

Sheinberg, Samuel I.

From: HSRHelp
Sent: Friday, December 10, 2021 2:17 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne
Subject: FW: UPE of irrevocable trust

From: Whitehead, Nora <nwhitehead@ftc.gov>
Sent: Friday, December 10, 2021 2:16:36 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: UPE of irrevocable trust

Confirmed.

From: HSRHelp <HSRHelp@ftc.gov>
Sent: Thursday, December 9, 2021 1:56 PM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>
Subject: FW: UPE of irrevocable trust

From: [REDACTED]
Sent: Thursday, December 9, 2021 1:55:13 PM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: UPE of irrevocable trust

I am writing to confirm our assessment of the UPE of an irrevocable trust. Parent is the grantor of the trust and Child 1 (an adult) is the current trustee. Parent does not have a reversionary interest in the corpus. Child 1 and Child 1's descendants are the primary beneficiaries of the trust. The trust does not provide anyone the right to remove and replace Child 1 as the current trustee; however, Child 1 would have the right to remove and replace additional or successor trustees. The trust further provides that Child 2 (a sibling of Child 1) has the right to terminate the trust and direct the trustee to distribute the trust's assets, as long as the assets are distributed only to the original beneficiaries provided for in the trust (and their spouses).

Can you confirm that, since no person or entity can remove or replace the *current* trustee Child 1 (other than Child 1 himself, if he resigns), the trust is its own UPE? Separately, can you confirm that Child 2's right to terminate the trust does not have any bearing on the control/UPE analysis?

Thanks in advance,

[REDACTED]

[REDACTED]

[REDACTED]