

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

RODNEY CHOATE, on behalf of the  
MRMC ESOP, and on behalf of a class of  
other persons similarly situated,

Plaintiffs,

v.

WILMINGTON TRUST, N.A. as successor  
to Wilmington Trust Retirement and  
Institutional Services Company,

Defendant.

Cons. Case No. 17-250-RGA

**DECLARATION OF DANIELLE BRACY  
REGARDING CLASS NOTICE**

I, Danielle Bracy, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following is true and correct:

1. I am a Project Manager with Angeion Group (“Angeion”), the Settlement Administrator retained in this matter. Angeion’s office is located at 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify competently thereto.

2. I submit this Declaration to provide the Court with a summary of the work performed by Angeion to effectuate Class Notice in accordance with the Class Action Settlement Agreement following the Court’s *Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement and Proposed Notice of Settlement*, entered on April 17, 2020 (“Order”).

3. Angeion was selected by the parties and approved by the Court as the Settlement

Administrator to implement the Class Notice plan proposed in the Class Action Settlement Agreement and accompanying exhibits. In that role, among other tasks, Angeion is responsible for (1) preparing the Class Notice; (2) disseminating the Class Notice; (3) processing election forms, objections and opt-outs; (4) establish an interest-bearing Qualified Settlement Fund; (5) determining the amounts of the awards due to eligible Settlement Class members; and (6) performing other duties pursuant to the Order and the Class Action Settlement Agreement.

#### **CLASS DATA**

4. Angeion received electronic files containing a list of Class Members. The Class Data contained postal addresses and transactional data of the Class' shares. Angeion analyzed and deduplicated the Class Data records. Angeion subsequently identified 3,199 unique Class Members ("Class List") of which 2,185 records from the Class List are current ESOP participants, and 1,014 records from the Class List are former ESOP participants.

#### **CLASS NOTICE**

5. Consistent with the Class Notice approved by the Court, Angeion's efforts focused on providing notice to the Class Members. As a result of Angeion's efforts, on June 29, 2020 the Class Notice was sent via the United States Postal Service ("USPS"), First Class Mail, postage pre-paid, and a Business Reply Mail (BRM) was sent to the Class List. A true and correct copy of the Class Notice directed to the current ESOP participants is attached hereto as **Exhibit A**, and to the former ESOP participants as **Exhibit B**. The Class Notice advised Class Members that Class Counsel intended to ask the Court for a Service Award up to \$20,000 for Plaintiff for his service in representing the Class.

6. Prior to mailing the Class Notice, Angeion ran each address through the USPS National Change of Address database (“NCOA<sup>1</sup>”), which provided updated addresses for all individuals who have moved during the previous four years and filed a change of address form with the USPS.

7. As of August 10, 2020, a total of 144 Class Notices were returned undeliverable as addressed per the USPS. The Class Notices returned were subject to an address verification search (i.e., “skip trace”). The skip trace efforts resulted in 52 updated addresses, to which Class Notices were re-mailed. Angeion updated its database with the address information obtained from the skip traces.

### **SETTLEMENT WEBSITE**

8. On the June 29, 2020, Angeion established the following website devoted to this Settlement: [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com). The Settlement Website provides general information about the Settlement, Court documents, online election forms portal, a downloadable Long Form Notice and Election Forms, and important dates and deadlines pertinent to this Settlement. The website also provided e-mail addresses and physical addresses if Class Members had additional questions.

9. As of August 10, 2020, the website has had a total of 636 sessions, and 2,485 pageviews.

### **CLASS MEMBER COMMUNICATION**

10. On June 29, 2020, Angeion set up a dedicated email address for this Class Action: [info@MRMCESOPSettlement.com](mailto:info@MRMCESOPSettlement.com). The email address is listed in the Class Notice, and on the Settlement Website.

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<sup>1</sup> The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and last known address.

11. As of August 10, 2020, a total of 124 emails have been received.

### **ELECTION FORMS**

12. Under the Settlement, Angeion is responsible for the receipt and validation of election forms. Class Members had the option to file their election form through the Settlement Website via an online portal or via mail to the Settlement Administrator or to send their form via email to [info@MRMCESOPSettlement.com](mailto:info@MRMCESOPSettlement.com).

13. The election form filing deadline is September 10, 2020. As of August 10, 2020, Angeion received a total of 253 election form submissions. Of the Claims form filed 183 are from current ESOP participants, and 70 are from former ESOP participants.

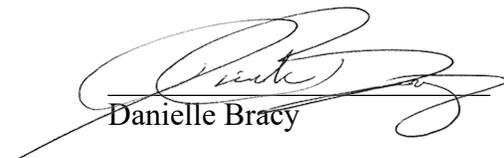
### **OBJECTIONS**

14. The Class Notice, informed Class Members that they may object to the Settlement by writing to the Court, Class Counsel, Defendant's Counsel, and the Settlement Administrator. The deadline to object is September 10, 2020. As of August 10, 2020, Angeion has not received any objections and has not been made aware of any objections filed with the Court.

