

STATE OF ALABAMA
SHELBY COUNTY

RE: MORTGAGE IN INSTRUMENT NO. 1995-13394 and
Corrected and Re-Filed in INSTRUMENT NO. 1995-32716

AFFIDAVIT

Personally appeared before me, the undersigned Notary Public in and for said County in said State, GARY D. KAMENICKY, who being by me first duly sworn, doth depose and say as follows:

My name is Gary D. Kamenicky and I am also known as GARY DUANE KAMENICKY, and I am over the age of nineteen. I am also a resident of Jefferson County and have been for more than two years.

Julius G. Kamenicky also known as JULIUS GEORGE KAMENICKY was my father. He lived in Texas and passed away on July 22, 1997. My father left surviving your affiant as his sole heir. There was no surviving spouse, nor surviving child, or child of a predeceased child.

I have attached as Exhibit A, B and C the following:

- "A" copy of the **JULIUS G. KAMENICKY FAMILY LIVING TRUST**;
- "B" copy of the **CERTIFICATE OF DEATH for JULIUS GEORGE KAMENICKY**;
- "C" copy of the **LETTERS TESTAMENTARY ISSUED TO YOUR AFFLIANT for the ESTATE OF JULIUS G. KAMENICKY**

Under ARTICLE VI, Section B, the Trust Declaration provides that upon the death of my father all property was to pass to me. The Trust Declaration was the instrument admitted in the County Court of Bell County, Texas which prompted the issuance of the Letters Testamentary attached as Exhibit "C".

One asset of the Trust was that certain mortgage given by myself and spouse, Catherine M. Dinan being recorded in INSTRUMENT NO. 1995-133394, being corrected and re-filed in INSTRUMENT NO. 1995-32716 in the Probate Office of Shelby County, Alabama. Per the terms of the Trust Declaration and the fact that Julius G. Kamenicky is now deceased the subject mortgage debt has been extinguished.

The purpose of this Affidavit is to offer record proof that the subject mortgage is due to be **DECLARED SATISFIED AND PAID IN FULL** as the result of the terms of the JULIUS G. KAMENICKY FAMILY LIVING TRUST, specifically Article VI, Section B.

Further Affiant saith not.


GARY D. KAMENICKY

STATE OF ALABAMA
JEFFERSON COUNTY

Sworn to and subscribed before
me on this 22nd day of February, 2000.


NOTARY PUBLIC Gene W. Gray, Jr.
COMMISSION EXPIRES: 11/09/02

Prepared by

Gene W. Gray, Jr.

2100 South Bridge Parkway, Suite 638
Birmingham, AL 35209

Inst # 2000-05658

02/23/2000-05658
12:06 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
027 NMS 73.50

EXHIBIT "A"

TRUST DECLARATION
JULIUS G. KAMENICKY
FAMILY LIVING TRUST

THIS TRUST DECLARATION is made this day by declaration of JULIUS G. KAMENICKY, referred to as "Settlor", who presently resides in Bell County, Texas.

ARTICLE I.
TRUST BENEFICIARY

This Trust is created for the use and benefit of JULIUS G. KAMENICKY. It is further intended that this Trust shall qualify as a "Qualifying Trust" as that term is defined in Section 11.13(j), of the Texas Tax Code. JULIUS G. KAMENICKY shall continue to have the right to use and occupy as her principal residence the residential property transferred to this Trust which is currently occupied as Residence Homestead (as that term is defined in Section 11.13(j)), rent free and without charge except for taxes and other costs and expenses as specified in this Trust Declaration, for the life of JULIUS G. KAMENICKY; or, for the lesser of her life or a term of years; or, until the date this Trust is revoked or terminated by an instrument that describes the Residence Homestead with sufficient certainty to identify it and is recorded in the real property records of the county in which the property is located.

The term "Trust Beneficiary" or beneficiary" will also mean any and all persons, organizations, trusts, and entities who may have or may acquire a beneficial interest in this Trust, whether vested or contingent in nature, including a transfer of an interest in the Trust during the life of JULIUS G. KAMENICKY, or from the exercise of a power of appointment by a Trust Beneficiary or otherwise.

For reference, the children of JULIUS G. KAMENICKY are:

GARY DUANE KAMENICKY (born: 01/10/54). References to "child" and "children" mean a descendant or descendants in the first degree of the parent designated, whether by blood or by adoption.

ARTICLE II.
INITIAL TRUST CORPUS AND RIGHT TO ADD TO THE TRUST

A. **INITIAL TRUST CORPUS.** Settlor has delivered to the Trustee \$20.00 as the initial corpus of this Trust, the receipt of which is acknowledged. Settlor or any other person, trust, or entity may add property of any character to this Trust by a Last Will and Testament, from another trust (whether inter vivos or testamentary), or by deed or other transfer, subject only to the acceptance thereof by the Trustee. All such property, shall be held, administered, and distributed by the Trustee as provided in this Declaration, referred to as the "Declaration."

B. **ADDITIONS TO TRUST CORPUS.** Additional contributions may be made to the corpus of the Trust, including testamentary contributions. Any additional property, when received and accepted by the Trustee, shall become a part of the Trust Property.

ARTICLE III.
REVOCATION AND AMENDMENT

A. **TRUST IS REVOCABLE.** Except as otherwise provided, this is a REVOCABLE Trust.

B. **THIS TRUST MAY BE AMENDED.** This Trust Declaration may be amended by JULIUS G. KAMENICKY in whole or in part for so long as she shall live. JULIUS G. KAMENICKY may provide for a different disposition of the Trust Property, in whole or in part,

by using a qualified beneficiary designation, as that term is defined herein, and the qualified beneficiary designation will be considered of itself as a permitted amendment to this Trust.

C. WITHDRAWAL OF TRUST PROPERTY. JULIUS G. KAMENICKY will have the right to withdraw all or any part of the Trust Estate at any time.

D. TRUSTEE'S DUTIES ON REVOCATION OF TRUST. If the Settlor revokes all or any part of the Trust, the Trustee shall transfer the applicable property in the Trust Property to the Settlor as soon as reasonably possible. The Trustee shall execute and deliver to the Settlor all instruments that are necessary or appropriate to convey the property interest to the Settlor.

