

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: THE W.N.
CONNELL AND MARJORIE T.
CONNELL LIVING TRUST, DATED
MAY 18, 1972,

JACQUELINE M. MONTOYA; AND
KATHRYN A. BOUVIER,

Appellants,

vs.

ELEANOR C. AHERN A/K/A
ELEANOR CONNELL HARTMAN
AHERN,

Respondent.

No 71577

**DOCKETING STATEMENT
CIVIL APPEALS**

Electronically Filed
Nov 22 2016 02:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DOCKETING STATEMENT EXHIBITS
SUBMISSION PART 1 OF 3**

Exhibit A

Exhibit A


CLERK OF THE COURT

ORDR

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE NO.: P-09-066425-T

DEPT. NO.: XXVI

In the Matter of THE W.N. CONNELL
AND MARJORIE T. CONNELL LIVING
TRUST DATED May 18, 1972, An Inter
Vivos Irrevocable Trust

**ORDER REGARDING MOTION FOR
ASSESSMENT OF DAMAGES;
ENFORCEMENT OF NO CONTEST
CLAUSE; AND SURCHARGE OF
TRUST INCOME**

**Date of Hearing: February 22, 2016
Time of Hearing: 9:30 a.m.**

On June 3, 2015, Jacqueline M. Montoya and Kathryn A. Bouvier ("Movants" or "Ms. Montoya and Ms. Bouvier"), through counsel, filed a *Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income* (the "Motion"), and on July 31, 2015, filed a Supplement to the Motion.

On June 29, 2015, Eleanor Connell Hartman Ahern ("Ms. Ahern"), through counsel, filed an opposition to the Motion and, on August 3, 2015, filed a *Motion to Strike Supplement to Motion for Assessment of Damages Against Eleanor Ahern; Enforcement of No Contest Clause; and Surcharge of Eleanor's Trust Income* ("Motion to Strike"). The Court has not yet ruled on the Motion to Strike.

The Court held an evidentiary hearing on February 22, 2016, which continued on March 3, 2016 (the "Hearings"). On February 22, 2016, legal arguments were presented by all parties, and the testimony of two witnesses, Fredrick Waid and Jacqueline Montoya, was offered. On March 3, 2016, the parties made closing arguments.

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1 At the Hearings, Ms. Montoya and Ms. Bouvier were represented jointly by
2 attorneys Layne T. Rushforth, Esq., Joseph J. Powell, Esq., and Daniel P. Kiefer, Esq., of
3 The Rushforth Firm, Ltd; Ms. Ahern was represented by Tamara Beatty Peterson, Esq.,
4 and Kirk B. Lenhard, Esq., of Brownstein Hyatt Farber Schreck, LLP; and Fredrick P.
5 Waid, in his capacity as the acting trustee of The W.N. Connell and Marjorie T. Connell
6 Living Trust, dated May 18, 1972 (the "Trust"), was represented by Todd L. Moody, Esq.,
7 and Russel J. Geist, Esq., of Hutchison & Steffen, LLC.

8 After consideration of the evidence and arguments presented by the parties and
9 their counsel at the Hearings, and the papers and pleadings on file herein, the Court finds
10 as follows:

11 1. Ms. Ahern, as Trustee, did not comply with the Court order to protect the
12 65% share of the Trust that was to be segregated under the terms of the Trust for the
13 Movants, Ms. Montoya and Ms. Bouvier.

14 2. Ms. Ahern's failure to properly apply her duties as a Trustee does not
15 warrant imposition of the harsh remedy of imposition of the no-contest clause,
16 specifically her failure to seek Court approval before ceasing payments to the Movants.
17 Therefore, the Court will not enforce the no-contest clause as against Ms. Ahern as
18 beneficiary.

19 3. Ms. Ahern's failure to comply with the Court's Order to protect the
20 Movants' 65% share, however, resulted in a misapplication of the Trust income, which
21 deprived the Movants of funds owed to them under the terms of the Trust. Ms. Ahern's
22 misapplication of Trust funds warrants a surcharge against Ms. Ahern's 35% share of the
23 Trust, to be paid to Movants, in a total amount to be determined at a future hearing to be
24 set by this Court.

25 4. Additional briefing and argument is needed on the issues of punitive and
26 treble damages. It is expected that the additional briefing on such damages, and the
27 hearing on the total amount owed to Movants, will be scheduled after the Successor
28 Trustee, Fredrick P. Waid ("Mr. Waid") finalizes his accounting for the Court.

1 5. Until such time as the Court decides the total amounts owed by Ms. Ahern,
2 it is necessary to withhold all distributions to Ms. Ahern, other than those amounts
3 previously approved as advancements by the Court's *Order Instructing Trustee to*
4 *Advance Funds* dated December 29, 2015, which was entered on January 5, 2016. The
5 suspension of Ms. Ahern's share under this order will be effective thirty (30) days after a
6 Notice of Entry of Order is filed with respect to this Order. This ruling does not supersede
7 or modify the Court's *Order on Petition for Instructions Regarding Allocations of Eleanor*
8 *Ahern's 2015 Trust Unpaid Distributions*.

9 6. In further violation of this Court's Orders, Ms. Ahern removed some funds
10 from Trust accounts before turning those accounts over to the Successor Trustee, Mr. Waid.
11 Some funds have since been turned over to the Successor Trustee, however, until such
12 time as Mr. Waid can provide an Accounting the Court cannot rule on Ms. Ahern potential
13 liability. The exact amount of any damages resulting from these serious breaches of
14 fiduciary duty will be determined at a later evidentiary hearing.

15 7. NRS Chapter 165 imposes a fiduciary duty on Ms. Ahern, as Trustee, had
16 to account for all assets and income received by her and for all distributions made by her.
17 Although Ms. Ahern has been removed or suspended from her role as Trustee, she has
18 not be discharged from her fiduciary duties pending her compliance, and the Court's
19 approval of the accounting to be filed by the successor Trustee, Mr. Waid. The Court
20 found that the account Ms. Ahern filed, under penalty of perjury on March 13, 2015, titled
21 "Brief Regarding Accounting Fiduciary Duties, and Trust Administration", was
22 incomplete and intentionally inaccurate. Ms. Ahern, therefore, remains statutorily
23 obligated to cooperate with the successor Trustee, Mr. Waid, in furtherance of Mr. Waid's
24 accounting, until such time as the Court enters a full and complete discharge of Ms.
25 Ahern.

26 8. Movant's seek punitive damages, which requires a finding of willful and
27 malicious conduct. In the alternative, Movants seek treble damages for breach of fiduciary
28 duty. Ms. Ahern's conduct was shocking and needs to be dealt with in a serious fashion,

1 but the final decision on whether punitive and/or treble damages should be awarded in
2 addition to restitution will be made at the evidentiary hearing to be scheduled after Mr.
3 Waid concludes discovery and prepares his report and accounting to the Court.

4 9. After viewing an independent medical evaluation *in camera*, the Court
5 finds that Ms. Ahern is competent to sit for a deposition in this matter.

6 **ORDER**

7 Upon the Court's consideration of the evidence and arguments presented by the
8 parties and their counsel at the hearing on the Motion, and good cause appearing therefore:

9 1. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Movants'
10 request to enforce the no-contest clause against Ms. Ahern is denied.

11 2. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Trust
12 distributions to Ms. Ahern are suspended upon the following conditions:

13 a. The suspension shall take effect thirty (30) days after notice of entry
14 of this Order is filed;

15 b. The suspension shall continue until Movants have been paid in an
16 amount to be determined at a hearing set by this Court following the completion of an
17 accounting of the Trust assets by the interim Trustee, Mr. Waid.

18 3. IT IS FURTHER ORDER ADJUDGED AND DECREED that Mr. Waid
19 shall prepare a report and a trustee's account, and upon completion, a hearing on the
20 amounts owed by Ms. Ahern, including any punitive or treble damages, shall be
21 conducted, unless the parties stipulate otherwise.

22
23 DATED this 13th of September, 2016.