### **ESCROW**

15. Angeion is also serving as Escrow Agent and has established and is maintaining a qualified settlement trust to hold the Settlement Amount and Net Proceeds.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge. Executed this 14th day of August 2020.

  
Danielle Bracy

# Exhibit A

**ELECTION FORM – MRMC ESOP SETTLEMENT**

If you have an account in the MRMC Employee Stock Ownership Plan (“the ESOP”) you have the choice of receiving the settlement payment to your ESOP account as (1) additional shares of Martin Resource Management Corporation (MRMC) stock of equivalent value as determined by a valuation firm as of September 30, 2020, or (2) a cash contribution to be thereafter invested in a money market fund in the ESOP until you retire or are otherwise eligible for a distribution. You can make your election by returning this postage-paid card or online at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com) by **September 10, 2020**. If you do not make an election, you will receive additional shares of MRMC stock.

First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**YOU MUST SELECT ONE AND ONLY ONE OF THE OPTIONS BELOW:**

- I WISH TO RECEIVE MY PORTION OF THE SETTLEMENT AS ADDITIONAL SHARES OF MRMC STOCK
- I WISH TO RECEIVE MY PORTION OF THE SETTLEMENT AS A CASH CONTRIBUTION TO BE INVESTED IN A MONEY MARKET FUND IN THE ESOP

If you have questions regarding your election, please contact class counsel:

Gregory Y. Porter, Bailey & Glasser, LLP, 1055 Thomas Jefferson Street, NW Suite 540, Washington, DC 20007

Daniel Feinberg, Feinberg, Jackson, Worthman & Wasow LLP, 2030 Addison Street, Suite 500, Berkeley, CA 94704.  
[MRMCsettlement@feinbergjackson.com](mailto:MRMCsettlement@feinbergjackson.com)

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**PLEASE READ THIS NOTICE CAREFULLY.  
A FEDERAL COURT AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION.**

You are receiving this notice because the records of the MRMC Employee Stock Ownership Plan indicate that you were a participant in the Plan at some time during the period October 2, 2012 through December 10, 2019 (“Class Period”). Your rights may be affected by a proposed class action settlement of this lawsuit.

**Please read the following information carefully to find out what the lawsuit is about, what the terms of the proposed settlement are, what rights you have to object to the proposed settlement if you disagree with its terms, and what deadlines apply to the right to object to the proposed settlement.**

### **WHAT THIS LAWSUIT IS ABOUT**

Plaintiff Rodney Choate (“Plaintiff”), a participant in the MRMC Employee Stock Ownership Plan (“the Plan”) sponsored by Martin Resource Management Corporation (“MRMC”), filed this lawsuit against Wilmington Trust, N.A. (“Wilmington Trust”), in the U.S. District Court for the District of Delaware (the “Lawsuit”). The Lawsuit claims that Wilmington Trust violated a federal statute, the Employee Retirement Income Security Act of 1974 (“ERISA”), in connection with the Plan’s acquisition of MRMC stock in October 2012 and December 2013, for total payments of approximately \$375.5 million (the “ESOP Transactions”). Specifically, Plaintiff alleges that Wilmington Trust violated its duties ERISA § 404, 29 U.S.C. § 1104, and ERISA § 406, 29 U.S.C. § 1106, when it, among things, approved a purchase price for MRMC stock that exceeded fair market value.

Wilmington Trust denies all of Plaintiff’s allegations in the Lawsuit, denies any wrongdoing regarding the ESOP Transactions, and has vigorously defended itself in the Lawsuit.

### **THE TERMS OF THE SETTLEMENT**

To avoid the additional expense, delay, and uncertainty of the outcome of the Lawsuit, Plaintiff and the Class defined below, and Wilmington Trust have agreed to a Settlement that provides payments to Class Members. These and other terms of the Settlement are set forth in the Class Action Settlement Agreement dated April 15, 2020 (“Settlement Agreement”) and are summarized below. The complete Settlement Agreement is available at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com) or from Class Counsel.

**1. The Class Covered by the Settlement.** On December 10, 2019, the Court granted Plaintiff’s Motion for Class Certification. The Class is defined as: “All persons who were participants in the MRMC ESOP between October 2, 2012 and December 10, 2019 and/or beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin III, Scott

D. Martin, and their family, legal representatives, successors, heirs, and assigns.” Whether or not a person meets this definition will be based on the Plan’s records. You have received this Notice because, based upon those records, you are believed to be a member of the Class. You do not have the right to exclude yourself from the Class or the benefits of the Settlement. This Lawsuit was certified as a mandatory (“non-opt-out”) class action.

**2. The Payment and Allocation of the Settlement Fund:**

(a) Under the Settlement, Wilmington Trust will make a payment of \$19,500,000 (the “Settlement Amount”) to the Settlement Fund.

(b) The Settlement Amount, plus any accrued interest, shall be the “Gross Settlement Fund.”

(c) The “Net Proceeds” shall be the Gross Settlement Fund less:

(1) Administrative Expenses, which include amounts required to pay taxes, administer the Settlement Fund Account, issue notice of the Settlement and communicate with Class Members, and make payments to the Class Members.

