

SHEEHAN PHINNEY

Mergers & Acquisitions

Some of the region's most well-respected attorneys are members of Sheehan Phinney Mergers and Acquisitions Group. Representing a wide variety of both private and public companies in business combinations and divestitures, our M&A attorneys are skilled in conducting regional, national and international transactions. We count manufacturing, software development, computer hardware, temporary staffing, medical services, healthcare, radio broadcasting, and insurance services companies among our private company clients. Our public company clients include managed health care and ski companies. Members who practice in this area have particular expertise with privately-negotiated, middle-market transactions, and have closed hundreds of these in recent years. We are equally adept at planning and carrying out public company mergers and tender offers, with associated proxy, prospectus and tender offer filings.

Our mergers and acquisitions attorneys offer services related to:

- Negotiating Letters of Intent
- Negotiating and Drafting Stock and Asset Purchase and Merger Agreements
- Preparing Proxy and Consent Solicitation Materials
- Drafting Prospectus and Private Offering Materials
- Conducting Specialized Due Diligence Reviews of Targets and Acquirers
- Drafting Ancillary Agreements such as Employment, Consulting and Incentive agreements, along with Equity Plans and Escrow and Payment Mechanisms
- Establishing and Modifying Financing Arrangements Necessary to Support Acquisition Activity, including Senior and Subordinated debt, Preferred Stock, and Common Equity

Practice Area Chair
Alexander H. Pyle

Members

- Peter T. Beach
- Mark W. Dell'Orfano
- Joseph A. DiBrigida
- Michael J. Drooff
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- Colleen Lyons
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- Paul S. Reuland

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Within this group are certified public accountants, employee benefit plan specialists and import/export specialists, who bring their expertise to bear as an integral part of transactions. Our experienced tax specialists help structure and implement transactions to gain or preserve tax advantages for clients, including international tax planning. Similarly, our intellectual property colleagues are frequently integrated into our transactional teams to review and protect intellectual property interests. Acquisition-related activity seldom ends at closing, and we have an active practice pursuing and defending indemnity, successorship and related liability issues, both in a traditional court setting and in mediation and arbitration proceedings. Our extensive experience with these issues often enables us to identify and plan around potential liability issues at the stage of preparing agreements.

We regularly work successfully with in-house legal staff and co-counsel in major cities such as New York, Boston and Chicago on matters involving integrated teams of lawyers. We have found that our team orientation allows us to easily work on a collaborative basis with lawyers outside the firm. Our extensive experience with mergers and acquisitions, and our practical approach to the issues encountered in such transactions, make our work uniquely valuable and cost-effective in promoting client goals and interests. While combination and divestiture transactions follow certain well-established and market-based patterns, our philosophy is to approach each situation as unique when measured against the client's interests and objectives. Our record for serving our clients in these transactions is unsurpassed.

Key Matters:

- Representing New England Wood Pellet, LLC (NEWP) in its sale to Rentech, Inc. In the transaction, Rentech acquired all of the equity interests in NEWP for \$34.5 million in cash, the assumption of \$13 million of debt, and a potential earn-out of up to \$5 million. Sheehan Phinney advised on all issues involved in the transaction, including structuring, tax, environmental, occupational health and safety, intellectual property, negotiation of purchase agreements and closing of the transaction.
- Representing NetProspex Inc., a venture capital-backed company and a leader in B2B professional contact data and data management, in its strategic acquisition by Dun & Bradstreet for \$125 million in cash. Sheehan Phinney had represented NetProspex since its inception in 2006.
- Representing newly formed company in negotiation and closing of the purchase of all of the outstanding stock of a datasite services company for \$32 million, including the payment of indebtedness.

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Sheehan Phinney also assisted the company in multiple financing transactions to fund the acquisition and provide working capital. Our representation included corporate, securities, intellectual property, tax and e-commerce issues.

- Represented petroleum distributor in purchase of assets of competing company via an expedited bankruptcy sale. The deal included the transfer of, among other things, multiple operation sites and the real property associated therewith, hundreds of vehicles, inventory, accounts receivable, and machinery and equipment. Also involved was the transition of thousands of customers and hundreds of employees.
- Representing an independent rural telephone and telecommunications holding company in various acquisitions of rural telephone and telecommunications companies with an aggregate value of \$50 million.
- Served as lead counsel in the representation of shareholders in a \$40 million leveraged buyout.
- Representing a major regional managed care company in a strategic acquisition campaign involving five target companies with an aggregate deal value of approximately \$300 million. As part of the acquisition campaign, the managed care company added over 550,000 fully-insured members and 1.7 million third-party administration members and entered 10 new state markets. The transactions involved public company mergers, public tender offers, and asset purchase (reinsurance) agreements. We successfully negotiated and drafted merger agreements, public proxy materials, tender offer materials, going-private materials, asset purchase agreements and related financing agreements.
- Representing a UK public limited company in the medical devices and laboratory products field in a series of strategic United States acquisitions valued at over \$100 million. In addition, we assisted the company in securing a series of financing arrangements to fund its acquisitions and to support its expanding worldwide operations and provided it with counsel on compliance issues under United States law. Ultimately, we assisted in the sale of the company to a United States public company. We subsequently acted as counsel to the acquiring public company in reorganizing the acquired operations within its corporate structure.
- Representing one of the Northeast's largest insurers in its acquisition of a Connecticut HMO for approximately \$20 million in cash to the former shareholders. The transaction was structured as a merger, with a tiered payout to venture capital and other

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shareholders of the target. The client had over 1.6 million members in its health plans, which included HMOs and other fully-insured plans, self-funded plans and Medicare Plans throughout the New York, New Jersey and Connecticut metropolitan area. The acquisition represented an additional 75,000 commercial members and more than 7,400 providers affiliated with 33 hospitals throughout Connecticut.

- Representing a U.S. subsidiary of a UK public company in a series of business acquisitions involving targets with operations in the United States and in Europe valued at over \$50 million. In connection with these acquisitions, we coordinated with local counsel in the relevant countries as well as with UK counsel for the parent.
- Representing a private software development company in a strategic acquisition campaign which included five target companies. The acquisitions resulted in the addition of five new licensed software products and an application service provider (ASP) product. The transactions were structured as asset acquisitions involving cash, assumption of indebtedness and significant equity interests issued to former shareholders and executives.