

SEC Imposes a \$34.5 million Penalty on Walgreens Over Misstatement of Forecasted Earnings Goal

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On September 29, 2018, the SEC imposed a [cease-and-desist order](#) against Walgreens Boots Alliance Inc., its former CEO Gregory Wasson, and its former CFO Wade Miquelon. This order comes following the SEC's investigation over allegations that the company and its directors had misled investors regarding Walgreen's ability to achieve its [forecasted earnings goal](#).

Walgreens, Wasson, and Miquelon consented to an SEC order finding they had violated Section 17(a)(2) of the [Securities Act of 1933](#), which prohibits "untrue statement[s] of a material fact or any omission[s] to state a material fact" in the offer or sale of securities. In addition to avoiding future violations of the Act, Walgreens must now pay \$34.5 million while Wasson and Miquelon were fined \$160,000 each.

The SEC's investigation focused on Walgreen's two-step merger with Alliance Boots in June 2012. As it announced the merger, Walgreens assured investors the "combined entity would generate \$9 billion to \$9.5 billion in combined adjusted operating income in the 2016 fiscal year." It became apparent after the first step of the merger that the company would be unable to meet its 2016 projection. However, Walgreens, Wasson, and Miquelon continued to voice their confidence in the financial forecasts without disclosing the increased risk. As Walgreens moved forward with the second step of the merger, it presented an adjusted operating income projection of \$7.2 billion, 20 percent less than its original projection. Unsurprisingly, the company's [stock price dropped](#) 14.3%.

According to Stephanie Avakian, Co-Director of the SEC's Division of Enforcement, "[t]he penalty assessed against Walgreens is intended to punish and deter such conduct, which deprived investors of information necessary to make fully informed investment decisions."

It is worth noting that the SEC chose to charge Walgreens and its former senior management with a Section 17(a)(2) violation rather than a violation Rule 10b-5 of the Securities Exchange Act of 1934. While Rule 10b-5 requires satisfying the "scienter" requirement by showing recklessness, under Section 17(a)(2) the SEC has the authority to bring negligence-based charges as long as there is proof of negligence (i.e., deviation from the appropriate standard of care).

