

**Sheinberg, Samuel I.**

---

**From:** HSRHelp  
**Sent:** Tuesday, March 26, 2024 11:05 AM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle; Burton, June; Larson, Peter  
**Subject:** FW: Trust - shared right to remove/replace trustee with spouse

---

**From:** Shaffer, Kristin <kshaffer@ftc.gov>  
**Sent:** Tuesday, March 26, 2024 11:05:05 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** RE: Trust - shared right to remove/replace trustee with spouse

[REDACTED]

We agree that the trust would be its own UPE, based on the facts you presented.  
Best regards,  
Kristin

---

**From:** [REDACTED]  
**Sent:** Monday, March 25, 2024 3:35 PM  
**To:** Shaffer, Kristin <kshaffer@ftc.gov>  
**Cc:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** RE: Trust - shared right to remove/replace trustee with spouse

[REDACTED]

Hi Kristin:  
The trust I am looking at is an irrevocable trust of which both Spouse A and Spouse B are settlors. Spouse A and Spouse B currently serve as trustees. The trust was created for the benefit of the children of Spouse A and Spouse B. Neither Spouse A nor Spouse B is a beneficiary of the trust nor has a reversionary interest in the trust. In the documents establishing the trust, Spouse A and Spouse B are given a shared right to remove and replace the trustees so long as both spouses are alive and have capacity (both of which are currently the case), meaning that neither Spouse A nor Spouse B can individually remove and replace the trustees.  
Given the facts above and Interpretation 2104005, it seems that the trust would be its own UPE as Spouse A and Spouse B have a shared right to remove and replace the trustees. Please let me know if you agree.

[REDACTED]

[REDACTED]

---

**From:** Shaffer, Kristin <kshaffer@ftc.gov>  
**Sent:** Monday, March 25, 2024 2:11 PM  
**To:** [REDACTED]  
**Cc:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** RE: Trust - shared right to remove/replace trustee with spouse  
EXT - [kshaffer@ftc.gov](mailto:kshaffer@ftc.gov)

---

[REDACTED]

[REDACTED]

That informal describes a complicated fact pattern. If you have questions about a specific set of facts, please provide them so that we can give guidance.

Best regards,  
Kristin  
**Kristin Shaffer**  
Attorney  
Premerger Notification Office  
Federal Trade Commission  
202-326-2388 | [kshaffer@ftc.gov](mailto:kshaffer@ftc.gov)

---

**From:** [REDACTED]  
**Sent:** Monday, March 25, 2024 9:51:06 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** HSRHelp <[HSRHelp@ftc.gov](mailto:HSRHelp@ftc.gov)>  
**Subject:** Trust - shared right to remove/replace trustee with spouse

Dear PNO:  
I wanted to check in on Interpretation [2104005](#) from 2021. Can you please confirm that it remains the position of PNO that a trust is its own UPE when the right to remove and replace the trustees is shared by two spouses (and assuming the trust is irrevocable and the settlor does not retain a reversionary interest)?  
Thanks very much in advance.

Best,  
[REDACTED]

[REDACTED]

[REDACTED]

