

D970000000000038

FLEMING, HAILE & SHAW, P.A.
ATTORNEYS

THREE GOLDEN BEAR PLAZA, SUITE 300
11780 U.S. HIGHWAY ONE
NORTH PALM BEACH, FLORIDA 33408

Telephone: (561) 627-8100
Facsimile: (561) 622-7603

November 17, 1997

Secretary of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

FILED
97 DEC 24 AM 9:59
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Re: McDermott Private Foundation - DECLARATION OF TRUST

Dear Sir or Madam:

Enclosed herein is the ^{TRUST} true and correct copy of the declaration of trust for the McDermott Private Foundation. In addition, you will find a check for \$350 representing a filing fee for the State of Florida. If you have any questions, please call me.

Sincerely,

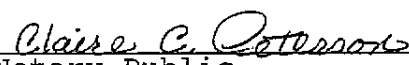

Joseph M. Fleming, Esq., Chairman of the Board
McDermott Private Foundation

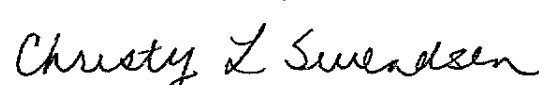
400002353974
11/21/97 01059 001
\$350.00

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME personally appeared JOSEPH M. FLEMING, to me well
known and who produced N/A as identification.

FLEMING, HAILE & SHAW, P.A.


Notary Public
State of Florida

By: 
Christy L. Swendsen,
Legal Assistant

My Commission Expires:



Claire C. Peterson
MY COMMISSION # CC495104 EXPIRES
December 22, 1999
BONDED THRU TROY FAIR INSURANCE, INC.

QW 12-24-97

AFFIDAVIT TO THE SECRETARY OF STATE OF FLORIDA
TO FILE OR QUALIFY

MCDERMOTT PRIVATE FOUNDATION TRUST

A FLORIDA TRUST

In accordance with Section 609.02 of the Florida Statutes, pertaining to Common Law Declarations of Trust, the undersigned, the Chairman of the Board of Trustees of McDermott Private Foundation Trust

(Name of Trust)

a Florida Trust hereby affirms in order to file or qualify

(State)

McDermott Private Foundation Trust

(Name of Trust)

in the State of Florida.

1. Two or more persons are named in the Trust.

2. The principal address is 11780 U.S. Highway One, Suite 300

North Palm Beach, Florida 33408

3. The registered agent and office in the State of Florida is:

Joshua M. Fleming

11780 U.S. Highway One, Suite 300, North Palm Beach, Florida 33408

4. Acceptance by the registered agent: Having been named as registered agent to accept service of process for the above named Declaration of Trust at the place designated in this affidavit, I hereby accept the appointment as registered agent and agree to act in this capacity.

(Signature of Registered Agent)

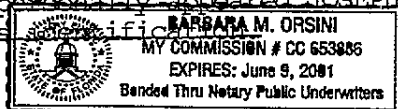
5. I certify that the attached is a true and correct copy of the Declaration of Trust under which the association proposes to conduct its business in Florida.

Joseph M. Fleming
Name: Joseph M. Fleming
Chairman of the Board of Trustees

NOTARY

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME personally appeared JOSEPH M. FLEMING, to me well known, and who produced



Barbara M. Orsini
Notary Public
State of Florida

GEORGE T. McDERMOTT
CHARITABLE REMAINDER UNITRUST

FILED
97 DEC 24 AM 9:59
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

On this 3rd day of OCTOBER, 1990, I, GEORGE T. McDERMOTT (hereinafter referred to as "the Donor") desiring to establish a charitable remainder unitrust, within the meaning of Rev. Proc. 89-20 and Section 664(d)(2) of the Internal Revenue Code (hereinafter referred to as "the Code") hereby create the McDERMOTT CHARITABLE REMAINDER UNITRUST and designate JOSEPH M. FLEMING as the initial Trustee.

1. Funding of the Trust. The Donor transfers to the Trustee the property described in Schedule A, and the Trustee accepts that property and agrees to hold, manage and distribute it under the terms set forth in this Trust instrument.

