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## **Yankwitt LLP's Filing of Shareholder Derivative Action Leads to Multi-Million Dollar Settlement Buy-Out of Its Client**

### **Situation**

Yankwitt LLP was retained by the largest shareholder and chairman of the board of a New York corporation that purchases and repackages herbs and vegetables for sale to customers. Our client came to us after he raised concerns with the other shareholders that one of the shareholders and officers was competing with the corporation in violation of the applicable shareholders agreement and New York state law. In retaliation for our client's voicing his concerns, the other shareholders attempted to oust him from his position on the board and force an undervalued buyout of his shares. While our client was willing to consider selling his shares, he needed to protect the corporation and the value of his investment and ensure that, if he did sell his shares, he would receive fair market value for them. Before Yankwitt LLP was retained, the parties engaged in lengthy but unsuccessful settlement discussions. Hence, when we took on the case, it was clear that an aggressive litigation strategy was necessary to protect the corporation and our client's rights.

### **Approach**

Because informal efforts to settle had been unsuccessful, we knew litigation was necessary. We filed a shareholder derivative action in New York state court on behalf of the corporation against the other shareholders and officers, asserting claims for, among other things, breach of the shareholders' agreement and breach of fiduciary duty, arising out of other shareholders' wrongful competition and bogus attempt to strip our client of his rights and position in the corporation. Shortly after the litigation was filed, the defendant shareholders made another attempt, through a so-called Special Meeting of the Shareholders, to remove our client from the board and force him to sell his shares below market value.

Within days of this Special Meeting, Yankwitt LLP filed a motion with the court for a temporary restraining order and preliminary injunction to stop the defendant shareholders' invalid attempts to strip our client of his position and rights as a shareholder and chairman of the board. The court granted our motion for a temporary restraining order, thereby maintaining the status quo and protecting our client's position from further efforts by the defendants to remove him from the corporation against his will.

### **Result**

With our client's interest and positions in the corporation protected through aggressive motion practice, we paved the way for the parties to finally engage in productive, good-faith settlement discussions. The parties reached a resolution that not only settled the litigation, but also yielded a multimillion-dollar buy-out of our clients' shares at fair market value. The case was