24
25 
26 DISTRICT COURT JUDGE
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28

CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Order was electronically served and/or placed in the attorney's folders maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as follows:

Kirk Lenhard, Esq.
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106-4614

Layne Rushforth, Esq.
Joseph Powell, Esq.
State Bar No. 1004
THE RUSHFORTH FIRM, LTD.
P. O. Box 371655
Las Vegas, NV 89137-1655

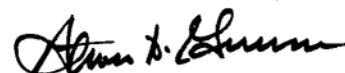
Todd Moody, Esq.
Russel Geist, Esq.
HUTCHISON & STEFFEN, LLC
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145



Linda Denman, Judicial Executive Assistant

Exhibit B

Exhibit B



CLERK OF THE COURT

1 **NEOJ**

2 JOSEPH J. POWELL

3 State Bar No. 8875

4 THE RUSHFORTH FIRM, LTD.

5 P. O. Box 371655

6 Las Vegas, NV 89137-1655

7 Telephone: (702) 255-4552

8 fax: (702) 255-4677

9 e-mail: probate@rushforthfirm.com

10 Attorneys for Jacqueline M. Montoya

11 and Kathryn A. Bouvier

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 In the Matter of

15 THE W.N. CONNELL and MARJORIE T.
16 CONNELL LIVING TRUST, dated May 18,
17 1972,

Case No. P-09-066425-T

Department: XXVI (Probate)

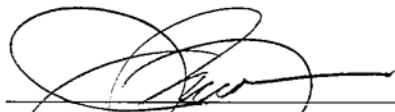
18 A non-testamentary trust.

19 **NOTICE OF ENTRY OF ORDER REGARDING MOTION FOR ASSESSMENT OF**
20 **DAMAGES; ENFORCEMENT OF NO CONTEST CLAUSE; AND SURCHARGE OF**
21 **TRUST INCOME**

22 NOTICE IS HEREBY GIVEN THAT:

23 The "Order Regarding Motion for Assessment of Damages; Enforcement of No Contest
24 Clause; and Surcharge of Trust Income" was entered on September 13, 2016 and filed on September
25 19, 2016, a copy of which is attached
26 hereto.

27 Respectfully submitted by:



28 Joseph J. Powell

State Bar No. 8875

9/28/16

Date


CLERK OF THE COURT

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ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

CASE NO.: P-09-066425-T

DEPT. NO.: XXVI

In the Matter of THE W.N. CONNELL
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TRUST DATED May 18, 1972, An Inter
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The Court held an evidentiary hearing on February 22, 2016, which continued on March 3, 2016 (the "Hearings"). On February 22, 2016, legal arguments were presented by all parties, and the testimony of two witnesses, Fredrick Waid and Jacqueline Montoya, was offered. On March 3, 2016, the parties made closing arguments.

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15 warrant imposition of the harsh remedy of imposition of the no-contest clause,
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17 Therefore, the Court will not enforce the no-contest clause as against Ms. Ahern as
18 beneficiary.

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20 Movants' 65% share, however, resulted in a misapplication of the Trust income, which
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26 treble damages. It is expected that the additional briefing on such damages, and the
27 hearing on the total amount owed to Movants, will be scheduled after the Successor
28 Trustee, Fredrick P. Waid ("Mr. Waid") finalizes his accounting for the Court.

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5 finds that Ms. Ahern is competent to sit for a deposition in this matter.

6 **ORDER**

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8 parties and their counsel at the hearing on the Motion, and good cause appearing therefore:

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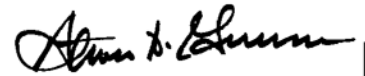
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22
23 DATED this 13th of September, 2016.

24
25 
26 DISTRICT COURT JUDGE
27
28

Exhibit C

Exhibit C



CLERK OF THE COURT

1 **NOAS**
2 LAYNE T. RUSHFORTH
3 State Bar No. 1004
4 JOSEPH J. POWELL
5 State Bar No. 8875
6 DANIEL P. KIEFER
7 State Bar No. 12419
8 THE RUSHFORTH FIRM, LTD.
9 P. O. Box 371655
10 Las Vegas, NV 89137-1655
11 Telephone: (702) 255-4552 / Fax: (702) 255-4677
12 e-mail: probate@rushforthfirm.com
13 *Attorneys for Jacqueline M. Montoya*
14 *and Kathryn A. Bouvier*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate

Case No. P-09-066425-T
Department: XXVI (Probate)

THE W.N. CONNELL and MARJORIE T
CONNELL LIVING TRUST, dated May 18,
1972,

NOTICE OF APPEAL

A Non-Testamentary Trust.

NOTICE IS HEREBY GIVEN that Petitioners Jacqueline M. Montoya and Kathryn A. Bouvier hereby appeal to the Supreme Court of Nevada from the Order Regarding Motion for Assessment of Damages; Enforcement of No Contest Clause; and Surcharge of Trust Income (the "Order"), entered in this action on September 19, 2016, for which a Notice of Entry of Order was subsequently entered on September 28, 2016. A true and accurate copy of the Order is attached hereto as **Exhibit 1**.

Dated this 19th day of October 2016.

THE RUSHFORTH FIRM, LTD.

By: 

LAYNE T. RUSHFORTH

JOSEPH J. POWELL

DANIEL P. KIEFER

*Attorneys for Jacqueline M. Montoya
and Kathryn A. Bouvier*

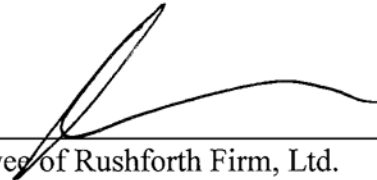
CERTIFICATE OF SERVICE

Pursuant to Rule 5(b), I hereby certify that service of the above **NOTICE OF APPEAL** was made via wiznet.com on this date as follows:

Todd Moody, Esq.
HUTCHISON & STEFFEN LLC
10080 W. Alta Drive #200
Las Vegas, Nevada 89145
Attorney for Interim Trustee

Kirk B. Lenhard, Esq.
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106
Attorney for Eleanor Ahern

DATED this 19th day of October, 2016



Employee of Rushforth Firm, Ltd.

Exhibit 1

Exhibit 1


CLERK OF THE COURT

1 **NEOJ**
2 **JOSEPH J. POWELL**
3 State Bar No. 8875
4 **THE RUSHFORTH FIRM, LTD.**
5 P. O. Box 371655
6 Las Vegas, NV 89137-1655
7 Telephone: (702) 255-4552
8 fax: (702) 255-4677
9 e-mail: probate@rushforthfirm.com
10 Attorneys for Jacqueline M. Montoya
11 and Kathryn A. Bouvier

DISTRICT COURT
CLARK COUNTY, NEVADA

12 In the Matter of
13
14 **THE W.N. CONNELL and MARJORIE T.**
15 **CONNELL LIVING TRUST, dated May 18,**
16 **1972,**

Case No. P-09-066425-T
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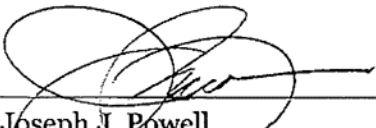
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26 Respectfully submitted by:

27 
28 Joseph J. Powell
State Bar No. 8875

9/28/16

Date

1 **ORDR**

2 **DISTRICT COURT**

3 **CLARK COUNTY, NEVADA**


CLERK OF THE COURT

4 CASE NO.: P-09-066425-T

5 DEPT. NO.: XXVI

6 In the Matter of THE W.N. CONNELL
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**ORDER REGARDING MOTION FOR
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5 finds that Ms. Ahern is competent to sit for a deposition in this matter.

6 **ORDER**

7 Upon the Court's consideration of the evidence and arguments presented by the
8 parties and their counsel at the hearing on the Motion, and good cause appearing therefore:

9 1. IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Movants'
10 request to enforce the no-contest clause against Ms. Ahern is denied.

11 2. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Trust
12 distributions to Ms. Ahern are suspended upon the following conditions:

13 a. The suspension shall take effect thirty (30) days after notice of entry
14 of this Order is filed;

15 b. The suspension shall continue until Movants have been paid in an
16 amount to be determined at a hearing set by this Court following the completion of an
17 accounting of the Trust assets by the interim Trustee, Mr. Waid.

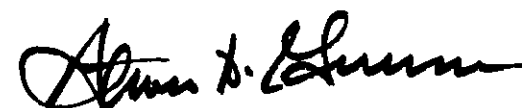
18 3. IT IS FURTHER ORDER ADJUDGED AND DECREED that Mr. Waid
19 shall prepare a report and a trustee's account, and upon completion, a hearing on the
20 amounts owed by Ms. Ahern, including any punitive or treble damages, shall be
21 conducted, unless the parties stipulate otherwise.