(2) Class Counsel’s attorneys’ fees and expenses, which together shall not exceed \$6,000,000.

(3) The cost of an independent fiduciary to review the settlement not to exceed \$25,000.

(4) The cost of a valuation firm to determine the value of MRMC stock not to exceed \$80,000; and

(5) A Service Award to the Named Plaintiff in an amount not to exceed \$20,000.

(d) The Net Proceeds will be distributed to Class Members in accordance with the Plan of Allocation approved by the Court, a copy of which is available on the website established by the Settlement Administrator as indicated below. A Class Member’s share of the Net Proceeds will be based on the number of vested shares of MRMC stock allocated to their ESOP account as of (1) December 10, 2019, or (2) if the Class Member received a prior distribution of the Class Member’s account balance, the number of vested shares of MRMC stock allocated to their ESOP account prior to the date of any distributions, divided by the sum total of all such vested shares of MRMC stock of all Class Members, which shall constitute that Class Member’s “Entitlement Percentage.” The Settlement Class Member’s settlement allocation shall be calculated by multiplying the total value of the Net Proceeds by his or her Entitlement Percentage.

Forfeited shares that were reallocated to Class Members shall not be included in the total of vested shares allocated to a Class Member’s account balance.

Class Members will not need to submit a claim to receive their allocable portion of the Settlement. Their allocated portion will be calculated based on the Plan's records. For Class Members with accounts in the Plan as of December 10, 2019, their allocable portion of the Settlement shall be contributed to their ESOP account and, until retirement or otherwise eligible for a distribution, invested in MRMC stock or in a money market fund within the ESOP based on the election of such Class Members. If a Class Member with an existing Plan account does not make an election, then the allocable portion of the settlement for such Class Member will be contributed to their ESOP account in MRMC stock. The share price for MRMC shares shall be based on a special valuation of MRMC stock as of the end of the last quarter prior to the date the Court enters an order granting final approval to the settlement. Class Members who no longer have an account in the Plan will receive a payment from the Settlement Administrator, with the option, if eligible, to deposit the funds in an eligible retirement account.

**Neither Plaintiff nor Wilmington Trust makes any representations regarding the future performance of MRMC stock. Class Members who currently have an account in the Plan may seek independent financial advice in deciding whether to elect to invest their settlement payment in a money market fund or MRMC stock.**

An election form is included with this Notice. Class Members who currently have an account in the Plan can also make their election online at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com). Class Members who currently have an account in the Plan will need to return the election form or make their election online by **September 10, 2020**. As described above, if a Class Member who has an account in the Plan does not return the election form by that date, then his or her settlement allocation will be contributed to their ESOP account in MRMC stock.

Class Members who do not currently have an account in the Plan and who wish to roll over their settlement allocation to an eligible retirement account will need to make an election by returning the election form by **September 10, 2020**. If a Class Member who does not currently have an account in the Plan does not return the election form by that date, then his or her settlement allocation will be paid in cash less tax withholding.

**3. Release of Claims.** In exchange for payment of the Settlement Amount by Wilmington Trust and satisfaction of the conditions contained in the Settlement Agreement, all Class Members (and their beneficiaries, heirs, executors, representatives, and assigns) and the Plan will release (or give up) any claims that in any way relate to the MRMC ESOP's investment in MRMC stock during the Class Period, including but not limited to claims related to the MRMC ESOP's acquisition of MRMC stock or the sale of stock by any MRMC shareholder. Class Members and their beneficiaries, heirs, executors, representatives, and assigns and any successor trustee will be prohibited from filing or pursuing any other lawsuits or actions based on such claims against Wilmington Trust, MRMC, the shareholders of MRMC, and the named

and functional fiduciaries of the MPMC ESOP and each of their respective parent companies, subsidiaries, affiliates, directors, officers, employees, agents, attorneys, relations, representatives, assigns, insurers and reinsurers. The Releases and the Covenant Not to Sue are set forth in full in the Settlement Agreement, which can be viewed online at [www.MPMCESOPSettlement.com](http://www.MPMCESOPSettlement.com), or requested from Class Counsel.

#### **STATEMENT REGARDING THE POTENTIAL OUTCOME OF THE LAWSUIT**

As with any Lawsuit, the Plaintiff and Wilmington Trust would face an uncertain outcome if the Lawsuit were not settled. Continued litigation could result in a judgment greater or less than the amount obtained in the Settlement, or in no recovery at all. The Plaintiff and Wilmington Trust disagree about whether Wilmington Trust did anything wrong, and they do not agree on the amount, if any, that would be recoverable even if Plaintiff prevailed at trial. Wilmington Trust has denied, and continues to deny, all claims and contentions of the Plaintiff in the Lawsuit, has denied, and continues to deny, any wrongdoing or liability whatsoever, and is entering into the Settlement solely to avoid the cost, disruption and uncertainty of litigation. A settlement avoids the expense, further delay and uncertainty of a trial and gives money to Class Members more quickly. The Plaintiff and the attorneys for the Class think the Settlement is best for all Class Members.