E. TRUST IRREVOCABLE ON DEATH OF SETTLOR. On the death of the Settlor, the Trust created by this Agreement shall become irrevocable and shall not be subject to amendment.

F. INCOME TAX MATTERS. For so long as this Trust remains subject to amendment or revocation in its entirety, and for so long as a Settlor is a Trustee of the Trust, the Trust will be treated for income tax reporting purposes as a Grantor trust under Treasury Regulation 1.671-4(b)[i.e., the tax identification number will be the social security number of Settlor and all items of income, gain, loss, credit and deduction are to be reported in Settlor's individual income tax return]. At such time as the Trust becomes irrevocable, in whole or in part, the Trust is to be treated for income tax purposes as required by the applicable provisions of Subchapter J of the Internal Revenue Code.

**ARTICLE IV.
DEFINITIONS**

A. DESCENDANTS. The term "Descendants" means the lawful lineal blood descendants of the person or persons to whom reference is made. The term includes descendants by lawful adoption by an adoptive parent or parents.

B. HEIRS AT LAW. Whenever a trustee, or a legal advisor to the Trustee is called upon to determine the heirs at law of Settlor, or any other person beneficially interested in this Trust, the determination will be made to identify those individuals, other than creditors, who would receive the personal property of a decedent upon his or her death as determined in accordance with the laws of intestate succession of the State of Texas, United States of America, and further determined as if the Settlor of this Trust had predeceased the person or persons so named or described.

C. MINOR BENEFICIARY. The term "Minor Beneficiary" identifies a Beneficiary who is less than 21 years of age.

D. INCOMPETENT, DISABILITY. A Beneficiary will be considered "incompetent" or "disabled" if he or she is incapacitated to an extent to make it impossible or impractical to give prompt and intelligent consideration to business matters. The Trustee may act upon such evidence as the Trustee reasonably deems appropriate and reliable without liability by reason thereof.

E. RELATIVE OR RELATIVES. Reference to a "Relative" or "Relatives" will identify any person or persons related to Settlor by blood or lawful adoption in any degree.

F. POWER OF APPOINTMENT, QUALIFIED BENEFICIARY DESIGNATION. Whenever this Trust Declaration gives a Trust Beneficiary the power or authority to appoint a beneficiary of the Trust, the designation must be in writing and be acknowledged in the form required of acknowledgements by Texas law or exercised by a will executed with the formalities required by law of the Trust Beneficiary's residence; it must clearly evidence the intent of the Trust Beneficiary to exercise a power of appointment; and, the written beneficiary designation must have been delivered to the Trustee prior to the Trust Beneficiary's death or, if exercised by will, the will must have been filed for probate within three months from the date of the Trust Beneficiary's date of death and must subsequently be admitted to probate no matter the time interval. The term of this Trust may be extended if the qualified beneficiary designation requires that a Beneficiary's interest remain in Trust, or may be divided and be held as a separate trust which is governed by the terms of this Trust Declaration.

G. TESTAMENTARY CONTRIBUTIONS. The term "testamentary contributions" will mean any contribution to the Trust made by reason of the death of a person, including transfers made under the direction of a will, a beneficiary designation in a life insurance policy or other contract, by reason of survivorship language contained in a depository contract, or transfers from another Trust which designates this Trust as a beneficiary.

H. TRUST. "Trust" means the Trust created by this Trust Declaration.

I. TRUST FUND. The term "Trust Fund" or "Trust Property" means all property comprising: the initial contribution of corpus to the Trust; all property paid or transferred to, or otherwise vested in, the Trustee as additions to the corpus of this Trust; accumulated income,

if any, whether or not added to the corpus of this Trust; and, the investments and reinvestment of the Trust property, including the increase and decrease in the values thereof as determined from time to time. The terms "corpus" and "principal" are used interchangeably.

J. TRUSTEE. For convenience, the term "Trustee", used in the singular, will mean and identify multiple Trustees serving and acting pursuant to the directions of this Trust Declaration. The term "corporate Trustee" will identify a banking or trust corporation with trust powers.

K. SURVIVE. For the purpose of vesting in the event two or more persons who have an interest in the trust die within a short time of one another, one must have survived the other for a period of at least 90 days as a condition to vesting.

L. GENDER, PLURAL USAGE. The use of personal pronouns, such as he, she, or it, are to be construed in context. The term "person" will include a non-person, such as a corporation, trust, partnership or other entity as is appropriate in context. The identification of person in the plural will include the singular and *vice versa*, as is appropriate in context.

ARTICLE V. APPOINTMENT OF TRUSTEE

A. ORIGINAL APPOINTMENT. Settlor appoints JULIUS G. KAMENICKY as Trustee of this Trust.

B. SUCCESSION. Each Trustee by original appointment will have the right to appoint a successor or successors to serve as Trustee in the event that person ceases to serve for any reason, and may specify any conditions upon succession and service as may be permitted by law. For example, a successor may be required to furnish a fiduciary bond as a prerequisite

or a successor's service may be conditioned upon the death, resignation or inability to serve of another appointee. The Trustee by original appointment may also provide that one or more designated successors as Trustee will have the authority to appoint his, her or its successor as Trustee. An appointment of successor Trustee must be in writing and must be acknowledged to be effective. Unless otherwise specified by a Trustee in a written designation of succession, succession is to be determined as follows.

If a Trustee by original appointment does not appoint a successor, the remaining Trustee or Trustees then serving will continue service alone. If all Trustees by original appointment fail or cease to serve for any reason without having appointed a successor or successors, the successor or successors as Trustee will be as named below and in order of succession herein prescribed.

FIRST: GARY DUANE KAMENICKY

BUT: Settlor specifically provides that upon assumption of actual service as Trustee, GARY DUANE KAMENICKY will have the right to appoint his successor as Trustee, and to vest in a successor Trustee, upon assumption of that person's service, the right and authority to designate succession as Trustee. To the extent this is done, the appointment of succession will supersede the appointments which follow the designation of GARY DUANE KAMENICKY as Trustee.