22
23 DATED this 13th of September, 2016.

24
25 
26 DISTRICT COURT JUDGE
27
28

Exhibit D

Exhibit D



CLERK OF THE COURT

PETN
THE RUSHFORTH FIRM, LTD.
JOSEPH J. POWELL
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DISTRICT COURT
CLARK COUNTY, NEVADA

In re the Matter of the

THE W.N. CONNELL and MARJORIE
T. CONNELL LIVING TRUST, dated
May 18, 1972

A non-testamentary trust.

Case No.: P-09-066425-T
Department: 26 (Probate)

**PETITION FOR DECLARATORY JUDGMENT REGARDING LIMITED INTEREST OF TRUST
ASSETS PURSUANT TO NRS 30.040, NRS 153.031(1)(E), AND NRS 164.033(1)(A)**

Date of Hearing: October 11, 2013
Time of Hearing: 9:30 a. m.

JACQUELINE M. MONTOYA ("Jacqueline"), as both an individual and also in her capacity as the trustee of the "MTC Living Trust" dated December 6, 1995, by and through her counsel of record, JOSEPH J. POWELL, Esq., of THE RUSHFORTH FIRM, LTD., hereby respectfully seeks a declaration that ELEANOR C. AHERN, also known as Eleanor Marguerite Connell Hartman, both individually and in her capacity as the trustee of "The W.N. Connell and Marjorie T. Connell Living Trust" ("Trust"), dated May 18, 1972, is

1 entitled to only a 35% proportion of all income generated from gas, oil, and mineral leases,
2 which are owned partially by the Trust and partially owned by another trust established by
3 Marjorie T. Connell and in turn a declaration that Jacqueline and her sister, KATHRYN A.
4 BOUVIER ("Kathryn") are entitled to the other 65% proportionate share of the income
5 generated from these same gas, oil, and mineral leases. Jacqueline respectfully declares as
6 follows:
7

8 **A. OVERVIEW**

9 Recently, Mrs. Ahern has asserted, without providing any logic or authority to
10 support such assertion, that she is entitled to 100% of the proceeds from the leases for
11 the Texas property and has refused to distribute the 65% proportion that has been
12 distributed to Jacqueline and Kathryn since Mrs. Connell's death in May of 2009, and
13 was previously distributed to Marjorie for the previous 29 years.
14

15 **B. JURISDICTION OVER TRUST**

16 B.1 This Court already has jurisdiction over "The W.N. Connell and Marjorie T.
17 Connell Living Trust", dated May 18, 1972 ("Trust") and in turn Ms. Ahern. Pursuant to the
18 "Order Assuming Jurisdiction Over Trust, Confirm Trustee, and for Construction of and
19 Reform of Trust Instrument", dated September 4, 2009, this Court assumed jurisdiction
20 over the Trust and confirmed Ms. Ahern as trustee of the Trust.
21

22 B.2 Additionally, on information and belief, Ms. Ahern has continued to serve in
23 the role as trustee of the Trust from that point in time through the present.
24

25 B.3 There is nothing that has been discovered after review of the court file which
26 indicates that any petition to remove this Court's jurisdiction over the Trust was ever filed
27 subsequent to the September 4, 2009 Order.
28

C. BACKGROUND HISTORY

C.1 W.N. Connell, also known as William N. Connell, and Marjorie T. Connell ("Marjorie") established "The W.N. Connell and Marjorie T. Connell Living Trust" on May 18, 1972.

C.2 By the express terms found on page one of the Trust instrument, the Trust revoked and entirely replaced a previous trust that was executed by the Connells on December 1, 1971, which was described as a "revocable living trust".

C.3 A copy of the Trust is attached hereto as Exhibit "A" and is hereby incorporated by this reference.

C.4 During the joint lifetimes of the Connells, all of the Trust assets were to be administered as prescribed under "Trust No. 1", which was a general, undivided "pot" trust.

C.5 After the death of the predeceased grantor, the Trust was to be divided into two subtrusts, known respectively as "Trust No. 2" and "Trust No. 3".

C.6 In describing the subtrusts in general, yet not entirely completely precise terms, Trust No. 2 was what would commonly be referred to as the "Decedent's Trust", while Trust No. 3 was what would commonly be referred to as the "Survivor's Trust". However, Trust No. 3 was also to serve as a "marital" trust as well. As to this marital trust component of Trust No. 3, Section Third of the Trust, titled "Marital Deduction" contains the following clause:

The Trustee shall allocate to Trust No. 3 from the Decedent's separate property the fractional share of the said assets which is equal to the maximum marital deduction allowed for federal estate tax purposes, reduced by the total of any other amounts allowed under the Internal Revenue Code as a Marital Deduction which are not a part of this trust estate. In making the computations and allocations of the said property to Trust No. 3 as herein required, the determination of the character and

ownership of the said property and the value thereof shall be as finally established for federal estate tax purposes. This distribution is being made without regard to the death taxes payable by reason of the Decedent's death, which taxes shall be paid from Trust No. 2 only.

C.7 As to the Texas property, and more precisely the acreage and accompanying rights in minerals, gas, and oil on such acreage, which is the focus of this Petition, there is certainly a reference to that land and those rights being Mr. Connell's separate property.

C.8 As outlined on schedule A for the Trust, which was executed the same day as the Trust, there is clear reference to real property in Upton County, Texas and oil, gas, and mineral rights/leases being the separate property of Mr. Connell. A copy of Schedule A of the Trust is attached hereto as Exhibit "B" and is hereby incorporated by this reference.

C.9 W.N. Connell died on November 24, 1979. Mr. Connell died as a resident of Boulder City, Nevada.

C.10 Therefore, Trust No. 3 became Marjorie's trust, meaning that she was free to amend the provisions of it or to revoke it entirely as she saw fit. Specifically, Marjorie was given a power of appointment over Trust No. 3.

C.11 As to Trust No. 2, it became irrevocable upon Mr. Connell's death. The provisions of Trust No. 2 expressly state that all income generated from it shall be paid to the "Residual Beneficiary" which was/is Ms. Ahern. As it relates to income distributions, Trust No. 2 also contained the following statement:

In the event that any of the real property located in Upton County, Texas, as listed on the original Schedule "A" attached hereto, forms a part of the corpus of this Trust, the Residual Beneficiary shall be paid an additional payment from the income received from the Decedent's half of the community property, which forms a part of the corpus of this Trust from the real property located in Upton County, Texas.

C.12 Trust No. 2 also stated that "All other income received by this Trust shall be

1 *distributed to the Survivor*".

2 C.13 As to principal distributions from Trust No. 2, Marjorie, as the surviving
3 Trustor, had various powers over principal distributions.
4

5 C.14 On May 6, 1980, Marjorie and Ms. Ahern executed a document titled
6 "Substitution of Trustee". A copy of the "Substitution of Trustee" is attached hereto as
7 Exhibit "C" and is hereby incorporated by this reference.

8 C.15 The purpose of the "Substitution of Trustee" was to add Ms. Ahern as a co-
9 trustee with Mrs. Connell of the "separate property of W.N. Connell presently held in the
10 above-entitled Trust" in accordance with the terms of Trust No. 2.
11

12 C.16 On December 16, 1980, a state of Texas "Inheritance Tax Return----Non-
13 Resident" was executed by the tax preparer, Darrell Knight of Darrell Knight Assoc. Inc.-PC,
14 out of Abilene, Texas, and Mrs. Connell, in her capacity as executrix of the Estate of Mr.
15 Connell, for Mr. Connell. A copy of the Texas Return is attached hereto as Exhibit "D" and
16 is hereby incorporated by this reference.
17

18 C.17 In the schedules attached to the Texas Return, there is reference to land in
19 Upton County, Texas and also mineral rights on that same land being split in a proration
20 close to 65%/35% (the precise split was 64.493% and 35.507%), with the schedules
21 reflecting "ownership" by Marjorie of the larger amount and "ownership" by Ms. Ahern of
22 the smaller amount.
23

24 C.18 A Federal Estate Tax Return, Form 706, was also prepared and filed in 1980
25 for Mr. Connell as well. In fact, the Form 706 was prepared prior to the Texas Return and
26 was the basis for the allocation and figures reflected on the Texas Return. It was a Nevada
27 accountant who calculated the applicable allocations, including the marital deduction
28

