

Sheinberg, Samuel I.

From: HSRHelp
Sent: Tuesday, September 14, 2021 10:59 AM
To: Walsh, Kathryn E.; Berg, Karen E.; Sheinberg, Samuel I.; Six, Anne; Musick, Vesselina; Shaffer, Kristin
Subject: FW: Control of a Trust

From: Whitehead, Nora <nwhitehead@ftc.gov>
Sent: Tuesday, September 14, 2021 10:58:49 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Control of a Trust

[We agree that the wife controls the trust.](#)

From: HSRHelp <HSRHelp@ftc.gov>
Sent: Tuesday, September 14, 2021 10:18 AM
To: Walsh, Kathryn E. <kwash@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>
Subject: FW: Control of a Trust

From: [REDACTED]
Sent: Tuesday, September 14, 2021 10:17:39 AM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Control of a Trust

Dear All:

I have a situation in which I am determining the UPE of a Trust that is selling entities it controls.

The Trust was established by a husband and wife as "Trustors" and it is revocable by the husband and wife acting jointly. Under the terms of the Trust, the husband and wife acting jointly can remove and replace the trustees (they also serve as trustees). If one is incapacitated, the other acting alone can remove and replace.

The issue is that the husband has passed away. I read these provisions (which do not expressly address what happens upon the death of one of them) to indicate that the wife now has the power to remove and replace the trustees— which would make her the UPE. I am not certain if she has the power to revoke the Trust now that her husband has died but could solicit advice from a Trust expert on this point.

Is this analysis correct?

Thank you.

[REDACTED]

[REDACTED]