



# Stonefield Josephson Public Companies Group

Case Study #5148

## Acquisition Threatened by SEC Regulation

### Problem

Our retail pharmaceutical client wished to purchase the nationwide pharmacy operations of a large discount retailer. We consulted with our client throughout the negotiations. We advised on tax structure, due diligence and the purchase price. A problem arose and it was a deal killer: Securities and Exchange Commission rules required that audited financial statements of the acquired business be filed. These statements did not exist and could not be carved out and recreated.

Pressed to close the deal, the client moved right ahead. As expected, the SEC insisted that the client follow the rules to the letter and furnish what did not exist.

### Our Approach

We conducted a detailed analysis of the situation and presented our client's position to the Commission. We argued that the nature of this acquisition would dramatically alter the nature and scope of the pharmacy's business. We asked for a waiver of the financial statement requirement, asserting that the pharmacy's historical financial information was irrelevant to the investing public.

### Results

The SEC agreed to the waiver, based on a common business sense approach. Our client filed timely and completed the acquisition as planned. Without the impediments of SEC regulations, our client went on to raise significant capital in the market.

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