1 percentage. Therefore, all of the intricate calculations, including the allocations between
2 Trust No. 2 and Trust No. 3, were done for purposes of the Form 706. As such, Mr. Knight
3 simply took those percentages from the Form 706 and in turn applied them to the appraised
4 value of the surface and minerals in Upton County, Texas.
5

6 C.19 Both the Form 706 and the Texas Return were submitted together to both the
7 IRS and the state of Texas. A closing letter was later received from the IRS approving of the
8 Form 706 and the amount that had been submitted as owing tax. Similarly, the State of
9 Texas, via the State Comptroller, also accepted the Texas Return as well. Copies of both of
10 those documents can be submitted upon request of this Court.
11

12 C.20 Unfortunately, a copy of the Form 706 that was filed for Mr. Connell's estate
13 cannot be located. Despite the diligent efforts of Jacqueline to locate a copy of the Form
14 706 she has simply had no success in finding it. These efforts have included Jacqueline, in
15 her capacity as the personal representative of Marjorie's estate, making a request to the
16 Internal Revenue Service. After searching their records, the IRS informed Jacqueline that
17 they were unable to locate a copy of the Form 706 that was filed. A copy of the letter from
18 the IRS which informed Jacqueline of this fact can be provided upon the request of this
19 Court. In addition, to seeking a copy of the Form 706 directly from the IRS, Jacqueline has
20 spent numerous hours looking through all of the records that she has copies of, which has
21 included looking through storage sheds and safe deposit boxes.
22

23 C.21 Despite not being able to locate a copy of the Form 706, as noted above, the
24 proof of the figures reflected therein is evidenced by the those which were in turn reflected
25 on the Texas Return. Therefore, the Texas Return is the only surviving document that can
26 be used to establish the proof of the allocations between the No. 2 and No. 3 subtrusts.
27
28

1 C.22 Marjorie died on May 1, 2009. Marjorie died as a resident of Clark County,
2 Nevada.

3 C.23 Up to the date of her death, Marjorie was receiving approximately 65% of the
4 income generated by the various oil, gas, and mineral rights' leases that had been signed
5 over the years from the time of Mr. Connell's death. Therefore, she had been receiving
6 distributions from these income sources for approximately 29 years. At no time did Ms.
7 Ahern ever dispute that allocation of the income distributions between herself and Marjorie.
8 In fact, Ms. Ahern, in her capacity as a co-trustee of the Trust, signed every document,
9 including oil and gas leases, division orders, and tax returns, etc.
10

11 C.24 Even Ms. Ahern's divorce documentation from 1984 acknowledges and
12 documents the 65%/35% split. For purposes of privacy, such documentation can be
13 provided to this Court for *in camera* review should this Court request it.
14

15 C.25 In the Last Will and Testament of Marjorie T. Connell, which was executed
16 by Marjorie on January 7, 2008, which is attached hereto as Exhibit "E" and is incorporated
17 herein by this reference, Marjorie exercised her power of appointment over Trust No. 3 of
18 the Trust. Specifically, under section 4.1 of her Will, which was titled "Exercise of Power
19 of Appointment Granted by William N. Connell", Marjorie declared the following:
20

21 *In the W.N. Connell and Marjorie T. Connell Living Trust dated May 18,*
22 *1972, Article Fifth Trust No. 3 Paragraph B(2) of the Trust, I was granted*
23 *a testamentary power of appointment. I hereby exercise that power of*
24 *appointment and appoint the entire principal and the undistributed income*
25 *in Trust No. 3, if any, on my death to JACQUELINE MONTTOYA and*
26 *KATHRYN ANNE BOUVIER to be distributed in trust in accordance with*
the provisions of the MTC LIVING TRUST dated December 6, 1995, as
restated on January 7, 2008.

27 C.26 To ensure that Marjorie's exercise of the power of appointment was
28

1 recognized by Ms. Ahern, in her capacity as the now sole trustee of the Trust due to
2 Marjorie's passing, a letter dated May 21, 2009 was sent to Ms. Ahern by Marjorie's estate
3 planning attorney, David A. Strauss, notifying her of the such action being taken by
4 Marjorie under the terms of her Will. A copy of the Attorney Strauss' letter to Ms. Ahern
5 is attached hereto as Exhibit "F" and is incorporated herein by this reference.
6

7 C.27 Marjorie executed the MTC Living Trust on December 6, 1995. Mrs. Connell
8 subsequently executed a restatement of the MTC Living Trust on January 7, 2008. A copy
9 of the MTC Living Trust is attached hereto as Exhibit "G" and is incorporated herein by this
10 reference.
11

12 C.28 The current beneficiaries of the MTC Living Trust are Jacqueline and Kathryn,
13 with Jacqueline serving as the sole trustee.
14

15 C.29 As noted above, on September 4, 2009, Ms. Ahern, as trustee of the Trust,
16 obtained the "Order Assuming Jurisdiction Over Trust, Confirm Trustee, and for
17 Construction of and Reform of Trust Instrument". As can be seen from the title of the
18 Order, the Order had the effect of confirming the intended construction of Trust No. 2 in
19 compliance with the stated intent of Mr. Connell, while at the same time reforming Trust
20 No. 2.
21

22 C.30 As to Trust No 2, the Order, in part, confirmed that following the death of Ms.
23 Ahern, the beneficiaries of Trust No. 2 would be Jacqueline and Kathryn, in equal shares.
24 The Order also had the effect of establishing that upon the resignation or incapacity of Ms.
25 Ahern that the trustee of Trust No. 2 would be Jacqueline, or, if she was unable to serve,
26 then Kathryn.
27

28 C.31 As will be detailed further herein, since Marjorie's death, Jacqueline and

Kathryn have been receiving approximately 65% of the income generated from the various leases that have been signed regarding the Texas properties, with Ms. Ahern continuing to receive the remaining 35% as she has been for approximately the last 33 years.

**D. PETITION FOR DECLARATORY RULING REGARDING INTERESTS IN TEXAS
PROPERTY AND INCOME GENERATED FROM LEASES**

D.1 This Petition is brought pursuant to NRS 30.040, NRS 153.031(1)(e), and NRS 164.033(1)(a).

D.2 NRS 30.040 provides for the following:

1. Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

2. A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

D.3 NRS 153.031(1)(e) provides for the following:

1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

(e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;

D.4 NRS 164.033(1)(a) provides for the following:

1. The trustee or an interested person may petition the court to enter an order:

1 (a) *If the trustee is in possession of, or holds title to, property and the*
2 *property or an interest in it is claimed by another.*

3 D.5 As stated out the outset of this Petition, within the last few months Ms. Ahern
4 has asserted, without providing any logic or authority to support such assertion, that she
5 is entitled to 100% of the proceeds from the leases for the Texas property and has refused
6 to distribute the 65% proportion that has been distributed to Jacqueline and Kathryn since
7 Mrs. Connell's death in May of 2009, and was previously distributed to Marjorie for the
8 previous 29 years.
9

10 D.6 Specifically, Jacqueline and Kathryn have not received distributions for the
11 months of July, August, and September of 2013. Previous distributions had been averaging
12 in the range of \$30,000 to each for Jacqueline and Kathryn. Therefore, as of the date of
13 this filing, Jacqueline and Kathryn have experienced losses in excess of approximately
14 \$100,000 each.
15

16 D.7 As noted, there has been absolutely no explanation from Ms. Ahern as to why
17 and under what authority she feels justified in undoing 33 years of precedent and now
18 believes that she is entitled to 100% of the income from the leases. It seems as though the
19 only answer being offered by Ms. Ahern is "because".
20

21 D.8 As noted above, the allocation of a 65%/35% of the ownership of the Texas
22 land and the leases involving the land, and more specifically what is actually in the soil and
23 beneath it, was done in 1980. There is nothing to indicate that this allocation was done
24 improperly at the time that it was done. Furthermore, there were professionals advising
25 Marjorie as to how to accomplish this task as evidenced by the Form 706 as reflected in the
26 Texas Estate tax return.
27
28

1 D.9 Therefore, Jacqueline and Kathryn are extremely perplexed as to what has
2 occurred in Ms. Ahern's mindset that would prompt her to believe that she is now entitled
3 to 100% of the income from these leases despite 33 years of established precedent without
4 complaint or assertion of mistake.
5

