

Washington Service Bureau, Inc.	
Letter:	Wal-Mart Stores, Inc
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AND EXCHANGE COMMISSION  
 WASHINGTON, D.C. 20549

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 Tulsa, Oklahoma 74103

Re: Wal-Mart Stores, Inc.

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	16(b)
	8-30-76

Dear Mr. Walton:

This is in response to your letter of July 7, 1976 in which you requested this Division's interpretation of Rule 144 under the Securities Act of 1933 and Section 16(b) of the Securities Exchange Act of 1934 with reference to the transfer by James A. Dismore of 3,300 restricted shares of Wal-Mart Stores, Inc. ("Wal-Mart") common stock to Blanche Y. Dismore pursuant to a marital property settlement.

The facts, as more fully set forth in your letter, are as follows. The property settlement allocated between Blanche and James A. Dismore the Wal-Mart shares which had been held in joint tenancy during their marriage. James A. Dismore, who served as a Vice-President of Wal-Mart until June 9, 1976, at which time he left the Company, owns additional Wal-Mart shares in his own name. In the six-month period prior to the divorce, James A. Dismore acquired additional Wal-Mart shares through the exercise of stock options.

Your questions with regard to the jointly-held Wal-Mart shares transferred to Mrs. Dismore pursuant to the property settlement and our responses are as follows:

1. Is the change in ownership of Wal-Mart Common Stock from joint tenancy to sole proprietorship ordered by the divorce court a "sale" as that term is used in Section 16(b) of the Securities Exchange Act of 1934, which sale would be matched against Mr. Dismore's February 18, 1976 purchase of stock through the exercise of stock options?

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The Commission has no enforcement powers under Section 16(b). Rather, the issuer has a private right of action against insiders who profit as a result of a violation of that Section. Questions of liability arising under Section 16(b) must be determined by the courts. Consequently, this Division as a matter of policy declines to express a view on this question under Section 16(b).

2. Under Rule 144 Paragraph (d)(1) is Mrs. Blanche Y. Dismore a beneficial owner of the joint tenancy securities from the date they were initially acquired and the joint tenancy established through and including the present, or, if not, may she tack on the period when she and her husband jointly held the stock in order to fulfill the two year holding requirement?

This Division is of the view that the holding period will be computed from the date the Wal-Mart shares were initially acquired by James A. Dismore and Blanche Y. Dismore as joint tenants through and including the present notwithstanding the transfer pursuant to the marital property settlement.

3. Must Mrs. Dismore aggregate her sales of the restricted securities with sales by her husband in order to comply with the Commission's Rule 144 Paragraph (e)(3)(F)?

It is the view of this Division that Mrs. Dismore will not be required to aggregate her sales during any six-month period with those of James A. Dismore, her former husband, assuming, of course, that they are not acting in concert.

4. Must Mrs. Dismore consider sales by her former husband for the purpose of determining the necessity to file Form 144 under the Commission's Rule 144(h)?

The fact of their divorce raises a rebuttable presumption that they are not acting in concert with respect to future sales. Since aggregation by a divorced woman with her former husband normally will not be required, the determination whether the sales by the divorced woman require the filing of a Form 144 under paragraph (h) of the Rule may be made independently of consideration of sales by the former husband.

Sincerely,

Consuela M. Washington  
Attorney Adviser