#### **THE SETTLEMENT APPROVAL PROCESS**

The Court has granted preliminary approval of the proposed Settlement and has approved this Notice to the Class. The Settlement will not take effect, however, until it receives final approval from the Court after an opportunity for Class Members to object, as described below. Following the deadline for objecting to the Settlement, the Court will hold a Fairness Hearing at 10:00 a.m. on **October 1, 2020** at the United States District Court, located at 844 N King Street, Courtroom 6A, Wilmington, Delaware 19801. The date and location of the Fairness Hearing is subject to change by order of the Court, which will appear on the Court's docket for this Lawsuit.

#### **THE OPPORTUNITY TO OBJECT TO THE SETTLEMENT**

If you are a Class Member, you can object to the Settlement if you do not like any part of it. To object, you must send your objection to the Clerk, U.S. District Court for the District of Delaware, 844 North King Street, Unit 18, Wilmington, Delaware 19801, and to the Parties at the following addresses:

**To Class Counsel:**

Gregory Y. Porter  
Bailey & Glasser, LLP  
1055 Thomas Jefferson Street, NW  
Suite 540  
Washington, DC 20007

Daniel Feinberg  
Feinberg, Jackson, Worthman & Wasow LLP  
2030 Addison Street, Suite 500  
Berkeley, CA 94704

**To Defendant's Counsel:**

Michael Prame  
Groom Law Group, Chartered  
1701 Pennsylvania Avenue, NW  
Washington, D.C. 20006

**Settlement Administrator**

Martin Resources Settlement Administrator  
1650 Arch Street, Suite 2210  
Philadelphia PA, 19103

Objections must be filed with the Court by **September 10, 2020**, (21 days before the Fairness Hearing). Objections filed after that date will not be considered. To be valid, the objection must set forth, in clear and concise terms: (a) the case name and number (*Choate v. Wilmington Trust N.A.*, Cons. Case No. 17-250-RGA); (b) the name, address, and telephone number of the objector objecting and, if represented by counsel, of his or her counsel; (c) the complete basis for objection; (d) a statement of whether the objector intends to appear at the Fairness Hearing, either with or without counsel; (e) a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, and (f) copies of all supporting documents.

Any Class Member who files and serves a written objection in accordance with the above paragraph may appear, in person or by counsel, at the Fairness Hearing, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objector: (a) files with the Clerk of the Court a notice of intention to appear at the Fairness Hearing by the objection deadline (“Notice of Intention to Appear”); and (b) serves the Notice of Intention to Appear on Class Counsel and Defense Counsel by the objection deadline.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objector will present to the District Court in connection with the Fairness Hearing. Any Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Settlement Agreement and Class Notice shall be deemed to have waived his or her right to appear.

Any Class Member who does not make his or her objection in the manner provided shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Fairness Hearing, and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as

incorporated in the Settlement Agreement, and to the award of attorneys' fees and expenses to Class Counsel and the payment of a Service Award to the Class Representatives for their representation of the Class, unless otherwise ordered by the Court. Responses to objections shall be filed ten (10) days before the Fairness Hearing

The Court will consider Class Member objections in deciding whether to grant final approval. Class Members who do not comply with these procedures, or who miss the deadline to file an objection, lose the opportunity to have their objection considered by the Court or to appeal from any order or judgment entered by the Court regarding the Settlement.

**ATTORNEYS' FEES, EXPENSES AND SERVICE AWARD FOR NAMED PLAINTIFF**

The attorneys for the Plaintiff and the Class ("Class Counsel") are:

Gregory Y. Porter  
Ryan T. Jenny  
Patrick O. Muench  
Bailey & Glasser, LLP  
1055 Thomas Jefferson Street, NW  
Suite 540  
Washington, DC 20007

Daniel Feinberg  
Todd Jackson  
Feinberg, Jackson, Worthman & Wasow LLP  
2030 Addison Street, Suite 500  
Berkeley, CA 94704  
MRMCsettlement@feinbergjackson.com

David A. Felice  
Bailey & Glasser, LLP  
Red Clay Center at Little Falls  
2961 Centerville Road, Suite 302  
Wilmington, DE 19808

Class Counsel will seek an award of attorneys' fees and reimbursement of their litigation expenses, totaling no more than \$6 million of the Settlement Amount. Class Counsel's litigation expenses include the cost and expense of process servers, travel, court reporters and transcripts, and experts retained by Class Counsel. Class Counsel shall also seek a Service Award for the named Plaintiff from the Settlement Amount of up to \$20,000. The fee application and supporting papers will be filed on or before 45 days before the Fairness Hearing. After that date you may review the application and supporting papers at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com). You may file an objection to the request for attorneys' fees and expenses and to the Service Award under the same procedures for objecting to the Settlement. Any attorneys' fees, expenses and Service Award approved by the Court, and the expenses incurred by the Settlement

Administrator in sending this Notice and otherwise administering the Settlement, will be paid from the Gross Settlement Fund.