6 D.10 As established, the allocation of the 65%/35% split occurred a very long time
7 ago and under the supervision and expertise of professionals. There is absolutely nothing
8 to suggest that this allocation was inappropriately done in 1980 and Ms. Ahern has never
9 once asserted anything to this effect, either during the 29 years following the death of Mr.
10 Connell in which Marjorie was receiving 65% of the income, nor the past 4 years since
11 Marjorie's death in which the 65% has been equally divided between Jacqueline and
12 Kathryn.
13

14 D.11 Furthermore, this allocation was accepted by both the state of Texas, via the
15 Comptroller, and the IRS. If either entity felt that the allocation being made was being done
16 improperly, then both of these entities would surely have voiced concern. Likewise, as a co-
17 trustee, Ms. Ahern had ample opportunity to voice a belief that the allocation was done
18 improperly and to seek its redress. However, no such action was ever taken and no proof
19 of mistake or error has ever been documented. Therefore, it must be determined that the
20 allocation was properly made in 1980, which is why it is also logical that for the past 33
21 years the allocation has been accepted and followed by Ms. Ahern without incident.
22

23 D.12 Even in the off chance that the allocation was not done with complete
24 precision, it is simply too late to question and rehash the issue, as returns have been filed
25 and accepted and rights have become vested under numerous equitable principles. Just as
26 with statutes of limitations, or even with the offering of subsequently discovering a will of
27
28

1 a decedent years after a probate has been conducted and concluded, there simply becomes
2 a point in time when it is simply too late to seek redress of an issue.

3 D.13 As to why Ms. Ahern has only recently chosen to assert that she is entitled to
4 100% of the income derived from the leases, only she herself knows the motivation behind
5 this. However, the exponential increase in the value of the leases/royalties derived from
6 them may have played a significant role in her unwarranted determination.

7 D.14 To get full appreciation of what has occurred here, and why the actions of Ms.
8 Ahern are so reprehensible and unacceptable, it is necessary to look back at the relevant
9 factors that are at play and what has transpired over the last 33 years.

10 D.15 Marjorie managed the 1972 Connell Trust properties until her death in 2009.
11 She did the active negotiating with oil companies and surface users and consulted other
12 relatives on decisions on the properties.

13 D.16 Around the year 2000, Marjorie's health began to fail. She was still a resident
14 of Las Vegas, as was Jacqueline. Marjorie requested that Jacqueline help her with the
15 record keeping, deposits, and other aspects of managing the Texas oil and gas properties.

16 In respecting Marjorie's instructions, Jacqueline checked the mail, kept the records, and
17 deposited the run checks. Marjorie and Ms. Ahern handled the leases and division orders,
18 and the signing and copying of all documents. At no time did, Jacqueline ever act as trustee,
19 but instead she acted at the direction of Marjorie who was a co-trustee. Again, Jacqueline
20 was an aide to her grandmother and acted at her grandmother's direction.

21 D.17 The money from the 1972 Connell Trust continued to be divided between Ms.
22 Ahern and the MTC Living Trust in the same manner in which it had been divided since
23 1980: 65% and 35%. The routine administrative duties followed by Jacqueline each month
24

1 included gathering the checks from the trust post office box and depositing them into an
2 account in the name of Marjorie Connell and Ms. Ahern, which has been a longstanding
3 account that was originally opened by Marjorie and Ms. Ahern in 1980. This account has
4 always been referred to and commonly known by the parties as the "oil and gas account."
5

6 D.18 As soon as all the income checks were in the bank from the various leases in
7 effect, at approximately the first of the month, Jacqueline would proceed to divide the
8 money, with 35% going to Ms. Ahern, and 65% going to Marjorie. Following Marjorie's
9 passing, the 65% that previously went to Marjorie would now be divided between
10 Jacqueline and Kathryn equally. Within the first few days of each month, the two parties,
11 Ms. Ahern and Marjorie, which became three parties at the death of Marjorie, were able to
12 rely on their share of the previous month's income from the various leases being reflected
13 in their own individual bank accounts.
14

15 D.19 As part of this process, Jacqueline routinely and faithfully put the financial
16 records on computer concerning the leases and the associated business expenses in tracking
17 this information, allocated the money from the leases, and gave updates to Ms. Ahern and
18 Kathryn.
19

20 D.20 In recent times, Jacqueline, with the assistance of other professionals, has put
21 in a tremendous amount of time and energy in negotiating new leases for the Texas
22 properties, which, as noted above, was a task that had previously been done by Marjorie.
23 Once the terms of a new lease, or the renewal of a previous lease, had been agreed upon and
24 reviewed by professionals specializing in the field, Jacqueline gave Ms. Ahern the original
25 documents and Ms. Ahern would sign them in the presence of a notary, and return the
26 original and copies to Jacqueline. When production was developed in any well, Jacqueline
27
28

1 would get the division order from the mail and deliver it to Ms. Ahern to be signed and then
2 returned the document to the oil and gas purchaser for payment.

3 D.21 Once the proceeds from the various leases were received and deposited in the
4 "oil and gas account", Jacqueline divided the net income in the exact percentages that they
5 had followed since 1980. Additionally, Jacqueline also dealt with an accountant in
6 California, Corey Haina of Fast Tax, who had done the income taxes for approximately 8 to
7 9 years for Marjorie, furnishing him with the 1099's and Jacqueline's records reflect the
8 amount of money received from each purchaser of the oil and gas. Following Marjorie's
9 passing, Ms. Ahern was agreeable to continue to have Mr. Haina continue to prepare the
10 necessary returns.
11

12 D.22 In addition to these tasks, Jacqueline also kept all of the check stubs and
13 totaled them at year end for tax purposes. Jacqueline reconciled the income with the 1099's
14 and gave all interested parties a three page summary at year end.
15
16

17 D.23 As a matter of habit, the only time Jacqueline did not issue 100% of the
18 income from the oil and gas account was when she started withholding a percentage of the
19 income around the July runs so that there would be sufficient funds to pay the *ad valorem*
20 taxes due in Upton County, Texas when that bill was received in October. Ms. Ahern was
21 aware of this hold back for this purpose and verbally approved of such practice on multiple
22 occasions. All expenses, income tax, accounting and legal fees, *ad valorem* taxes, and any
23 miscellaneous expenses, such as office supplies, were dutifully deducted from distributions.
24

25 All expenditures were reported to Ms. Ahern annually on the year-end report from
26 Jacqueline. So that there is no confusion as to what capacity Jacqueline was acting since
27 Marjorie's passing, it is necessary to keep in mind that Jacqueline has been serving as the
28

1 sole trustee of the MTC Trust since Marjorie's death.

2 D.24 As stated above, a significant increase in value derived from the leases, and
3 one in particular, occurred in 2012. In this time frame, a very lucrative lease was entered
4 into with Apache Corporation covering part of the property in Upton County, Texas. The
5 total bonus on this lease totaled in the millions, and Ms. Ahern, Jacqueline and Kathryn
6 together received a total of \$1.7 million. This bonus was divided in the usual 65%/35% ratio.
7

8 D.25 The signing of the lease leading to the bonus occurred in approximately April
9 of 2013. On approximately July 4th and July 5th of 2013, a fair amount of time after the \$1.7
10 million bonus was received, without any warning or explanation, Ms. Ahern had the post
11 office box closed where income checks generated by the leases were mailed to.
12 Additionally, at this same point in time, Ms. Ahern subsequently instructed the bank where
13 the "oil and gas" account was located to take no direction from Jacqueline and to refuse to
14 speak with her. For purposes of clarification, Jacqueline had been given signatory rights
15 on the account by Marjorie to act on her behalf and as such access to the funds of the
16 account to carry out the tasks that Jacqueline had performed at Marjorie's request, as has
17 been detailed above.
18
19

20 D.26 The monthly payments from the income generated from the leases continued
21 to be received from Ms. Ahern after the above actions were taken towards Jacqueline and
22 Kathryn. The checks were smaller than they should have been and were distributed later
23 than they had been when Jacqueline was making the distributions to each of the personal
24 accounts. However, as noted above, all distributions stopped in July of 2013, when no
25 checks were received by either Jacqueline or Kathryn.
26
27