NEXT: ROBERT BENJAMIN KAMENICKY

BUT: Settlor specifically provides that upon assumption of actual service as Trustee, ROBERT BENJAMIN KAMENICKY will have the right to appoint his successor as Trustee, and to vest in a successor Trustee, upon assumption of that person's service, the right and authority to designate succession as Trustee. To the extent this is done, the appointment of succession will supersede the appointments which follow the designation of ROBERT BENJAMIN KAMENICKY as Trustee.

A successor will have the authority vested in a Trustee by original appointment under this trust document, subject to any lawful limitations or qualifications upon the service of a successor

imposed by one Trustee in a written document appointing a successor. A successor Trustee will not be obliged to examine the accounts, records and acts of the previous Trustee or Trustees, nor will a successor Trustee in any way or manner be responsible for any act or omission to act on the part of any previous Trustee. Reference to "Trustee" in the singular will include the plural.

C. **BOND.** No one serving as Trustee will be required to furnish a fiduciary bond as a prerequisite to service.

D. **RESIGNATION OR REMOVAL OF A TRUSTEE.** Any appointee serving or entitled to serve as Trustee may resign at any time and without cause, and the instructions in this Trust Declaration will determine who the successor will be (including successors appointed by a Trustee as herein provided). The trust beneficiary or beneficiaries who are then entitled to receive distributions of income from the trust, or distributions of income from any separate trust created by this document, may remove any corporate Trustee then serving, the notice of removal to be delivered in writing to the corporate Trustee. Unless this Trust Indenture, or any instrument appointing a successor provides otherwise, the selection of a successor to the corporate Trustee will be made by a Court of competent jurisdiction. In the event there is more than one beneficiary entitled to the income from the trust, all income beneficiaries must join in the written notice of removal. The consent of any person who is deceased or legally disabled will not be required in meeting the unanimous consent requirements for removal.

E. AFFIDAVIT OF AUTHORITY. Any person or entity dealing with the Trust may rely upon the affidavit of a Trustee or Trustees of the Trust:

On my (our) oath, and under the penalties of perjury, I (we) swear that I (we) am (are) the duly appointed and authorized Trustee(s) of JULIUS G. KAMENICKY FAMILY LIVING TRUST. I (we) certify that I (we) have not been removed as Trustee(s) and have the authority to act for, and bind, JULIUS G. KAMENICKY FAMILY LIVING TRUST in the transaction of the business for which this affidavit is given as affirmation of my (our) authority.

Signature Line

Sworn and subscribed before me, the undersigned authority, by _____ this ____ day of _____.

Notary Public-State of Texas

F. DOCUMENTING SUCCESSION. The successor to any Trustee may document succession with an affidavit setting forth that the preceding Trustee has failed or ceased to serve and the successor has assumed the duties of Trustee. The affidavit may be filed in the deed records of Bell County, Texas and in each county in which real property held in Trust is located or in the county in which the principal assets and records of the Trust are located. The public and all persons interested in and dealing with the Trust and the Trustee may rely upon a certified copy of the recorded affidavit as conclusive evidence of a successor's authority to serve and act as the Trustee of the Trust.

G. COMPENSATION. Any person who serves as Trustee may elect to receive a reasonable compensation, reasonable compensation to be measured by the time required in the administration of the Trust and the responsibility assumed in the discharge of the duties of office. The fee schedules of area Trust departments prescribing fees for the same or similar services may be used to establish reasonable compensation. A corporate Trustee will be entitled to receive as its compensation such fees as are then prescribed by its published schedule of

charges for Trusts of a similar size and nature and additional compensation for extraordinary services performed by the Corporate Trustee. A Trustee will be entitled to full reimbursement for expenses, costs, or other obligations incurred as the result of service, including attorney's, accountant's and other professional fees.

H. MULTIPLE TRUSTEES. In the event there are two Trustees serving the Trust, both must sign any instrument transferring real property from the Trust. If the Trustees agree to do so, one Trustee acting alone may be given the primary responsibility of administration and accounting, and one Trustee alone may be authorized to deposit, transfer and withdraw funds from any depository account held by the Trust. The authority vested in three or more trustees may be exercised by a majority of the trustees. In the event of an action or decision by a majority, the non-consenting Trustee will not be responsible for the act of the majority.

ARTICLE VI.
DISTRIBUTIONS FROM THE TRUST,
LIVING AND POST-MORTEM

A. FOR SO LONG AS JULIUS G. KAMENICKY SHALL LIVE. For so long as JULIUS G. KAMENICKY shall live, the Trustee shall pay to the Settlor, or apply for the benefit of the Settlor, all of the net income of the Trust, to be paid monthly or in other convenient installments, but at least annually unless otherwise directed in writing by the Settlor. All or any part of the corpus of the Trust may be used or applied to provide for JULIUS G. KAMENICKY's support, maintenance, health, and general welfare. Should the Settlor become incapacitated or unable for any reason to act in her behalf, the Trustee shall have the discretion to pay to, or apply for the benefit of, the Settlor any amounts from the principal of the Trust Property, in addition to the net income from the Trust Property. The Trustee may invade the

Trust Property as it deems advisable for the Settlor's support and maintenance to the extent of the entire Trust Estate.

B. UPON THE DEATH OF JULIUS G. KAMENICKY. Unless JULIUS G. KAMENICKY shall otherwise direct in a qualified beneficiary designation, all property remaining in trust attributable to the interest of JULIUS G. KAMENICKY, will upon the death of JULIUS G. KAMENICKY pass to JULIUS G. KAMENICKY's child, to wit: GARY DUANE KAMENICKY. In the event GARY DUANE KAMENICKY should predecease JULIUS G. KAMENICKY leaving descendants surviving, then his share shall be distributed in equal shares to his descendants then living. In the event GARY DUANE KAMENICKY should predecease JULIUS G. KAMENICKY leaving no descendants surviving, then this distribution shall instead be distributed to JULIUS G. KAMENICKY's brother, to wit: ROBERT BENJAMIN KAMENICKY. In the event both GARY DUANE KAMENICKY (leaving no descendants surviving) and ROBERT BENJAMIN KAMENICKY should predecease JULIUS G. KAMENICKY, then this distribution shall instead be distributed to JULIUS G. KAMENICKY's niece, to wit: LINDA KAY KAMENICKY.

