



June 10, 2019

Mr. Benjamin Martin  
616 West Street  
San Diego, CA 92113-1928

**Re: Ben W. Martin Insurance Trust dated October 10, 1963 FBO Joyce Martin Smith**

Dear Mr. Martin:

We represent Wells Fargo Bank, N.A., in its capacity as successor trustee of the Ben W. Martin Insurance Trust dated October 10, 1963 for the benefit of Joyce Martin Smith ("Trust"). We are writing for two purposes.

First, you inquired about the situs of the Trust. As you know, the Trust was created long before Wells Fargo accepted its appointment as a successor trustee on July 5, 2016. Based on the historical records of the Trust, we see that the principal place of administration (also known as "situs") was moved by a former trustee from Arkansas to Florida on or about June 23, 1981. The principal place of administration was moved again from Florida to Ohio by a former trustee in 2007. More recently in 2017, after Wells Fargo became the successor trustee, the principal place of administration was moved back to Florida.

*Florida to Ohio: State Law not applied*

Section 3.13 of the Trust gives the trustee the authority to move situs without court approval. The Trust does not address changes to the governing law. We considered the applicable Ohio statutes, including Rev. Code Ann. S. 5801.06 and 5801.07. These provisions have been summarized: "House Bill 499, effective September 12, 2008, added subsection (B) to RC 5801.06 to provide that the administration of a trust is governed by the law designated in the trust, but if there is no such designation, then the law of the trust's principal place of administration governs such administration, or, if such principal place of administration is transferred to another jurisdiction under RC 5801.07, the law of such new principal place of administration shall control from the time of such transfer." Accordingly, governing law changed to Florida when the principal place of administration moved to Florida.

*Ohio to Florida: State Law applied*

Under Ohio law, a trustee must notify "current beneficiaries" 60 days before changing the principal place of administration. Ms. Smith is currently the sole permissible distributee of income and principal so she was the only person entitled to such notice (see Ohio Rev Ann S. 5801.01(F)). Ms. Smith consented to each change of situs/governing law and waived the notice requirements. This should answer your question regarding the 60-day notice requirement in your April 24, 2019 email to Johnathan Butler, trust officer for the Trust.

Second, we are writing to outline the Trustee's position on your forceful communications (mostly via email) and repeated demands for the same information. Wells Fargo is committed to the highest standards of fiduciary service. Among a fiduciary's important duties is the duty to

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keep qualified beneficiaries “reasonably” informed of the trust and its administration. This basic duty is regularly met by Wells Fargo’s delivery of the trustee’s quarterly accountings to all qualified beneficiaries of the Trust, including you. In addition, “upon reasonable request” a fiduciary shall provide a qualified beneficiary with relevant information about the assets and liabilities of the trust and the particulars relating to administration. Wells Fargo has met or exceeded this standard time and time again and it will continue responding to all “reasonable” requests for information.

Please note, a trustee’s obligation to respond to “reasonable” requests for information does not obligate a trustee to respond to unreasonable requests for information. Repeated requests for the same information are not “reasonable” requests for information.

Wells Fargo has determined that some parameters regarding communications here are necessary. These parameters are designed to allow you to make reasonable requests, but will also allow Wells Fargo to respond in a manner that does not impede the other duties Wells Fargo has as trustee. Going forward, Wells Fargo will review and respond to your emails on a periodic basis. We anticipate that responses to reasonable requests will occur once a month, depending on the nature of the request. Please compile your questions into one inquiry. Of course, if you have a truly urgent request that cannot await response in the ordinary course, please contact the relationship team. The relationship team will promptly review the message and determine an appropriate timetable for response.

Please also refrain from using abusive, threatening language. Abusive, threatening communications, and communications that have already been answered, are not “reasonable” requests for information. If the tone is inappropriate, Wells Fargo reserves the right to decline to respond.

Finally, we urge you to retain an attorney to advise you with respect to the Trust and your interests as a beneficiary.

Sincerely,

John P. Cole

JPC/wn

cc: (via email)  
Mr. Mike Neff  
Mr. Johnathan Butler  
Mrs. Deborah Gauthier