28 D.27 Given the actions that were occurring, counsel based in Texas for Jacqueline

1 and Kathryn contacted the Texas counsel for Ms. Ahern to attempt to get an understanding
2 of why Ms. Ahern was taking these actions. The explanation from Ms. Ahern's counsel was
3 that Ms. Ahern was entitled to 100% of the income from the leases and that any further
4 distributions to Jacqueline and Kathryn would be gifts to them given by Ms. Ahern. To
5 cement this position, the June 2013 distributions to Jacqueline and Kathryn were smaller
6 than they otherwise should have been. On the deposit slip with the checks it was noted that
7 the amounts were "gifts". To reiterate, following the June 2013 distributions, no additional
8 distributions have been forthcoming to Jacqueline and Kathryn.
9

10
11 D.28 As stated above, there is no justification for what is occurring and as such it
12 is crucial that this Court render an order declaring that Ms. Ahern has only a 35% interest
13 in the proceeds generated from the oil, gas, mineral leases and that the remaining 65%
14 belongs to the MTC Trust. As established, a 65%/35% split has been occurring for 33 years
15 now and there is no reason nor justification for upsetting this long standing precedent and
16 practice.
17

18 D.29 Therefore, Jacqueline respectfully requests that this Court take all necessary
19 action and make such rulings as are appropriate to force the status quo back into place.
20

21 E. DAMAGES

22 Jacquie and Kathryn have incurred substantial attorney's fees and costs in having
23 to seek this declaratory judgment based on the unwarranted actions of Ms. Ahern. As such,
24 Jacquie, on both her behalf and on behalf of Kathryn, hereby requests that this Court hold
25 Ms. Ahern responsible for the damages that she has triggered by her unjustifiable and
26 unwarranted actions. This request is made based on the provisions of NRS 153.031(3)(b),
27 based on the applicability of that provision through NRS 164.005. However, the amount
28

1 of damages will be discussed and set forth in an additional related petition that will be filed
2 shortly hereafter. Therefore, for the sake of clarity, the request for damages is hereby made
3 and preserved, but topic will be addressed in great detail in a related petition so as not to
4 distract or confuse the straightforward declaration of rights and interests that is sought
5 herein.
6

7 **F. PRAYER**

8 JACQUELINE M. MONTOYA hereby prays for an Order of this Court:

9 F.1 Declaring that:

10 (a) ELEANOR C. AHERN, also known as Eleanor Marguerite Connell
11 Hartman, both individually and in her capacity as the trustee of "The W.N. Connell
12 and Marjorie T. Connell Living Trust", dated May 18, 1972, is entitled to only a 35%
13 proportion of all real property located in Upton County, Texas, including the income
14 generated from gas, oil, and mineral leases relating to such Upton County, Texas real
15 property; and
16

17 (b) JACQUELINE M. MONTOYA, in her capacities as a beneficiary and
18 as the trustee of "MTC Living Trust" dated December 6, 1995, and in her capacity as
19 a beneficiary of the power of appointment exercised by Marjorie T. Connell over
20 Trust No. 3 of the "The W.N. Connell and Marjorie T. Connell Living Trust", dated
21 May 18, 1972, and KATHRYN A. BOUVIER, in her capacity as a beneficiary of the
22 "MTC Living Trust" dated December 6, 1995, and in her capacity as a beneficiary of
23 the power of appointment exercised by Marjorie T. Connell over Trust No. 3 of the
24 "The W.N. Connell and Marjorie T. Connell Living Trust", dated May 18, 1972, are
25 entitled to a 65% proportionate share of all income generated from gas, oil, and
26
27
28

1 mineral leases relating to Upton County, Texas real property.

2 F.2 Granting such other and further relief as the Court shall deem appropriate.

3
4 Respectfully submitted,

5 THE RUSHFORTH FIRM, LTD.

6
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8 

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10 _____
11 JOSEPH J. POWELL
12 State Bar No. 8875

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THE RUSHFORTH FIRM, LTD.
Telephone: 702-255-4552 / Fax: 702-255-4677
9505 Hillwood Drive, Suite 100
Las Vegas, Nevada 89134-0514

Exhibit “A”

1972

TRUST AGREEMENT

("The W. N. Connell and Marjorie T. Connell Living Trust")

THIS TRUST AGREEMENT, made this 18th day of May, 1972, by W. N. CONNELL and MARJORIE T. CONNELL, husband and wife, (hereinafter sometimes referred to as the "Grantors", when reference is made to them in their capacity as creators of this Trust and the transferrors of the principal properties thereof), and W. N. CONNELL and MARJORIE T. CONNELL, of Las Vegas, Nevada, (hereinafter sometimes referred to as the "Trustee" when reference is made to them in their capacity as the Trustee or fiduciary hereunder), and by this instrument revoke the previous revocable living trust made by us on the 1st day of Dec., 1971:

W I T N E S S E T H :

WHEREAS, the Grantors desire by this Trust Agreement to establish a revocable trust for the uses and purposes hereinafter set forth, to make provision for the care and management of certain of their present properties and for the ultimate disposition of the trust properties;

NOW, THEREFORE, the Grantors hereby give, grant, transfer, set over and deliver as the original trust estate, IN TRUST, unto the Trustee, who hereby declare that they have received from the Grantors all of the property listed on Schedule "A" (which schedule is attached hereto and made a part of this Trust Agreement), TO HAVE AND TO HOLD THE SAME IN TRUST, and to manage, invest and reinvest the same and any additions that may from time to time be made thereto, subject to the hereinafter provided trusts and the terms and conditions, powers and agreements, relating thereto.

Additional property may be added to the trust estate, at any time and from time to time, by the Grantors, or either of them, or by any person or persons, by inter vivos act or testamentary transfer, or by insurance contract or trust designation.

The property comprising the original trust estate during the joint lives of the Grantors shall retain its character as their community property or separate property, as designated on the attached Schedule "A". Property subsequently received by the Trustee during the joint lives of the Grantors shall be listed on an appropriate schedule annexed hereto and shall have the separate or community character ascribed thereto on such schedule.

FIRST: NAME AND BENEFICIARIES OF TRUST. The trusts created hereby shall be for the use and benefit of the Grantors and for ELEANOR MARGUERITE CONNELL HARTMAN, the daughter of W. N. CONNELL by a prior marriage, and for her issue as hereinafter provided. ELEANOR MARGUERITE CONNELL HARTMAN shall hereinafter be designated as the "Residual Beneficiary".

This trust shall be known and identified as the "W. N. Connell and Marjorie T. Connell Living Trust", and, for purposes of convenience, shall hereinafter be referred to as Trust No. 1.

SECOND: TRUST NO. 1. The Trustee shall hold, manage, invest and reinvest the trust estate and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay equally to the Grantors, during their joint lives, all community net income of the trust estate and shall pay to each Grantor all separate net income from his or her respective share of the trust estate. Such income shall be paid to the Grantors unless the Trustee receives written notice from the Grantors that all income shall not be distributed but shall be accumulated by the Trustee and invested and reinvested as herein provided.

B. Principal. During the joint lives of the Grantors, the Trustee shall pay over and distribute to a Grantor such part or all of the principal of his or her separate property and his or her share of the community property placed in this initial trust by that Grantor as he or she shall demand in a writing directed to the Trustee.

C. Death of Either Grantor. Upon the death of the Grantor whose death shall first occur, the Trustee shall divide the trust estate, including all property received as a result of the decedent's death, as follows:

1. The trust estate and all property received as a result of the decedent's death shall be divided into two parts, each part to be administered as a separate trust to be known respectively as "Trust No. 2" and "Trust No. 3". Reference hereafter to the "Decedent" shall refer to either of the Grantors whose death shall first occur and reference to the "Survivor" shall refer to the other Grantor.

2. The Trustee shall allocate to Trust No. 3 (a) the Survivor's separate property interest in the trust estate; (b) the Survivor's one-half (1/2) interest in the community property of the trust estate, less a proportionate part of all amounts properly chargeable against all community property; and (c) the Survivor's community property interest in any policy of insurance on the life of the Decedent owned by the Grantors as community property and made payable to Trust No. 1.

3. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property an amount as determined in Article THIRD hereof.