C. ITEMS OF TANGIBLE PERSONAL PROPERTY IN TRUST. JULIUS G. KAMENICKY may have certain items of tangible personal property which have been transferred to the Trust or otherwise subject to the Trustee's control. The term "personal belongings" or "tangible personal property" will mean and identify personal wearing apparel, jewelry, household furnishings and equipment, books, albums, art work, entertainment and sports equipment, and all items of decoration or adornment. JULIUS G. KAMENICKY may at any time and from time to time deliver to the Trustee written instructions as to any living or post-

mortem gifts of his or her personal belongings, and the Trustee shall be authorized and bound to make disposition of these items as JULIUS G. KAMENICKY has reasonably directed.

D. PARTIAL AND FINAL DISTRIBUTIONS. The Trustee, in making or preparing to make a partial or final distribution, may prepare an accounting and may require, as a condition to payment, a written and acknowledged statement from each distributee that the accounting has been thoroughly examined and accepted as correct; a discharge of the Trustee; a release from any loss, liability, claim or question concerning the exercise of due care, skill, and prudence of the Trustee in the management, investment, retention, and distribution of property during the Trustee's term of service, except for any undisclosed error or omission having basis in fraud or bad faith; and an indemnity of the Trustee, to include the payment of attorney's fees, from any asserted claim of any taxing agency, governmental authority, or other claimant. Any Remainder Beneficiary having a question or potential claim may require an audit of the Trust as an expense of administration. Failure to require the audit prior to acceptance of the Trustee's report, or the acceptance of payment, will operate as a final release and discharge of the Trustee except as to any error or omission having basis in fraud or bad faith.

The Trustee, in making or preparing to make a partial or final distribution will have the authority to (1) partition any asset or class of assets and deliver divided and segregated interests to the beneficiaries; (2) sell any asset or class of assets (whether or not susceptible to partition in kind), and deliver to a beneficiary or beneficiaries a divided interest in the proceeds of sale and/or divided or undivided interests in any note and security arrangement taken as part of the purchase price; and/or (3) deliver undivided interests in an asset or class of assets to the beneficiaries subject to any indebtedness which may be secured by the property.

E. CONTINUATION OF THE TRUST DURING DISSOLUTION. The Trust may continue beyond its termination for a time reasonably necessary to conclude the administration of the Trust, pay expenses of termination and to distribute to the Trust property to those entitled thereto.

F. CONTINGENT TRUST FOR CERTAIN BENEFICIARIES. The interest of any Beneficiary who has not attained the age of 21 years (the "required age"), or who may be otherwise legally disabled, and whose interest is not otherwise covered by the provisions of this Trust Declaration or another Trust, may, in the sole and absolute discretion of the Trustee, be continued in Trust, or be held as a separate trust, for the use and benefit of that person until such person shall attain the required age or until such person is no longer disabled. For so long as the trust shall exist, the Trustee shall hold, manage, and make distributions of income and principal to provide for his or her health, education, support and maintenance. The Trustee may make an entire distribution of principal to a trust beneficiary prior to the required age if, in the Trustee's determination alone, the Beneficiary has demonstrated an ability to conserve his or her resources or if it is no longer feasible for the trust to continue considering the size of the trust and the time and cost to maintain the trust. The Trust Beneficiary, with consent of the Trustee, may also extend the term of the trust.

For so long as the Trust is held for a Beneficiary pursuant to these terms, the Trust Beneficiary, using a qualified beneficiary designation, will have the right to appoint the beneficiaries of his or her interest in the Trust entitled to his or her interest upon the Trust Beneficiary's death. If the trust Beneficiary dies prior to a final distribution of his or her interest from the Trust, without having made a qualified beneficiary designation, that person's

interest will pass ~~per~~ stirpes to his or her descendants then living, or if none, per stirpes to Settlor's descendants then living.

G. PERPETUITIES. In no event will the term of this Trust continue for a term greater than twenty-one (21) years after the death of the last survivor of Settlor and all relatives of Settlor living on the effective date of this Trust Declaration. Any continuation of the Trust by the qualified exercise of a power of appointment will be construed as the creation of a separate trust and an extension of the Rule Against Perpetuities to the extent permitted by law. A court of competent jurisdiction is to liberally construe and apply this provision to validate an interest consistent with Settlor's intent and may reform or construe an interest according to the doctrine of *cy pres*.

**ARTICLE VII.
PAYMENT OF DEBTS, TAXES, AND
SETTLEMENT COSTS
EXERCISE OF ELECTIONS**

The following directions concern the payment of debts, taxes, estate and trust settlement costs, and the exercise of any election permitted by Texas law or by the Internal Revenue Code:

A. PAYMENT OF JULIUS G. KAMENICKY FUNERAL EXPENSES. On the death of JULIUS G. KAMENICKY, the Trustee shall pay the expenses of the Settlor's last illness, funeral and burial expenses unless the Trustee determines that other adequate provisions have been made for payment of these expenses. The Trustee shall have the discretion to pay these expenses from the income or principal of the Trust Fund.

B. PAYMENT OF INDEBTEDNESS AND SETTLEMENT COSTS. Trustee will have the discretionary authority to pay from the Trust Fund the costs reasonably and lawfully required to settle the estate of Settlor.

C. SPECIAL BEQUESTS. Unless otherwise provided in this Trust document, or in any amendment, or in a document exercising a power to appoint the beneficiaries of this Trust, if property given as a special bequest or gift is subject to a mortgage or other security interest, the designated recipient of the property will take the asset subject to the obligation and the recipient's assumption of the indebtedness upon distribution of the asset to the recipient. The obligation to be assumed shall be the principal balance of the indebtedness on date of death, and the Trust shall be entitled to reimbursement or offset for principal and interest payments paid by the Trust prior to the date of distribution.

