

BEST COPY AVAILABLE
FROM S.E.C. PUBLIC FILES

000012

Teradyne, Inc
R-144
317

NOV 14 1975

12-15-75

Act	33
Section	
Rule	144(d)
Public Availability	12-15-75

James C. Gaither, Esq.
Cowley, Godward, Castro,
Suddesen & Tatum
The Alcoa Building
1 Maritime Plaza
San Francisco, California 94111

Re: Teradyne, Inc.

Dear Mr. Gaither:

This refers to your letter of October 22, 1975, requesting re-consideration of this Division's letter dated September 15, 1975.

The facts are as follows. Genstar Pacific Corporation ("Genstar"), the sole limited partner of Sutter Hill Ventures ("Sutter Hill"), proposes to transfer 15,000 restricted shares of Teradyne, Inc. to Sutter Hill as a voluntary contribution to capital. Gains and losses from the date of the transfer would be allocated 80% to Genstar and 20% to the four individuals who act as the general partners of Sutter Hill. You ask whether Sutter Hill's holding period for sale of the shares, as required by Rule 144(d) of the Securities Act of 1933, may be tacked onto the holding period of Genstar.

It is your opinion that such tacking should be permitted because, despite the profit and loss sharing arrangement, the general partners do not acquire any rights to the shares in question. This economic arrangement is viewed as a form of executive compensation. Further, you state that Genstar's control over Sutter Hill is similar to that which a sole shareholder has over his corporation, and therefore tacking should be allowed.

We are unable to agree with your conclusions. First, as regards the profit and loss sharing arrangement, the fact that the general partners' profits and losses are linked to these particular shares indicates that the economic risks of investment will shift as a result of the transfer to Sutter Hill. Genstar, which now bears the

0000

entire economic risk, will shift a portion of that risk to the general partners. Second, although Genstar does have a substantial amount of control over Sutter Hill, it appears that such control is not as complete as that which a sole shareholder has over his corporation and that the general partners may be deemed to have acquired a substantial beneficial interest in the shares. It would appear that the May 21, 1975 letter you refer to is distinguishable in that an identity of beneficial interest was present.

The purpose of the required two year holding period is to insure that the seller is not acting as a conduit for an investor, but has been subject to the full economic risks of investment for this length of time. For the reasons given above, it appears that Sutter Hill is a different entity from Genstar and that the purpose of the Rule 144(d) holding period requirement would not be served by permitting taking of the holding period from Genstar to Sutter Hill.

Sincerely,

Norman Schou
Attorney Adviser

BEST COPY AVAILABLE
FROM S.E.C. PUBLIC FILES