4. The Trustee shall allocate to Trust No. 2, all the remaining portion of the trust estate not allocated to Trust No. 3, including, but not limited to, the Decedent's community property interest, if any, in any life insurance policy on the life of the Decedent payable to Trust No. 1.

5. In the event that property is received by the Trustee, by inter vivos or testamentary transfer and directions are contained in the instrument of transfer for allocation to or between Trust No. 2 or Trust No. 3, then the Trustee shall make allocation in accordance with such directions, anything to the contrary herein, notwithstanding.

6. It is the intention of the parties, that ELEANOR MARGUERITE CONNELL HARTMAN shall be a Co-trustee of the Decedent's separate property in trust in this Trust to the extent the term "Trustee", as hereinafter used, shall apply to her.

THIRD: MARITAL DEDUCTION. The Trustee shall allocate to Trust No. 3 from the Decedent's separate property the fractional share of the said assets which is equal to the maximum marital deduction allowed for federal estate tax purposes, reduced by the total of any other amounts allowed under the Internal Revenue Code as a Marital Deduction which are not a part of this trust estate. In making the computations and allocations of the said property to Trust No. 3 as herein required, the determination of the character and ownership of the said property and the value thereof shall be as finally established for federal estate tax

purposes. This distribution is being made without regard to death taxes payable by reason of the Decedent's death, which taxes shall be paid from Trust No. 2 only.

FOURTH: TRUST NO. 2. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 2 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Death of Decedent. Upon the death of the Decedent, the Trustee shall pay from the income or principal of this trust, the death taxes, probate and legal expenses, and the expenses of the last illness and funeral of the Decedent, provided, however, that no funds received by the Trustee as proceeds from a retirement plan qualified under the Internal Revenue Code shall be available for these purposes unless there are no other assets in the Survivor's estate, in which event funds from a qualified plan can be used, but only to the extent of these actual expenses.

B. Income. All income received by this Trust from the separate property of the Decedent shall be paid to the Residual Beneficiary. In the event any of the real property located in Upton County, Texas, as listed on the original Schedule "A" attached hereto, forms a part of the corpus of this Trust, the Residual Beneficiary shall be paid an additional payment from the income received from the Decedent's half of the community property, which forms a part of the corpus of this Trust, equal to all of the income received by this Trust from the real property located in Upton County, Texas. However, the provisions relating to the additional payment, shall be noncumulative, and in any calendar year in which the income received from the said community property is not sufficient to make full payment hereunder, the Trustee is directed to pay only the income which has been received by this Trust during that year, and not to carry forward any deficiency in payment to the next calendar year's income.

In the event the Residual Beneficiary predeceases the Survivor, the Residual Beneficiary's rights to receive income hereunder shall be paid to or for the benefit of her living children and the issue of any deceased child by right of representation; or in the event she dies without living issue, her income rights hereunder shall become those of the Survivor.

All other income received by this Trust shall be distributed to the Survivor.

All payments as provided in this Section shall be made at frequent intervals, but at least semi-annually.

C. Principal. The Trustee shall pay over and distribute the principal of the estate of Trust No. 2 as follows:

1. Power to make gifts. The Survivor shall have the discretionary power during his or her lifetime to direct the Trustee to pay over and distribute trust principal of the separate property in trust from the Decedent's Trust to or for the benefit of the Residual Beneficiary or any of her living issue; such power may be exercised by delivering to the Trustee a writing duly executed and acknowledged, wherein he or she specifies the amount of principal that should be paid over and distributed to the particular issue and in what proportions such principal shall be paid over and distributed. It is the Grantors' intent hereby to convey upon the Survivor a sprinkling power; said power is limited, however, to appointments made to and among the Residual Beneficiary or her living issue.

2. Power of invasion. If, in the opinion of the Trustee, the income from all sources of which the Trustee has knowledge shall not be sufficient to support, maintain, educate and provide for the Survivor or Residual Beneficiary or any issue of the Residual Beneficiary in their accustomed manner of living, or in the event of any emergency befalling these said parties, such as illness, accident or other distress, the Trustee is authorized to use and expend such part of the trust principal of Decedent's separate property in trust, as the Trustee may deem necessary or desirable to meet such needs or emergencies. The decision of the Trustee as to what shall constitute an emergency or the necessity or desirability of encroachment upon principal shall be conclusive upon all parties and the Trustee shall be relieved and exonerated hereunder if the Trustee acts in good faith in making such determination.

3. Sale of real property from Decedent's separate property. The Survivor is directed that in the event any additional money is needed for payment of funeral, last illness or other costs to settle any claims made against Decedent's estate, or in the event that the sale of Decedent's separate property is contemplated at any time, only the separate property of Decedent situated in Las Vegas, Clark County, Nevada, shall be sold to satisfy this obligation.

4. Sale of real property. In the event that any real property which is listed on Schedule "A" attached hereto as the Decedent's separate property, and, is a part of the corpus of Trust No. 2 is sold, the Grantors direct the Trustee to distribute the net proceeds from such sale, less any applicable income tax due because of such sale, to the Residual Beneficiary, free of trust. In the event the Residual Beneficiary is not living at the time of the said sale, the proceeds therefrom shall remain in this Trust, and shall be subject to all of the provisions as herein contained.

D. Definition of real property. The term "real property" as used in this Article FOURTH shall not include the mineral, oil and gas interests in Upton County, Texas, if the same are separately listed on Schedule "A" hereto.

FIFTH: TRUST NO. 3. The Trustee shall hold, manage, invest and reinvest the estate of Trust No. 3 and shall collect the income thereof and dispose of the net income and principal as follows:

A. Income. The Trustee shall pay to the Survivor during his or her lifetime all of the net income of the Survivor's trust estate in convenient, regular installments, but not less frequently than quarter-annually.

B. Powers of appointment over income and principal.

1. During his or her lifetime, the Survivor shall have the power to appoint all or any part of the principal and undistributed income, if any, of the estate of Trust No. 3 to himself or herself, or to any person or persons. Such power of appointment shall be exercisable in all events, but only by the Survivor's submitting to the Trustee written instructions expressly exercising such power.

2. Upon the death of the Survivor, he or she shall have the absolute power to appoint the entire principal and the undistributed income, if any, of the estate of Trust No. 3, or any part thereof, to his or her estate or to any person or persons. Such power of appointment shall be exercised only by a provision in the Last Will of the Survivor expressly exercising such power. Unless within ninety (90) days after the death of the Survivor the Trustee has actual notice of the existence of a Will exercising such power, it shall be deemed for all purposes hereunder that such power was not exercised.

C. Revocation and Amendments. The Survivor shall have the power to revoke, amend or terminate Trust No. 3 herein provided by delivering such amendments or revocation in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

D. Death of Survivor. Upon the death of the Survivor, the Trustee shall distribute the trust estate in accordance with and to the extent provided by the Survivor's exercise of his or her power of appointment.

If and to the extent that the Survivor shall fail to effectively exercise the foregoing power of appointment, the principal and undistributed income of Trust No. 3 shall, upon his or her death, be distributed to the Residual Beneficiary, or to the heirs of her body if she is not then living.

SIXTH: SPENDTHRIFT PROVISION. Each and every beneficiary under the Living Trust and the various estates created hereunder is hereby restrained from and shall be without right, power or authority to sell, transfer, assign, pledge, mortgage, hypothecate, alienate, anticipate, bequeath or devise, or in any manner affect or impair his, her or their beneficial right, title, interest, claim and estate in and to either the income or principal of any claim created hereunder, or to any part thereof, during the entire term of said trusts; nor shall the right, title, interest, or estate of any beneficiary be subject to any right, claim, demand, lien or judgment of any creditor of any such beneficiary, nor be subject nor liable to any process of law or equity, but all of the income and principal, except as otherwise provided in this Trust Agreement shall by the Trustee be payable and deliverable to or for the benefit of only the before named and designated beneficiaries, at the times hereinbefore set out, and receipt by such beneficiaries shall relieve the Trustee from responsibility for such good faith distributions.

SEVENTH: POWERS OF TRUSTEE. To carry out the purposes of any trust created under this instrument and subject to any limitations stated elsewhere in this Trust Agreement, the Trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. To continue to hold any property, including any shares of the Trustee's own stock and to operate at the risk of the trust estate any business that the Trustee receives or acquires under the trust as long as the Trustee deems advisable.

