

Investor Certificate – Final Steps for Exemption Planning
Due Monday, October 19th by 4:00 pm

Investor Certificate: Prepare an "investment certificate" for Sonic Fish, Inc¹. The certificate should be no more than **SEVEN** single-spaced typewritten pages, and should be drafted to satisfy the requirements for §4(a)(2) and Rule 506(c) ["private offering exemption"]. Sonic Fish, Inc. is a California corporation which intends to issue \$4,500,000 worth of stock. There will be up to forty-five purchasers of the stock, from California and nearby states. Three of the purchasers are the promoters &/or initial incorporators, who will also be officers of the corporation.

Your task is to prepare a general form of "Investor Certificate" or similar document that can be sent to *all* potential purchasers to assure that an offer and sale to that person will be within the exemption requirements for this stock issuance. I have placed copies of sample forms (or links) on the class web site and Google Drive.

Use the forms as models for this transaction but make sure you tailor the forms to the exemption requirements of §4(a)(2) and Rule 506(c). Keep in mind the distinction between an "investor certificate" and a "subscription agreement":

- Investor Certificate is a document used to: (i) provide information to each investor about the securities as required by Rules 502 and 506; and (ii) gather information from each investor to assure compliance with Rules 501, 502 and 506.
- Subscription Agreement is a *contract* between the issuer and the investor. The contract sets the price and establishes the conditions for the closing of the transaction. The closing is the point in time when the investor's consideration will be transferred to the issuer, and the issuer will issue the equity interest to the investor.

Sometimes both documents are combined into a single document. For this assignment your job is to construct a well drafted investor certificate. You can *use* the "subscription agreements" to help you construct the investor certificate but you should eliminate those provisions dealing with subscription matters.

You must work in pairs for this assignment.

1. An "investor certificate" is a certification by a potential investor about the investor's residence, wealth/income, sophistication in business transactions, intentions regarding re-sale of the investment and related matters that assist the issuer of securities in ascertaining that an offer or sale to that investor satisfies the requirements of federal and state exemption requirements. These certifications are sometimes referred to as "investor certificates," "investment certificates," "estoppel certificates" or are included in the "subscription agreements" for the purchase of ownership units.