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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

NOV 7 1975

Fred A. Little, Esq.
Shaw, Pittman, Potts & Trowbridge
910 17th Street, N.W.
Washington, D. C. 20006

Re: Pioneer Hi-Bred International, Inc.

Dear Mr. Little:

This is in response to your letter of July 15, 1975, concerning the application of Rule 144 to donee resales of the common stock of Pioneer Hi-Bred International, Inc. The questions you pose, and our interpretative views, are as follows:

(1.) When a donee of an affiliate of an issuer sells securities of the issuer pursuant to the Rule, in the absence of concerted action, must that donee aggregate his sales with those of other donees of the same affiliate pursuant to paragraph (e)(3)(C) of the Rule? Must pre as well as post donation sales by donees be aggregated? Does it matter, if the donees are charities or are affiliated either among themselves or with the issuer? Finally, as a practical matter, for purposes of aggregation how is a donee to apprise himself of resales by other donees and how is the issuer to monitor or police such resales assuming it has an obligation to do so?

In the absence of concerted action, a donee of an affiliate of an issuer need not aggregate his sales with those of other donees receiving gifts from the same donor under Rule 144(e)(3)(C). Only post-donation sales by donees must be aggregated; pre-donation sales of non-restricted securities need not be aggregated under paragraph (e)(3)(C). With respect to the status of the donees: the fact that donees are charities is not relevant for aggregation purposes; the fact that they are related among themselves is not relevant so long as they do not act in concert; finally, their affiliation with the issuer does not of itself mandate the aggregation of their sales. In short, as a general rule, horizontal aggregation (donees with other donees) is not required by Rule 144(e)(3)(C) in the absence of concerted action by the donees.

(2.) If the aggregation requirement of paragraph (e)(3)(C) is deemed applicable to the determination of the amount of securities that can be sold by a donor or donee under the Rule, does the requirement also determine whether a Notice of Proposed Sale must be filed pursuant to paragraph (h) of the Rule?

We assume that you are referring to the provision of paragraph (h) of Rule 144 which states that the Notice of Proposed Sale required by that paragraph need not be filed "if the amount of securities to be sold during any period of six months does not exceed 500 shares or other units and the aggregate sale price thereof does not exceed $10,000." It is the Division's view that the aggregation provision of Rule 144(e)(3)(C) does not determine the Notice requirement of paragraph (h). Thus, for example, if the de minimis provision of paragraph (h) is available to except both a donor and a donee individually from filing a Notice, then the provision remains available in spite of the fact that the donor and donee are limited in their combined sales by viture of paragraph (e)(3)(C).

(3.) Must resales by a donee from an affiliated donor comply with the Rule, notwithstanding the termination of the donor's affiliate status subsequent to the gift so that the donor then could sell non-restricted securities without compliance with the Rule? In other words, are the donated securities held by the donee still deemed to be "restricted securities" within the meaning of paragraph (a)(3) irrespective of the post donation status of the donor?

The donor's post donation status is irrelevant. His relationship as an affiliate at the time of the donation determines the status of the securities for purposes of the Rule, and therefore donated securities held by a donee would still be deemed "restricted securities" within the meaning of Rule 144(a)(3) irrespective of the fact that the donor's affiliation with the issuer terminated subsequent to the donation.

(4.) Assume that a non-affiliate ("A") of the issuer is given securities of the issuer by an affiliate of the issuer. Thereafter, A gives the securities to B who also is not an affiliate of the issuer. Must B or any subsequent donee of B conform his resales of the donated securities to the Rule? In other words, are the donated securities always deemed to be "restricted securities" in the hands of all successive non-affiliated donees?

In your hypothetical, B and subsequent donees of B would be deemed to hold "restricted securities" within the meaning of Rule 144(a)(3).

Sincerely,

William E. Toomey
Assistant Chief Counsel