D. ESTATE, GENERATION SKIPPING, OR OTHER DEATH TAX. Unless otherwise provided in this Trust document, or in a document exercising a power to appoint the beneficiaries of this Trust, estate, inheritance, succession, or other similar tax shall be charged to and apportioned to those whose gifts or distributive share generate a death tax liability by reason of Settlor's death or by reason of a taxable distribution from the Trust or a taxable termination of the Trust. To the extent Settlor may lawfully provide, a Trustee may pay and deduct from a beneficiary's distributive share (whether the distribution is to be paid outright or is to be continued in Trust) the increment in taxes payable by reason of a required distribution or termination of interest (i.e., estate, gift, inheritance, or generation skipping taxes) to the extent that the total of such taxes payable by reason of a distribution or termination is greater than the tax which would have been imposed if the property of the Trust subject to the

distribution or termination of interest had not been taken into account in determining the amount of such tax. To the extent a tax liability results from the distribution of property to a beneficiary other than under this Trust, the Trustee will have the authority to reduce any distribution to the beneficiary from this Trust by the amount of the tax liability apportioned to the beneficiary, or if the distribution is insufficient, the Trustee will have the authority to proceed against the beneficiary for his, her, or its share of the tax liability. In making an allocation, the Trustee may consider all property included in my gross estate for federal estate tax purposes, including all property subject to probate, all amounts paid or payable to another as the result of death, including life insurance proceeds, proceeds from a qualified retirement plan or account, proceeds from a joint and survivorship account with a financial institution or brokerage company, proceeds from a buy-sell or redemption contract, and/or any other plan or policy which provided for a payment of death benefits. This provision further contemplates and includes any tax which results from the inclusion of a prior transfer in the federal gross estate of Settlor even though possession of the property previously transferred is vested in someone other than the Trustee. This provision does not include a reduction in the unified credit by reason of taxable gifts previously made by Settlor. If the Trustee determines that the collection of an apportioned tax liability against another is not economically feasible or probable, the tax liability will be paid by the Trust and will reduce the amount distributable to the residuary beneficiaries. The Personal Representative's judgment with regard to the feasibility of collection is to be conclusive.

E. ELECTIVE DEDUCTIONS. A Trustee will have the discretionary authority to claim any obligation, expense, cost or loss as a deduction against either estate tax or income tax,

or to make any election provided by Texas law, the Internal Revenue Code, or other applicable law that the Trustee determines should be made for the benefit of the Trust beneficiaries. The Trustee's decision will be conclusive and binding upon all interested parties and shall be effective without obligation to make an equitable adjustment or apportionment between or among the beneficiaries of this Trust or the estate of a deceased beneficiary.

**ARTICLE VIII.
SERVICE OF THE TRUSTEE
OTHER MATTERS**

A. GENERAL AUTHORITY. A Trustee is to serve without Court supervision. The service of a Trustee is to be governed first by the terms, conditions, and authority prescribed by this Trust Declaration, and then as prescribed by the trust laws of the State of Texas.

B. RETENTION OF ASSETS. A Trustee will have the authority to retain, without liability, any and all property in the form in which it is received by the Trustee without regard to its productivity or the proportion that any one asset or class of assets may bear to the whole. A Trustee will not have liability nor responsibility for loss of income from or depreciation in the value of property which was retained in the form which the Trustee received it.

C. UNDIVIDED INTERESTS. A Trustee will have the authority to hold, acquire, and dispose of undivided interests in property.

D. LENDING, INVESTING. A Trustee will have the authority to lend, borrow, lease, sell, and purchase property, including undivided fractional interests in property, upon such terms and conditions as are reasonably prudent under the facts and circumstances then existing. A Trustee may transact business, including lending, borrowing, leasing, and sale, between two

or more related trusts or persons upon such terms and conditions as are reasonably prudent under the facts and circumstances then existing. Without limiting the general authority above given, a Trustee will have the authority to hold, acquire and sell:

- * Publicly traded securities, including stocks, bonds, warrants, futures, mutual funds, partnerships, real estate investment trusts, diversified asset funds.
- * Interests in a closely held corporation, partnership, or trust, whether registered or not registered for public sale.
- * Obligations of the United States Government or any other government.
- * Cash deposits, money market funds, brokerage company accounts, certificates of deposit, savings accounts, and checking accounts, without limitation as to the location of the account or depository.
- * Promissory notes, secured and unsecured, including mortgage notes purchased at a discount.
- * Land, improved and unimproved, whether presently income producing or held for appreciation in value.
- * Land, building and equipment leases.
- * Minerals, mineral rights and working interests in mineral producing property or property held for future development.
- * Equipment, implements, stock in trade, leasehold improvements, and livestock.
- * Insurance policies.

E. LIMITATION UPON A TRUSTEE'S LIABILITY. A Trustee, other than a banking corporation serving as a Trustee, will not have personal liability for service in a fiduciary capacity other than for acts or omissions to act which, as determined by a court of law, constitute gross negligence or fraud.

F. PROTECTION OF THE INTERESTS OF BENEFICIARIES. No Beneficiary will have the power to anticipate, encumber or transfer any interest in the Trust. No part of the Trust will be liable for or charged with any debts, contracts, liabilities or torts of a Beneficiary or subject to seizure or other process by any creditor of a Beneficiary.

G. RELATIONSHIP WITH BENEFICIARIES WHO ARE MINORS OR INCOMPETENTS. Distributions to an incompetent or disabled Beneficiary, or a Minor Beneficiary whose interest is not otherwise covered by the provisions of this Trust Declaration or another Trust, may be made in such of the following ways as in the Trustee's opinion will be most beneficial to the interests of the Beneficiary: (a) directly to such Beneficiary; (b) to his or her parent, guardian or legal representative; (c) to a custodian for said Beneficiary under any Uniform Gifts to Minors Act and/or Gifts of Securities to Minors Act in the jurisdiction of residence of such Beneficiary; (d) to any person with whom he or she is residing; (e) to some near relative or close friend; or (f) by the Trustee using such payment directly for the benefit of such Beneficiary, including payments made to or for the benefit of any person or persons whom said Beneficiary has a legal obligation to support. The Trustee may in the Trustee's sole discretion instead hold such income or corpus for the account of such Beneficiary as Custodian. A receipt from a Beneficiary or from his parent, guardian, legal representative, relative or close friend or other person described above shall be a sufficient discharge to the Trustee from any liability for making said payments.

The Trustee is likewise authorized to consult with and act upon the advice of the parent, guardian, custodian, or legal representative of any Beneficiary who is either an incompetent or a Minor with respect to any and all matters which may arise under this Declaration and as

concerns the rights or interests of said Beneficiary. All statements, accounts, documents, releases, notices, or other written instruments, including but not limited to written instruments concerning the resignation or replacement of any Trustee or Trustees, required to be delivered to or executed by such Beneficiary may be delivered to or executed by the parent, guardian, custodian, or legal representative of said incompetent or Minor Beneficiary, and when so delivered or executed shall be binding upon said incompetent or Minor Beneficiary, and shall be of the same force and effect as though delivered to or executed by a Beneficiary acting under no legal disability.