### **GETTING MORE INFORMATION**

You can visit the website at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com), where you will find the full Settlement Agreement, the Court's order granting Preliminary Approval of the Settlement, this Notice, and other relevant pleadings and documents. If you cannot find the information you need on the website, you may also contact Class Counsel for more information.

### **WHAT IF MY ADDRESS OR OTHER INFORMATION HAS CHANGED OR CHANGES AFTER I RECEIVE MY NOTICE?**

It is your responsibility to inform the Settlement Administrator of your updated address or other information. You may do so by email to the following email address: [info@MRMCESOPSettlement.com](mailto:info@MRMCESOPSettlement.com) or by U.S. Mail to the following mailing address: Martin Resource Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia PA, 19103

**Please do not contact the Court, Wilmington Trust, MRMC or Wilmington Trust's Counsel. They will not be able to give you additional information.**

Dated: \_\_\_\_\_, 2020

By Order of the United States District Court  
District Judge Richard G. Andrews

# Exhibit B

**MRMC Employee Stock Ownership Plan  
SETTLEMENT PAYMENT DISTRIBUTION ELECTION FORM  
FOR FORMER ESOP PARTICIPANTS**

**PLEASE COMPLETE THIS FORM ONLY AFTER YOU HAVE READ AND UNDERSTOOD THE ACCOMPANYING CLASS NOTICE AND SPECIAL TAX NOTICE. IF YOU DO NOT RETURN THE FORM, YOU WILL RECEIVE YOUR PORTION OF THE SETTLEMENT, AFTER APPLICABLE TAXES ARE WITHHELD, BY CHECK**

Participant Name: \_\_\_\_\_

Address: \_\_\_\_\_

**STEP I: ROLLOVER OR DIRECT PAYMENT**

**Box 1** [  ] **ROLLOVER:** I elect to have all of my settlement payment under the ESOP paid in a “direct rollover” to the IRA (Individual Retirement Arrangement) or Other Qualified Employer Plan indicated below:

Financial Institution or Name of Plan: \_\_\_\_\_  
Account# \_\_\_\_\_

**Check here** [  ] **if electing a rollover to a Roth IRA.**

Please note if you elect a rollover, the rollover check will be mailed directly to you. It will be your responsibility to deliver the rollover check to your rollover institution along with any other forms they require you to complete.

**Box 2** [  ] **DIRECT PAYMENT:** I elect to have all of my settlement payment under the ESOP paid directly to me.

Please complete the following tax information if you would like additional tax withheld.

Federal Tax Withholding: 20% Mandatory Additional: \_\_\_\_\_

State Tax Withholding: Variable %  
(Mandatory withholding may also apply depending on your State) Additional: \_\_\_\_\_

**STEP II: SIGNATURE AND DATE**

By signing below and returning the form, I consent to distribution of the settlement payment and affirmatively waive the unexpired portion of the minimum 30-day notice period during which I am entitled to consider this election.

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Phone: \_\_\_\_\_ Print Name \_\_\_\_\_

Social Security # \_\_\_\_\_ Email: \_\_\_\_\_

You can make your election by returning this postage-paid card or return via e-mail to [info@MRMCESOPSettlement.com](mailto:info@MRMCESOPSettlement.com) by **September 10, 2020**

## **YOUR ROLLOVER OPTIONS**

You are receiving this notice because all or a portion of a payment you are receiving from the MRMC Employee Stock Ownership Plan (the "Plan") may be eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover.

Rules that apply to most payments from a plan are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

### **GENERAL INFORMATION ABOUT ROLLOVERS**

#### **How can a rollover affect my taxes?**

You will be taxed on a payment from the Plan if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

#### **Where may I roll over the payment?**

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan. Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

#### **How do I do a rollover?**

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

If you do a direct rollover, the Settlement Administrator will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

If you do not do a direct rollover, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the settlement payment to make the deposit. If you do not do a direct rollover, the Settlement Administrator is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover, you must use

other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

### **How much may I roll over?**

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover.

### **If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over. The 10% additional income tax does not apply to the following payments:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Payments made due to disability
- Payments after your death
- Payments of ESOP dividends
- Corrective distributions of contributions that exceed tax law limitations
- Payments made directly to the government to satisfy a federal tax levy
- Payments made under a qualified domestic relations order (QDRO)
- Payments up to the amount of your deductible medical expenses
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days

## **SPECIAL RULES AND OPTIONS**

### **If you miss the 60-day rollover deadline**

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

### **If you have an outstanding loan that is being offset**

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the amount of the loan, typically when your employment ends. The loan offset amount is treated as a distribution to you at the time of the offset and will be taxed (including the 10% additional income tax on early distributions, unless an exception applies) unless you do a 60-day rollover in the amount of the loan offset to an IRA or employer plan.

### **If you were born on or before January 1, 1936**

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

### **If you are not a plan participant**

Payments after death of the participant. If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions does not apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the participant was born on or before January 1, 1936.