2. Payment of Unitrust Amount. The Trustee shall distribute to the Donor, as beneficiary, ("Beneficiary"), in cash, in kind or partly of each, in each taxable year of the trust during the lifetime of the respective Beneficiary, a unitrust amount equal to five (5%) percent of the net fair market value of the assets of the Trust valued as of the first day of each taxable year of the Trust (the "valuation date"). The unitrust amount shall be paid in equal quarterly amounts at the end of each calendar quarter from income and, to the extent income is not sufficient, from principal. Any income of the Trust for a taxable year in excess of the unitrust amount shall be added to principal. If the net fair market value of the Trust assets is incorrectly

determined, then within a reasonable period after the value is finally determined for Federal tax purposes, the Trustee shall pay to the Beneficiary (in the case of an undervaluation) or receive from the Beneficiary (in the case of an overvaluation) an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

3. Proration of the Unitrust Amount. In determining the unitrust amount, the Trustee shall prorate the same on a daily basis for a short taxable year and for the taxable year of the Beneficiary's death.

4. Retention as a Charitable Trust. Upon the death of the Beneficiary, the Trustee shall retain all of the then principal and income of the Trust (other than any amount due the Beneficiary or Beneficiary's estate under paragraphs 2 and 3, above), IN TRUST, in perpetuity, upon the following terms and conditions:

(a) The Trustee shall pay all of the income of the Trust (as determined under Section 643(b) of the Internal Revenue Code) for each taxable year of the Trust on an annual basis at the end of each calendar year to one or more Charitable Organizations as the Trustee shall select in its discretion. Each Charitable Organization(s) shall be an organization described in and satisfying the requirements of Sections 170(b)(1)(A), 170(C), 2055(a) and 2522(a) of the Internal Revenue Code in effect at the time when any income of the Trust is to be distributed hereunder. Such Charitable Organization(s) may be hereinafter referred to as the Charitable Recipients.

The annual income payable to the Charitable Recipients hereunder shall not be less than a unitrust amount equal to five (5%) percent of the fair net market value of the assets of the Trust valued as of the first day of each tax year of the Trust (the "valuation date"). To the extent that the annual income of the Trust is not sufficient to pay the foresaid unitrust amount, such unitrust amount shall be paid from principal.

(i) Notwithstanding that the obligation to pay the income hereunder shall commence with the date of death of the surviving Beneficiary, payment may be deferred to not later than the end of the taxable year in which occurs the complete funding of the Trust. If payment is deferred, the Trustee shall pay to the Charitable Recipient in case of underpayment or shall recover from the Charitable Recipient in case of overpayment an amount equal to the difference between the income properly payable, plus interest computed at the then rate and as then provided in the Internal Revenue Code, as amended, and any income actually paid, plus interest computed at the then rate and as then provided in the Internal Revenue Code, as amended.

(ii) The income for a short taxable year of the Trust shall be prorated on a daily basis.

(iii) This Trust is intended to qualify as an exempt organization as defined in Section 501(c) of the Internal Revenue Code and is to be administered so as to qualify for the exemption from taxation provided therein. In furtherance of Donor's intent, the Trustee may amend the terms of the Charitable Trust for the sole purpose of complying with the requirements of

the Internal Revenue Code and the regulations thereof to ensure the Trust's continuing qualification thereunder.

(iv) The Section references are to the Internal Revenue Code of 1986, as amended, and shall be deemed to refer to corresponding provisions of subsequent federal tax laws.

(b) In addition to the foregoing distribution of the annual income of the Trust for each taxable year of the Trust, the Trustee, at such time as the Trustee may determine, may in its sole and absolute discretion, distribute from the principal of the Trust to one or more Charitable Organization(s) as the Trustee(s) may select, such sum or sums as the Trustee shall deem to be appropriate in order to promote the charitable purpose(s) of the Charitable Organization(s) selected as the Charitable Recipient of such a distribution.

(c) Distribution(s) of income and/or principal may be made to the same Charitable Organization(s) (as Charitable Recipient(s) hereunder) as it is not the intention of the Donor to prevent a Charitable Organization(s) from receiving a distribution of both income and principal from the Trust in any one or more year(s).