ARTICLE IX.
UNPRODUCTIVE OR UNDERPRODUCTIVE PROPERTY

A beneficiary who is then entitled to the income of the Trust, or the income of any other Trust established or continued pursuant to this trust declaration, will have the authority to issue a written directive to the Trustee to convert Trust Property which does not produce an income, or which is underproductive, into property which is income producing or which will provide a greater income to the trust. Upon actual receipt of an income beneficiary's written directive, the Trustee will reasonably and prudently proceed to convert unproductive or underproductive property into property which will produce a reasonable and safe rate of return. The Trustee may do so by selling the unproductive or underproductive asset upon such terms and conditions as is prudent and reasonable under all circumstances which may then exist (including the acceptance of an income or interest bearing obligation as the whole or a part of the sales price), and investing the proceeds of sale in income producing instruments or obligations. Notwithstanding these requirements, a Trust Beneficiary cannot direct the Trustee to invest or reinvest trust

property in a trust investment which is speculative in nature or which, in result, would violate the spendthrift provisions of this Trust Declaration.

ARTICLE X.
NO-CONTEST REQUIREMENTS

Settlor vests in the Trustee the authority to construe this Trust instrument and to resolve all matters pertaining to disputed issues or controverted claims. Settler does not want to burden this Trust with the cost of a litigated proceeding to resolve questions of law or fact unless the proceeding is originated by the Trustee or with the Trustee's written permission. Any other person, agency, or organization who shall originate (or who shall cause to be instituted) a judicial proceeding to construe or contest this Trust instrument, or any will which requires distribution of property to this Trust, or to resolve any claim or controversy in the nature of reimbursement, or seeking to impress a constructive or resulting Trust, or alleging any other theory which, if assumed as true, would enlarge (or originate) a claimant's interest in this Trust or in Settlor's estate, without the Trustee's written permission, shall forfeit any amount to which that person, agency, or organization is or may be entitled and the interest of any such litigant or contestant shall pass as if he or she or it had predeceased us. These directions shall apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause and even though the proceedings may seek nothing more than to construe the application of this no-contest provision. This requirement is to be limited, even to the exclusion thereof, in the event it operates to deny the benefits of the federal estate tax deduction.

ARTICLE XI.
JURISDICTION

The jurisdiction of this Trust will be the State of Texas. Any issue of law or fact pertaining to the creation, continuation, administration, and termination of the Trust, or any other matter incident to this Trust, is to be determined with reference to the specific directions in the Trust Declaration and then under the laws of the State of Texas. If an Article or Subsection of this Trust Declaration is in conflict with a prohibition of state law or federal law, the Article or Subsection, or the Trust Declaration as a whole, is to be construed in a manner which will cause it to be in compliance with state and federal law and in a manner which will result in the least amount of taxes and estate settlement costs.

CONCLUSION AND ATTESTATION

I, JULIUS G. KAMENICKY attest that I execute this Declaration of Trust, and the terms thereof will bind me, my successors and assigns, my heirs and personal representatives, and any Trustee of this Trust. This instrument is to be effective upon the date recorded immediately below.

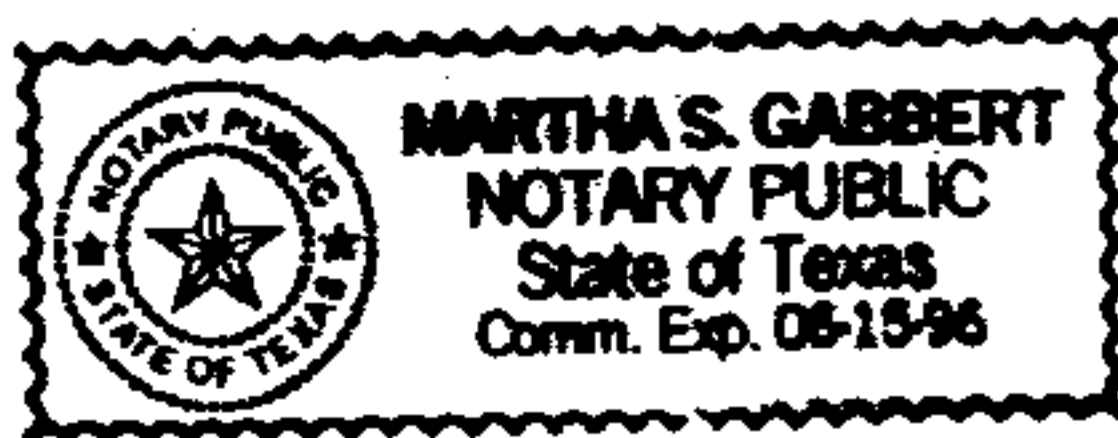
Dated: April 22, 1994



JULIUS G. KAMENICKY

State of Texas
County of Bell

On this 22 day of April, 1994, before me, a Notary Public of said State, personally appeared JULIUS G. KAMENICKY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged that JULIUS G. KAMENICKY executed the same.

WITNESS MY HAND and official seal.




Notary Public, State of Texas

ACCEPTANCE BY TRUSTEE

I acknowledge that I have been appointed as a Trustee of the JULIUS G. KAMENICKY FAMILY LIVING TRUST, and I hereby evidence my acceptance of the office of Trustee and will hold and administer the Trust according to the provisions thereof and as required by law.