**If you are a surviving spouse.** If you receive a payment as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and

required minimum distributions from your IRA do not have to start until after you are age 70½.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

**If you are a surviving beneficiary other than a spouse.** If you receive a payment because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

Payments under a qualified domestic relations order. If you are the spouse or former spouse of the participant who receives a payment under a qualified domestic relations order (QDRO), you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the QDRO will not be subject to the 10% additional income tax on early distributions.

### **If you are a nonresident alien**

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, 30% of the payment will be withheld for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

### **FOR MORE INFORMATION**

You may wish to consult with a professional tax advisor. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590, Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORM.

\* \* \*

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**PLEASE READ THIS NOTICE CAREFULLY.  
A FEDERAL COURT AUTHORIZED THIS NOTICE.  
THIS IS NOT A SOLICITATION.**

You are receiving this notice because the records of the MRMC Employee Stock Ownership Plan indicate that you were a participant in the Plan at some time during the period October 2, 2012 through December 10, 2019 (“Class Period”). Your rights may be affected by a proposed class action settlement of this lawsuit.

**Please read the following information carefully to find out what the lawsuit is about, what the terms of the proposed settlement are, what rights you have to object to the proposed settlement if you disagree with its terms, and what deadlines apply to the right to object to the proposed settlement.**

### **WHAT THIS LAWSUIT IS ABOUT**

Plaintiff Rodney Choate (“Plaintiff”), a participant in the MRMC Employee Stock Ownership Plan (“the Plan”) sponsored by Martin Resource Management Corporation (“MRMC”), filed this lawsuit against Wilmington Trust, N.A. (“Wilmington Trust”), in the U.S. District Court for the District of Delaware (the “Lawsuit”). The Lawsuit claims that Wilmington Trust violated a federal statute, the Employee Retirement Income Security Act of 1974 (“ERISA”), in connection with the Plan’s acquisition of MRMC stock in October 2012 and December 2013, for total payments of approximately \$375.5 million (the “ESOP Transactions”). Specifically, Plaintiff alleges that Wilmington Trust violated its duties ERISA § 404, 29 U.S.C. §1104, and ERISA § 406, 29 U.S.C. § 1106, when it, among things, approved a purchase price for MRMC stock that exceeded fair market value.

Wilmington Trust denies all of Plaintiff’s allegations in the Lawsuit, denies any wrongdoing regarding the ESOP Transactions, and has vigorously defended itself in the Lawsuit.

### **THE TERMS OF THE SETTLEMENT**

To avoid the additional expense, delay, and uncertainty of the outcome of the Lawsuit, Plaintiff and the Class defined below, and Wilmington Trust have agreed to a Settlement that provides payments to Class Members. These and other terms of the Settlement are set forth in the Class Action Settlement Agreement dated April 15, 2020 (“Settlement Agreement”) and are summarized below. The complete Settlement Agreement is available at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com) or from Class Counsel.

**1. The Class Covered by the Settlement.** On December 10, 2019, the Court granted Plaintiff’s Motion for Class Certification. The Class is defined as: “All persons who were participants in the MRMC ESOP between October 2, 2012 and December 10, 2019 and/or beneficiaries of such ESOP participants. Excluded from the Class are Ruben S. Martin III, Scott

D. Martin, and their family, legal representatives, successors, heirs, and assigns.” Whether or not a person meets this definition will be based on the Plan’s records. You have received this Notice because, based upon those records, you are believed to be a member of the Class. You do not have the right to exclude yourself from the Class or the benefits of the Settlement. This Lawsuit was certified as a mandatory (“non-opt-out”) class action.

**2. The Payment and Allocation of the Settlement Fund:**

(a) Under the Settlement, Wilmington Trust will make a payment of \$19,500,000 (the “Settlement Amount”) to the Settlement Fund.

(b) The Settlement Amount, plus any accrued interest, shall be the “Gross Settlement Fund.”

(c) The “Net Proceeds” shall be the Gross Settlement Fund less:

- (1) Administrative Expenses, which include amounts required to pay taxes, administer the Settlement Fund Account, issue notice of the Settlement and communicate with Class Members, and make payments to the Class Members.
- (2) Class Counsel’s attorneys’ fees and expenses, which together shall not exceed \$6,000,000.
- (3) The cost of an independent fiduciary to review the settlement not to exceed \$25,000.
- (4) The cost of a valuation firm to determine the value of MRMC stock not to exceed \$80,000; and
- (5) A Service Award to the Named Plaintiff in an amount not to exceed \$20,000.

(d) The Net Proceeds will be distributed to Class Members in accordance with the Plan of Allocation approved by the Court, a copy of which is available on the website established by the Settlement Administrator as indicated below. A Class Member’s share of the Net Proceeds will be based on the number of vested shares of MRMC stock allocated to their ESOP account as of (1) December 10, 2019, or (2) if the Class Member received a prior distribution of the Class Member’s account balance, the number of vested shares of MRMC stock allocated to their ESOP account prior to the date of any distributions, divided by the sum total of all such vested shares of MRMC stock of all Class Members, which shall constitute that Class Member’s “Entitlement Percentage.” The Settlement Class Member’s settlement allocation shall be calculated by multiplying the total value of the Net Proceeds by his or her Entitlement Percentage.

