

Letter of Comment No: 25/8 File Reference: 1102-100

May 10, 2004

Robert H. Herz Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, Connecticut 06856-5116

Dear Robert H. Herz,

My name is Robert C. Marshall and I am writing to you today in regards to the proposed "The Share-Based Payment and Amendment of FASB Statements No.123 and 95". Though I understand FASB's intended goal of improving the transparency of a company's economic health, I believe the proposed methods of measurement and reporting will only lead to increased confusion and ultimately have an immediate and long-term negative effect on the financial health and prosperity of all technology companies, especially non public entities.

In total, I have over 40 plus years as an executive of and investor in emerging growth technology companies. I was co-founder of Tandem Computers, Diablo Systems, and InfoGear Technologies. As a director of Tandem Ventures and managing director of Selby Ventures, I have invested in 30 plus companies including 3ware, Bay Microsystems, and Blue Pumpkin Software. During my association with each of these companies, I have experienced a multitude of operational and financial challenges as each company grew from only an idea to viable businesses employing up to 10,000 employees. Key to conquering each of those challenges was the support of a motivated employee team that had a vested interest in the company's success. In every company that I have founded or invested in, this motivation and ownership was made possible through employee stock option plans. Unfortunately, it is my belief, that the proposed FASB changes regarding stock option accounting will greatly diminish company's ability to compensate employees through stock option plans due to the logistical, operational, and financial problems inherent in the proposed FASB change.

My argument against the proposed changes is threefold. First, the valuation methods proposed are inaccurate and subject to potentially ambiguous variables. The Black Scholes and Binomial models for valuing stock options make a variety of disputable assumptions including that options can be freely liquidated at any time and circumstance and that corporate volatility can be defined in a meaningful way. Second, the dramatic logistical costs and efforts required to properly account for stock option plans places an unfair burden on smaller private companies. This burden results in increased expenses and energies for non-core business and leaves less capital and resources available for innovation and growth. As innovation slows, markets will concentrate and stagnate around

established technologies. To avoid this resource drain, companies can alternatively not offer stock options as compensation. However, this results in management and employees having misaligned short and long-term interests on how the company should grow. Third, the proposed change will have a dramatic short-term and significant long-term negative effect on how companies are valued in private and public markets. This valuation deflation will be driven by the inadequacies in the proposed option valuation methods mentioned above and investors' ingrained financial expectations when valuing companies. As private and public financing becomes more difficult, the innovation and growth key to technology companies' success will be stifled. In total, any or all of these possible outcomes will have a dramatically adverse effect on future economic growth and innovation, especially in technology markets.

In closing, I would strongly urge the Financial Accounting Standards Board to reconsider altering the current stock option accounting rules. Though the ultimate goal of the changes is admirable, the proposed method falls significantly short of the intended goal while threatening key components of the United States economy.

Best Regards,

Robert C. Marshall.

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