DATE: April 22, 1994

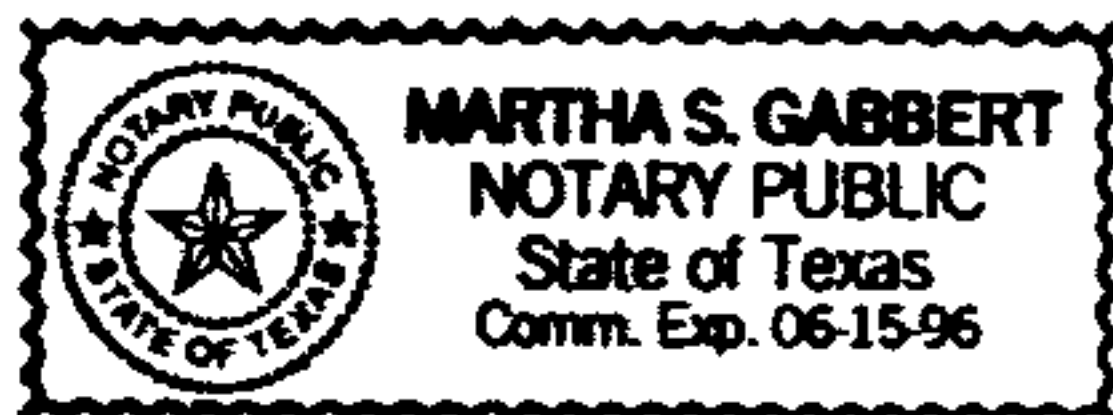
Julius G. Kamenicky
JULIUS G. KAMENICKY

State of Texas

County of Bell

On this 22 day of April, 1994, before me, a Notary Public of said State, personally appeared JULIUS G. KAMENICKY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same.

WITNESS MY HAND and official seal.



Martha S. Gabbert
Notary Public, State of Texas

RECEIPT OF FUNDING DEPOSIT AND AGREEMENT

The undersigned acknowledge the payment and receipt of the amount of \$20.00 as the initial funding deposit for the JULIUS G. KAMENICKY FAMILY LIVING TRUST. Trustee will have the right to hold the \$20.00 without interest until such time as the Trust shall elect to apply for a federal employer's identification number for the Trust and shall actually open a depository account for the Trust. If a Trustee's service terminates before the deposit is credited to an account created for the Trust, the Trustee will be obligated to pay to a successor Trustee or to the beneficiaries of the Trust the entire amount of the deposit immediately upon demand. This agreement will be binding upon, and will inure to the benefit of each of the undersigned, their successors and assigns.

DATED: April 22, 1994

Julius G. Kamenicky
JULIUS G. KAMENICKY

Julius G. Kamenicky
JULIUS G. KAMENICKY, Trustee

JULIUS G. KAMENICKY FAMILY LIVING TRUST
PAGE 24 OF 24

CERTIFICATION OF VITAL RECORD

EXHIBIT 'B' CITY OF TEMPLE, TEXAS

STATE OF TEXAS

CERTIFICATE OF DEATH

STATE FILE NUMBER

1. NAME OF DECEASED (a) FIRST (b) MIDDLE (c) LAST (d) MAIDEN **2. SEX** **3. DATE OF DEATH**
JULIUS GEORGE KAMENICKY **MALE** **7-22-1997**

4. DATE OF BIRTH **5. AGE** (IN YEARS) **6. BIRTH PLACE** (CITY & STATE OR FOREIGN COUNTRY) **7. SOCIAL SECURITY NO.**
11-27-1915 **81** **MO** **DAYS** **HOURS** **MIN** **BUCKHOLTS, TEXAS** **[REDACTED]**

8. RACE **9. WAS THIS DECEASED OF HISPANIC ORIGIN?** **10. WAS DECEASED EVER IN U.S. ARMED FORCES?** **11. EDUCATION** (SPECIFY HIGHEST GRADE COMPLETED, BASIC OR SECONDARY (9-12) COLLEGE (13-16, 17+))
CAUCASIAN ☐ YES ☒ NO ☐ YES ☒ NO **11**

12. MARITAL STATUS **13. SURVIVING SPOUSE** (IF WIFE, GIVE MAIDEN NAME) **14. DECEASED'S USUAL OCCUPATION** **15. KIND OF BUSINESS OR INDUSTRY**
☒ MARRIED ☐ NEVER MARRIED ☐ DIVORCED ☐ WIDOWED **NONE** **SENIOR MASTER SERGEANT** **U.S. AIR FORCE**

16a. RESIDENCE STREET ADDRESS **16b. CITY OR TOWN** **16c. INSIDE CITY LIMITS**
801 JOHN PAUL JONES **TEMPLE** ☒ YES ☐ NO

17a. COUNTY **17b. STATE** **17c. ZIP CODE** **17d. INSIDE CITY LIMITS**
BELL **TEXAS** **76504** ☒ YES ☐ NO

18. FATHER'S NAME **19. MOTHER'S MAIDEN NAME**
RUDOLPH KAMENICKY **MARY PROVASEK**

20. PLACE OF DEATH (CHECK ONLY ONE)
HOSPITAL: ☒ INPATIENT ☐ OUTPATIENT ☐ DOA ☐ OTHER: ☐ NURSING HOME ☐ RESIDENCE ☐ OTHER (SPECIFY)

21. COUNTY OF DEATH **22. CITY OR TOWN** (IF OUTSIDE CITY LIMITS, GIVE PRECINCT NO.) **23. NAME OF HOSPITAL OR INSTITUTION** (If not in institution, show street address)
BELL **TEMPLE** **KINGS DAUGHTERS HOSPITAL**

24. METHOD OF DISPOSITION **25. PLACE OF BURIAL** **26. LOCATION OF BURIAL** **27. SIGNATURE OF CLERGYMAN** (If burial in cemetery, church, etc.)
☒ BURIAL ☐ CREMATION ☐ REMOVAL FROM STATE ☐ DONATION ☐ OTHER (SPECIFY) **OAK HILL** **CAMERON** **[REDACTED]**

28. NAME & ADDRESS OF FUNERAL HOME
Marek-Burns-Laywell Funeral Home, Inc.
P.O. Box 225
Temple, Texas 76520

29. CERTIFIER
☒ CERTIFYING PHYSICIAN TO THE BEST OF MY KNOWLEDGE
☐ MEDICAL EXAMINER ON THE BASIS OF EXAMINATION
☐ JUSTICE OF THE PEACE ON THE BASIS OF EXAMINATION

30. SIGNATURE & TITLE **31. PRINTED NAME & ADDRESS**
[REDACTED] **William J. Bean, Jr.**

32. PART 1: ENTER THE DISEASE, INJURY, OR CONDITION RESULTING IN DEATH **33. TIME OF DEATH**
Immediate Cause (Final disease or condition resulting in death) **2015 P.M.**
Underlying Cause (All causes, beginning with the immediate cause, leading to death) **hours**
Due to (or as a result of) **years**
AS HX