Forfeited shares that were reallocated to Class Members shall not be included in the total of vested shares allocated to a Class Member’s account balance.

Class Members will not need to submit a claim to receive their allocable portion of the Settlement. Their allocated portion will be calculated based on the Plan's records. For Class Members with accounts in the Plan as of December 10, 2019, their allocable portion of the Settlement shall be contributed to their ESOP account and, until retirement or otherwise eligible for a distribution, invested in MRMC stock or in a money market fund within the ESOP based on the election of such Class Members. If a Class Member with an existing Plan account does not make an election, then the allocable portion of the settlement for such Class Member will be contributed to their ESOP account in MRMC stock. The share price for MRMC shares shall be based on a special valuation of MRMC stock as of the end of the last quarter prior to the date the Court enters an order granting final approval to the settlement. Class Members who no longer have an account in the Plan will receive a payment from the Settlement Administrator, with the option, if eligible, to deposit the funds in an eligible retirement account.

**Neither Plaintiff nor Wilmington Trust makes any representations regarding the future performance of MRMC stock. Class Members who currently have an account in the Plan may seek independent financial advice in deciding whether to elect to invest their settlement payment in a money market fund or MRMC stock.**

An election form is included with this Notice. Class Members who currently have an account in the Plan can also make their election online at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com). Class Members who currently have an account in the Plan will need to return the election form or make their election online by **September 10, 2020**. As described above, if a Class Member who has an account in the Plan does not return the election form by that date, then his or her settlement allocation will be contributed to their ESOP account in MRMC stock.

Class Members who do not currently have an account in the Plan and who wish to roll over their settlement allocation to an eligible retirement account will need to make an election by returning the election form by **September 10, 2020**. If a Class Member who does not currently have an account in the Plan does not return the election form by that date, then his or her settlement allocation will be paid in cash less tax withholding.

**3. Release of Claims.** In exchange for payment of the Settlement Amount by Wilmington Trust and satisfaction of the conditions contained in the Settlement Agreement, all Class Members (and their beneficiaries, heirs, executors, representatives, and assigns) and the Plan will release (or give up) any claims that in any way relate to the MRMC ESOP's investment in MRMC stock during the Class Period, including but not limited to claims related to the MRMC ESOP's acquisition of MRMC stock or the sale of stock by any MRMC shareholder. Class Members and their beneficiaries, heirs, executors, representatives, and assigns and any successor trustee will be prohibited from filing or pursuing any other lawsuits or actions based on such claims against Wilmington Trust, MRMC, the shareholders of MRMC, and the named

and functional fiduciaries of the MPMC ESOP and each of their respective parent companies, subsidiaries, affiliates, directors, officers, employees, agents, attorneys, relations, representatives, assigns, insurers and reinsurers. The Releases and the Covenant Not to Sue are set forth in full in the Settlement Agreement, which can be viewed online at [www.MPMCESOPSettlement.com](http://www.MPMCESOPSettlement.com), or requested from Class Counsel.

#### **STATEMENT REGARDING THE POTENTIAL OUTCOME OF THE LAWSUIT**

As with any Lawsuit, the Plaintiff and Wilmington Trust would face an uncertain outcome if the Lawsuit were not settled. Continued litigation could result in a judgment greater or less than the amount obtained in the Settlement, or in no recovery at all. The Plaintiff and Wilmington Trust disagree about whether Wilmington Trust did anything wrong, and they do not agree on the amount, if any, that would be recoverable even if Plaintiff prevailed at trial. Wilmington Trust has denied, and continues to deny, all claims and contentions of the Plaintiff in the Lawsuit, has denied, and continues to deny, any wrongdoing or liability whatsoever, and is entering into the Settlement solely to avoid the cost, disruption and uncertainty of litigation. A settlement avoids the expense, further delay and uncertainty of a trial and gives money to Class Members more quickly. The Plaintiff and the attorneys for the Class think the Settlement is best for all Class Members.

#### **THE SETTLEMENT APPROVAL PROCESS**

The Court has granted preliminary approval of the proposed Settlement and has approved this Notice to the Class. The Settlement will not take effect, however, until it receives final approval from the Court after an opportunity for Class Members to object, as described below. Following the deadline for objecting to the Settlement, the Court will hold a Fairness Hearing at 10:00 a.m. on **October 1, 2020** at the United States District Court, located at 844 N King Street, Courtroom 6A, Wilmington, Delaware 19801. The date and location of the Fairness Hearing is subject to change by order of the Court, which will appear on the Court's docket for this Lawsuit.