(d) The Trustee shall have the authority and power to terminate the Trust created hereunder by distribution of the Trust Estate to one or more Charitable Organization(s) as the Trustee(s) in its sole and absolute discretion may select. Such Charitable Organization(s) must be charitable organization(s) described in and satisfying the requirements of Sections 170(b)(1)(A), 170(c), 2055(a) and 2522(a).

(e) It is the Donor's intention that the Trust, created under this section 4 qualify for the Federal income and estate tax charitable deductions for the Donor and in the estate of the Donor. Accordingly, Donor hereby directs that no authorization or direction or other provisions contained in this Section 4 which would prevent said Trust from so qualifying shall apply to said Trust and that any Court having jurisdiction over this instrument shall construe it in this fashion.

(f) If a trust identical or substantially the same as the Trust created under this Section 4 is created under the will of the Donor, or is created inter vivos or by testamentary instrument by any other individual or entity, and if the merger of one or more of such trusts will not adversely affect the qualification of each trust for the charitable gift, and/or estate tax purposes set forth herein, the Trustee hereunder is authorized, in its sole and absolute discretion, to merge this trust with such Trust or trusts.

5. Additional Contributions.

a. If any additional contributions are made to the unitrust after the initial contribution in trust, the unitrust amount for the taxable year in which the assets are added to the trust shall be five (5%) percent of the sum of (a) the net fair market value of the trust assets (excluding the assets so added and any income from, or appreciation on, such assets), and (b) that proportion of the value of the assets so added that was excluded under (a) which the number of days in the period which begins with the date of contribution and ends with the earlier of

the last day of the taxable year or the donor's death bears to the number of days in the period which begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the donor's death. The assets so added shall be valued at the time of contribution.

b. If any additional contribution is made by Will, the obligation to pay the unitrust amount with respect to such additional contribution shall commence with the date of death of the person under whose Will the additional contribution is made, but payment of such unitrust amount may be deferred from such date of death to the end of the taxable year of the unitrust in which occurs the complete funding of the additional contribution. Within a reasonable period after such time, the Trustee shall pay, in the case of an underpayment, or shall receive from the donor, in the case of an overpayment, the difference between any unitrust amounts actually paid to the donor, plus interest, compounded annually, computed for any period at the rate of interest that the federal income tax regulations (Treasury Regulations) under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable, determined under the method described in section 1.664-1(a)(5)(ii) of the Treasury Regulations, plus interest, compounded annually, computed for any period at the rate of interest that the Treasury Regulations under section 664 of the Code prescribe for the trust for such computation for such period, and the unitrust amounts payable, determined under the method described in Section 1.664-1(a)(5)(ii) of the Treasury Regulations, plus interest, compounded

annually, computed for any period at the rate of interest that the Treasury Regulations under Section 664 of the Code prescribed for the Trust for such computation for such period.

6. Prohibited Transactions. The income of the Trust for each taxable year shall be distributed at such time and in such manner as not to subject the Trust to tax under section 4942 of the Code. Except for the payment of the unitrust amount to the Donor, the Trustee shall not engage in any act of self-dealing, as defined in section 4942(d), and shall not make any taxable expenditures, as defined in section 4945(d). The Trustee shall not make any investments that jeopardize the charitable purpose of the Trust, within the meaning of section 4944, or retain any excess business holdings, within the meaning of section 4943.

7. Trustee. The individual Trustee(s) serving hereunder at any time in office may by an instrument in writing signed and acknowledged, appoint an individual or a series of individuals, (other than the Donor) or a corporate fiduciary to act as Trustee hereunder in succession to or in addition to any individual Trustee appointed herein. Each Trustee serving hereunder shall be entitled to compensation.

Any Trustee may at any time resign by an instrument in writing, signed and acknowledged in duplicate, which shall be delivered to the Donor and/or to the remaining or successor Trustee, as the case may be.

Any successor Trustee to a Corporate Trustee appointed hereunder, if any, whether by consolidation, merger, transfer of trust business, conversion into a different type organization,

resignation or otherwise shall succeed as Trustee with like effect as though originally named as such.