34. PART 2: OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN DEATH **35. AUTOPSY?** **36. AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH?**
Rheumatoid arthritis ☐ YES ☒ NO ☐ YES ☒ NO

37. DID TOBACCO USE CONTRIBUTE TO DEATH? **38. DID ALCOHOL USE CONTRIBUTE TO DEATH?** **39. WAS DECEASED PREGNANT?**
☐ YES ☐ PROBABLY ☒ NO ☐ UNKNOWN ☐ YES ☐ PROBABLY ☒ NO ☐ UNKNOWN ☐ YES ☒ NO ☐ UNKNOWN

40. MANNER OF DEATH **41a. DATE OF INJURY** **41b. TIME OF INJURY** **41c. INJURY AT WORK?** **41d. PLACE OF INJURY** (AT HOME, FARM, STREET, FACTORY, OFFICE, ETC. (SPECIFY))
☒ NATURAL ☐ ACCIDENT ☐ SUICIDE ☐ HOMICIDE ☐ PENDING INVESTIGATION ☐ COULD NOT BE DETERMINED **M.** ☐ YES ☒ NO **AT HOME**

42. SIGNATURE OF LOCAL REGISTRAR
Clydette Entzminger

WARNING: The penalty for knowingly making a false statement in this form can be 2-10 years in prison and a fine of up to \$10,000. (Health and Safety Code, Sec. 196, 198)

REV. 9/95

I, Clydette Entzminger, City Secretary and Registrar for the City of Temple, Bell County, Texas do hereby certify that this is a true and correct copy of the original record on file in the City Secretary's Office.

Clydette Entzminger

Clydette Entzminger, Registrar
Bureau of Vital Statistics
City of Temple, TX

D. Cooper
Deputy

7-25-97
DATE

This copy not valid unless prepared on engraved border displaying the seal and signature of Registrar or Deputy Registrar.

EXHIBIT C

No. 20549

Letters Testamentary

The State Of Texas
County Of Bell

In County Court,
Bell County Texas

*I, Vada Sutton Clerk Of the County Court of Bell County, Texas, do here
by certify that on the 12th day of September A.D. 1997,*

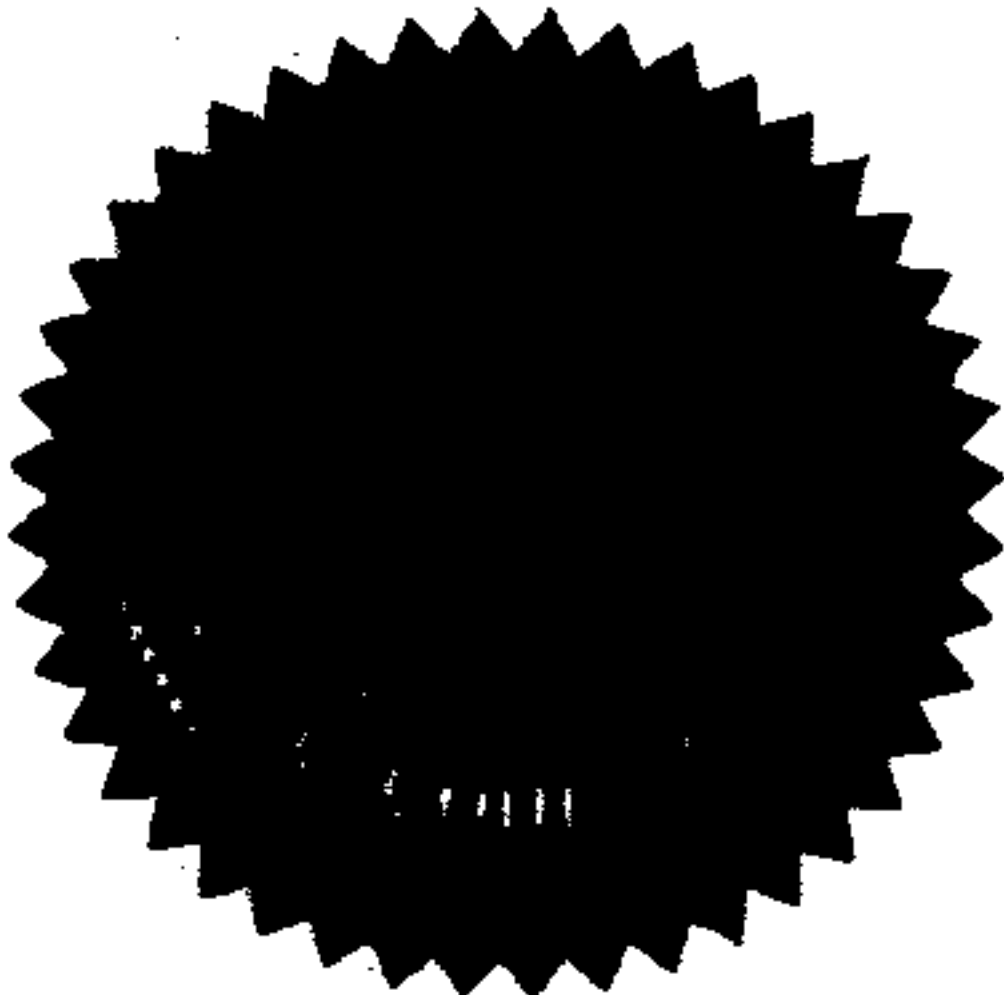
Gary Duane Kamenicky

was duly granted by said Court Letters Testamentary of the Estate of

Julius G. Kamenicky, deceased

*and that he qualified as such independent Executor of said Estate on the 12th day of
September A.D. 1997 as the law requires, and that said appointment is still in
full force and effect.*

*Witness my hand and seal of office at Belton, Texas this 12th day of
September A.D. 1997.*



Vada Sutton Clerk,
County Court, Bell County, Texas.

By *Howard* Deputy.
SH

*Inst# 2000-05658
02/23/2000-05658
12:06 PM CERTIFIED
Shelby Co. J.O.P.
027 NMS 73.50*