#### **THE OPPORTUNITY TO OBJECT TO THE SETTLEMENT**

If you are a Class Member, you can object to the Settlement if you do not like any part of it. To object, you must send your objection to the Clerk, U.S. District Court for the District of Delaware, 844 North King Street, Unit 18, Wilmington, Delaware 19801, and to the Parties at the following addresses:

**To Class Counsel:**

Gregory Y. Porter  
Bailey & Glasser, LLP  
1055 Thomas Jefferson Street, NW  
Suite 540  
Washington, DC 20007

Daniel Feinberg  
Feinberg, Jackson, Worthman & Wasow LLP  
2030 Addison Street, Suite 500  
Berkeley, CA 94704

**To Defendant's Counsel:**

Michael Prame  
Groom Law Group, Chartered  
1701 Pennsylvania Avenue, NW  
Washington, D.C. 20006

**Settlement Administrator**

Martin Resources Settlement Administrator  
1650 Arch Street, Suite 2210  
Philadelphia PA, 19103

Objections must be filed with the Court by **September 10, 2020**, (21 days before the Fairness Hearing). Objections filed after that date will not be considered. To be valid, the objection must set forth, in clear and concise terms: (a) the case name and number (*Choate v. Wilmington Trust N.A.*, Cons. Case No. 17-250-RGA); (b) the name, address, and telephone number of the objector objecting and, if represented by counsel, of his or her counsel; (c) the complete basis for objection; (d) a statement of whether the objector intends to appear at the Fairness Hearing, either with or without counsel; (e) a statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class, and (f) copies of all supporting documents.

Any Class Member who files and serves a written objection in accordance with the above paragraph may appear, in person or by counsel, at the Fairness Hearing, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, but only if the objector: (a) files with the Clerk of the Court a notice of intention to appear at the Fairness Hearing by the objection deadline ("Notice of Intention to Appear"); and (b) serves the Notice of Intention to Appear on Class Counsel and Defense Counsel by the objection deadline.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objector will present to the District Court in connection with the Fairness Hearing. Any Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Settlement Agreement and Class Notice shall be deemed to have waived his or her right to appear.

Any Class Member who does not make his or her objection in the manner provided shall be deemed to have waived such objection, shall not be permitted to object to any terms or approval of the Settlement at the Fairness Hearing, and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed Settlement as

incorporated in the Settlement Agreement, and to the award of attorneys' fees and expenses to Class Counsel and the payment of a Service Award to the Class Representatives for their representation of the Class, unless otherwise ordered by the Court. Responses to objections shall be filed ten (10) days before the Fairness Hearing

The Court will consider Class Member objections in deciding whether to grant final approval. Class Members who do not comply with these procedures, or who miss the deadline to file an objection, lose the opportunity to have their objection considered by the Court or to appeal from any order or judgment entered by the Court regarding the Settlement.

**ATTORNEYS' FEES, EXPENSES AND SERVICE AWARD FOR NAMED PLAINTIFF**

The attorneys for the Plaintiff and the Class ("Class Counsel") are:

Gregory Y. Porter  
Ryan T. Jenny  
Patrick O. Muench  
Bailey & Glasser, LLP  
1055 Thomas Jefferson Street, NW  
Suite 540  
Washington, DC 20007

Daniel Feinberg  
Todd Jackson  
Feinberg, Jackson, Worthman & Wasow LLP  
2030 Addison Street, Suite 500  
Berkeley, CA 94704  
MRMCsettlement@feinbergjackson.com

David A. Felice  
Bailey & Glasser, LLP  
Red Clay Center at Little Falls  
2961 Centerville Road, Suite 302  
Wilmington, DE 19808

Class Counsel will seek an award of attorneys' fees and reimbursement of their litigation expenses, totaling no more than \$6 million of the Settlement Amount. Class Counsel's litigation expenses include the cost and expense of process servers, travel, court reporters and transcripts, and experts retained by Class Counsel. Class Counsel shall also seek a Service Award for the named Plaintiff from the Settlement Amount of up to \$20,000. The fee application and supporting papers will be filed on or before 45 days before the Fairness Hearing. After that date you may review the application and supporting papers at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com). You may file an objection to the request for attorneys' fees and expenses and to the Service Award under the same procedures for objecting to the Settlement. Any attorneys' fees, expenses and Service Award approved by the Court, and the expenses incurred by the Settlement

Administrator in sending this Notice and otherwise administering the Settlement, will be paid from the Gross Settlement Fund.

### **GETTING MORE INFORMATION**

You can visit the website at [www.MRMCESOPSettlement.com](http://www.MRMCESOPSettlement.com), where you will find the full Settlement Agreement, the Court's order granting Preliminary Approval of the Settlement, this Notice, and other relevant pleadings and documents. If you cannot find the information you need on the website, you may also contact Class Counsel for more information.

### **WHAT IF MY ADDRESS OR OTHER INFORMATION HAS CHANGED OR CHANGES AFTER I RECEIVE MY NOTICE?**

It is your responsibility to inform the Settlement Administrator of your updated address or other information. You may do so by email to the following email address: [info@MRMCESOPSettlement.com](mailto:info@MRMCESOPSettlement.com) or by U.S. Mail to the following mailing address: Martin Resource Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia PA, 19103

**Please do not contact the Court, Wilmington Trust, MRMC or Wilmington Trust's Counsel. They will not be able to give you additional information.**

Dated: \_\_\_\_\_, 2020

By Order of the United States District Court  
District Judge Richard G. Andrews