8. Taxable Year. The taxable year of the Trust shall be the calendar year.

9. Governing Law. The operation of the Trust shall be governed by the laws of the State of Florida. However, the Trustee is prohibited from exercising any power or discretion granted under said laws that would be inconsistent with the qualification of the Trust under section 664(d)(2) of the Code and the corresponding regulations.

10. Limited Power of Amendment. The Trust is irrevocable. However, the Trustee shall have the power, acting alone, to amend the Trust in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder unitrust within the meaning of section 664(d)(2) of the Code.

11. Investment of Trust Assets. Nothing in this Trust instrument shall be construed to restrict the Trustee from investing the Trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of Trust assets.

Accordingly, subject to the foregoing and the limitations set forth in Paragraph 10 hereof, the Trustee is authorized as follows:

- (a) To retain the property described in Schedule "A", or to sell the property, invest and reinvest in any kind of property, with or without diversification

as to kind or amount but with regard to the limitations imposed by law on investments, except that the Trustee may not invest in assets which do not have an objective, ascertainable market value, such as real estate or stock in a closely held corporation.

- (b) To invest in such bonds, preferred or common stocks, futures contracts, options, commodities, mortgages or other property, with due regard to any law concerning the investment of trust funds, including Section 738.12 of the Florida Statutes, or to hold any part of the property uninvested, all as the Trustee shall deem advisable;
- (c) To exercise or dispose of any or all options, privileges, or rights of any nature, whether to vote, by discretionary proxy or otherwise, or to assent, subscribe or convert;
- (d) To adjust, compromise and settle, or refer to arbitration any claim in favor of or against the Trust;
- (e) To employ and to pay the compensation of such agent, accountants, custodians, advisors, experts and counsel, legal or investment, as the Trustee shall deem advisable; provided, such compensation is paid from the principal of the trust estate created hereunder and not from the income thereof; and

(f) Generally, to exercise all such rights and powers, and to do all such acts, and to enter into all such agreements, as persons owning property in their own right might lawfully exercise, do or enter into.

IN WITNESS WHEREOF GEORGE T. McDERMOTT (Donor), has signed this agreement the day and year first above written.

WITNESSES:

Danella Jill Cobb
Snooky Paulson

Geo. T. McDermott
GEORGE T. McDERMOTT (Donor)

STATE OF FLORIDA

COUNTY OF PALM BEACH

On this 3rd day of October, 1990, before me personally appeared GEORGE T. McDERMOTT, known to me to be the person described in and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

Mary L. Coyle
NOTARY PUBLIC

My commission expires:

Notary Public; State of Florida at Large
My Commission Expires March 26, 1991
Bonded thru Huckleberry & Associates

ACCEPTANCE BY TRUSTEE

The undersigned hereby accepts the trusts imposed by the foregoing Charitable Remainder Unitrust and agree to serve as Trustee upon the terms and conditions therein set forth.

Pamela Jill Cook

Stanley B. Bunker

Joseph M. Fleming
Joseph M. Fleming, Trustee

STATE OF FLORIDA

COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JOSEPH M. FLEMING, to me known to be the person described in and who executed the foregoing instrument as Trustee, and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 3rd day of October, 1990.

Mary T. Cagle
Notary Public, State of
Florida at Large

(NOTARY SEAL)

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires March 26, 1991
Bonded thru Huckleberry & Associates

FILED
97 DEC 24 AM 9:59
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

SCHEDULE OF A
TO
GEORGE T. McDERMOTT
CHARITABLE REMAINDER UNITRUST

November 29, 1990

First Union Bank of Palm Beach
Capital Management Group
40 cocoanut Row
Palm Beach, Florida 33480

Attention: Ms. Valerie K. McDivitt


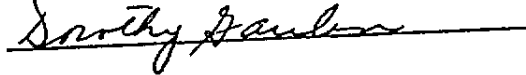
Dear Ms. McDivitt:

I executed my 1990 Charitable Remainder Unitrust appointing Joseph M. Fleming as Trustee. Pursuant to your suggestions and your investment review dated November 21, 1990, this is authority to you to transfer 5,800 shares of Amoco Corp.; 5900 shares of Exxon Corp.; and 2,600 shares of Mobil Corp. from my Account No.: 4028760212 to an account to be opened by Mr. Fleming, as Trustee of the Trust.

