Mem. Of Law in Support of Defs.' Mot. To Dismiss, Ex. D.) Although the plaintiffs have stated an intent to seek to amend the complaint to include claims related to the Mass Mutual Fund, they have not yet done so. (See Pls.' Mem. Of Law in Opp'n to Mot. To Dismiss at 12 n. 12.)

2. The Martin Act is New York's blue sky law. General Business Law section 352-c prohibits various fraudulent and deceitful practices in the distribution, exchange, sale and purchase of securities. The Martin Act vests exclusive authority in the New York Attorney General to investigate and prosecute violations of the Act. The Martin Act does not, however, provide for a private cause of action. See *Nairobi Holdings Ltd. v. Brown Bros. Harriman & Co.*, Civ. No.2002-1230, 2002 WL 31027550, *4, 2002 U.S. Dist. LEXIS 16995 at *10 (S.D.N.Y. Sept. 10, 2002) ("[I]t is well established that there exists no private right of action for claims that are within the purview of the [Martin] Act."); *Granite Partners, L.P. v. Bear, Stearns, & Co., Inc.*, 17 F.Supp.2d 275, 291 (S.D.N.Y. 1998) (same); *Deutsch v. Integrated Barter Int'l, Inc.* 700 F.Supp. 194 (S.D.N.Y.1988); *CPC Int'l, Inc. v. McKesson Corp.*, 70 N.Y.2d 268, 276, 519 N.Y.S.2d 804, 514 N.E.2d 116 (N.Y.1987) (noting that "[a] majority of this court now holds that there is no cause of action impliedly created under [the Martin Act]").

3. Citibank and Citigroup also argue that Count II, alleging fraud, is impermissibly based on the defendants' unspecified alleged false "expression of opinions." (Mem. Of Law in Supp. of Defs.' Mot. to Dismiss at 50-51.) Because I will dismiss this claim under Rule 9(b), I need not address this issue at this time.