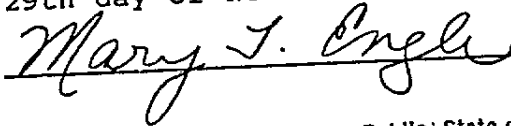
Sincerely yours,


George T. McDermott

Witnesses:

Sworn to before me this
29th day of November, 1990



Notary Public; State of Florida at Large
My Commission Expires March 26, 1991
Bonded thru Huckleberry & Associates

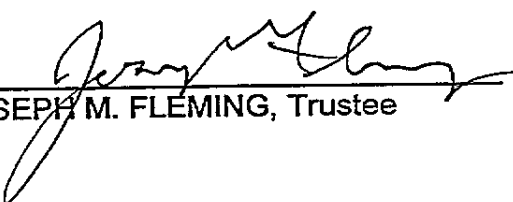
**FIRST AMENDMENT BY TRUSTEES TO THE GEORGE T. McDERMOTT
CHARITABLE REMAINDER UNITRUST**

TO: JOSEPH M. FLEMING, Trustee under a certain Charitable
Remainder Unitrust created by GEORGE T. McDERMOTT, as
Settlor, dated October 3, 1990.

Pursuant to the power granted to the Trustee under the provisions of Article 10 of the above-described Trust to amend the Trust in any manner for the purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder unitrust within the meaning of Section 654(d)(2) of the Internal Revenue Code, as amended, I, JOSEPH M. FLEMING, as Trustee, amend the Trust in the following manner, to wit:

1. The GEORGE T. McDERMOTT CHARITABLE REMAINDER UNITRUST shall be renamed the McDERMOTT PRIVATE FOUNDATION. ~~TRUST~~.
2. In all other respects not in conflict with this First Amendment, the provisions of the Trust remain in effect.

IN WITNESS WHEREOF, on this 18 day of December, 1997, at Palm Beach, Florida, I have hereunto set my hand and seal to this instrument, which I hereby make, publish and declare to be the First Amendment to the McDERMOTT PRIVATE FOUNDATION^{TRUST}, formerly known as the GEORGE T. McDERMOTT CHARITABLE REMAINDER UNITRUST dated October 30, 1990.


JOSEPH M. FLEMING, Trustee

We certify that the above instrument, was on the date thereof, signed, sealed, published and declared by JOSEPH M. FLEMING as the First Amendment to said trust instrument, dated October 30, 1990, in our presence and that we at his request, and in his presence and in the presence of each other, have signed our names as witnesses thereto, believing JOSEPH M. FLEMING TO BE OF SOUND MIND AND MEMORY at the time of signing and not under duress or constraint at any time.

Claire C. Peterson of 1492 Wiltshire Village Dr.
Wellington, FL 33414

Mary J. Engh of 3760 Suncast Dr.
Lake Worth FL 33467

STATE OF FLORIDA

COUNTY OF PALM BEACH

On this 18 day of December, 1997, before me personally appeared
JOSEPH M. FLEMING, Trustee of the McDERMOTT PRIVATE FOUNDATION TRUST.
formerly known as the GEORGE T. McDERMOTT CHARITABLE REMAINDER
UNITRUST dated October 30, 1990, as amended, to me known to be the person who is
named in and who executed the foregoing instrument and he acknowledged before me
that he executed the same for the purposes therein stated as his own free act and
deed.

Heidi Gwen Buck

Name: Heidi Gwen Buck
Notary Public
State of Florida at Large

My commission expires:

(Seal)



HEIDI GWEN BUCK
My Commission CC650338
Expires Apr. 24, 2000

pfamend.wpd

FILED
97 DEC 24 AM 9:59
SECRETARY OF STATE
TALLAHASSEE, FLORIDA