B. To manage, control, grant options on, sell, (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property.

C. To lease trust property for terms within or beyond the term of the trust and for any purpose, including

exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements.

D. To borrow money and to encumber or hypothecate trust property by mortgage, deed of trust, pledge, or otherwise; to borrow money on behalf of one trust from any other trust created hereunder to guarantee any loan made during the lifetime of the Grantors.

E. To carry, at the expense of the trust, insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust estate and the Trustee against any hazard.

F. To commence or defend such litigation with respect to the trust or any property of the trust estate as the Trustee may deem advisable at the expense of the trust.

G. To compromise or otherwise adjust any claims or litigation against or in favor of the trust.

H. To invest and reinvest the trust estate in every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, stocks, preferred or common, shares of investment trusts, investment companies, and mutual funds and mortgage participations, which men of prudence, discretion and intelligence acquire for their own account, and to invest in any common trust fund administered by the Trustee and to lend money of one trust to any other trust created hereunder.

I. With respect to securities held in the trust, to have all the rights, powers and privileges of an owner, including, but not by way of limitation, the power to vote, give proxies and pay assessments; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, liquidations, sales and leases and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the Trustee may deem advisable; and to exercise or sell stock subscriptions or conversion rights.

J. Except as otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of the trust estate and the apportionment and allocation of receipts and expenses thereon shall be governed by the provisions of the Nevada Principal and Income Law and shall be determined by the Trustee in the Trustee's discretion; provided, however, that all capital gain distributions from mutual funds should be allocated to principal.

K. All of the trust powers set forth in Nevada Revised Statutes 163.265 to 163.410 inclusive, are hereby incorporated into this Trust Agreement.

EIGHTH: SPECIAL PROVISIONS.

A. Use of Home. The Trustee shall allow the Survivor to occupy and use until his or her death the home (or any interest therein) used by either or both Grantors as a principal residence at the time of the Decedent's death. The Trustee shall, at the discretion of the Survivor, sell such home, and if the Survivor so directs, purchase and/or build another comparable residence to be used as a home for the Survivor, and so on from time to time. The Survivor shall not be required to pay any rent for the use of such home.

B. Revocation and Amendment.

1. (Except as provided in paragraph 2 of this clause):

(a) This Trust Agreement, and the trusts evidenced thereby, may be revoked at any time during the joint lives of the Grantors by either of the Grantors delivering written notice of revocation to the Trustee and to the other Grantor.

(b) This Trust Agreement, and the trusts evidenced thereby, may be amended at any time and from time to time during the joint lives of the Grantors by the joint action of both Grantors delivering such amendment or amendments in writing to the Trustee provided that the Trustee's duties and liabilities cannot be increased without the Trustee's consent.

(c) From and after the death of the Decedent, this Trust Agreement may not be revoked, altered or amended, except as provided in relation to Trust No. 3.

(d) Upon any revocation of this Trust Agreement, during the Grantors' joint lives, the Trustee shall return to each Grantor his or her half of the community assets and to each Grantor his or her separate property, as indicated on Schedule "A".

2. In the event that any insurance on the life of either Grantor, owned by the other Grantor as his or her separate property, is payable to the Trustee or Trustees of any trust hereunder, then this Trust Agreement and the trusts evidenced thereby may be amended or revoked, insofar as they relate to such insurance, only by the Grantor who is owner of such insurance. The insured Grantor shall have no right to revoke or amend to that extent. This paragraph shall be construed as limiting the rights of the insured-Grantor and not as expanding the rights of the owner-Grantor.

C. Simultaneous Death. If there be no sufficient evidence that the Grantors died otherwise than simultaneously, then for purposes of this Trust Agreement, it shall be conclusively presumed for all purposes of administration and tax effect of this Trust Agreement that the Decedent shall be the Husband and the Survivor shall be the Wife.

D. Limitation of Trust Powers. Administrative control and all other powers relating to the various trust estates created hereunder, shall be exercised by the Trustee in a fiduciary capacity and solely for the benefit of the Survivor and the other beneficiaries as herein provided. Neither the Trustee, the Grantors, nor any other person, shall be permitted to purchase, exchange, reacquire or otherwise deal with or dispose of the principal of any of the various trust estates or the income therefrom, for less than an adequate and full consideration in money or money's worth; nor shall any person borrow the principal or income of the trust estates, directly or indirectly, without adequate interest in any case or without adequate security therefor.

E. Compensation of Trustee. The Trustee or successor Trustee, as herein provided, shall receive reasonable compensation for ordinary services performed hereunder. Reasonable compensation shall be based upon the then prevailing rates charged for similar services in the locality where the same are performed by other fiduciaries engaged in the trust business or acting as trustees.

F. Applicable Law. This Trust Agreement is executed under the laws of the State of Nevada and shall in all respects be governed by the laws of the State of Nevada; provided, however, the Trustee shall have the discretion, exercisable at any later time and from time to time, to administer Trust No. 1 pursuant to the laws of any jurisdiction in which the Trustee may be domiciled, by executing and acknowledging a written instrument to that effect and attaching the same to this Trust Agreement, and, if the Trustee so exercises the Trustee's discretion, as above provided, the various trust estates shall be governed by the laws of the other state or jurisdiction in which Trust No. 1 is then being administered.

G. Invalid Provisions. In the event any clause, provision or provisions of this Trust Agreement and the Living Trust created hereunder prove to be or be adjudged invalid or void for any reason, then such invalid or void clause, provision or provisions, shall not affect the whole of this instrument, but the balance of the provisions hereof shall remain operative and shall be carried into effect insofar as legally possible. If any provision contained in this Trust Agreement shall otherwise violate the rules against perpetuities now or hereafter in effect in the State of Nevada or in any state by which this Living Trust may subsequently be governed, that portion of the Trust so effected shall be administered as herein provided until the termination of the maximum period authorized by law, at which time and forthwith, such part of the said trust estate so

affected shall be distributed in fee simple to the beneficiary or beneficiaries in the proportions in which they are then entitled to enjoy the benefits so terminated.

H. Incompetency of Beneficiary. During any period in which any beneficiary under this Trust Agreement is judicially declared incompetent, or in the opinion of the Trustee is unable to care for himself, the Trustee shall pay over or use for the benefit of said incompetent beneficiary any part or all of the net income or principal from his or her share of the trust estate, in such manner as the Trustee shall deem necessary or desirable for said beneficiary's support, maintenance and medical care.

I. Claimants. The Grantors have, except as otherwise expressly provided in this Trust Agreement, intentionally and with full knowledge declined to provide for any and all of their heirs or other persons who may claim an interest in their respective estates or in these trusts.

J. Headings. The various clause headings used herein are for convenience of reference only and constitute no part of this Trust Agreement.

K. Copies. This Trust Agreement may be executed in any number of copies and each shall constitute an original of one and the same instrument.

L. Construction. Whenever it shall be necessary to interpret this trust, the masculine, feminine and neuter personal pronouns may be construed interchangeably, and the singular shall include the plural and the plural the singular.

NINTH: LIFE INSURANCE POLICIES. With respect to any policies of life insurance under which the Trustee is designated as beneficiary, the Trustee shall deal with such policies as required by the following trust provisions, in addition to the general trust provisions hereinbefore and hereinafter set forth:

A. Custody of Insurance Policies. The Trustee shall have the custody of any policy of life insurance under which the Trustee is designated as beneficiary. However, the owner shall have the right to possession of said policy or policies upon written request to the Trustee.

B. Payment of Premiums. The Trustee shall be under no obligation to pay the premium of any policy or policies of insurance, nor to make certain that such premiums are paid by the Grantors or others, nor to notify any persons of the non-payment of such premiums; and, the Trustee shall be under no responsibility or liability of any kind in case such premiums are not paid.

C. Collection of Policy Proceeds. Upon the death of the insured under such policy or policies, the Trustee shall collect all proceeds due thereon and the Trustee shall make all reasonable efforts to carry out the provisions of this Trust Agreement, including the maintenance of or defense of any action or suit; provided, however, the Trustee shall be under no duty to maintain or enter into any litigation unless the expenses thereof, including counsel fees and costs, have been advanced or guaranteed in an amount and in a manner which is reasonably satisfactory. The Trustee may repay any advances made by the Trustee or reimburse itself for any such fees and costs expended in reasonable attempts for collection of such proceeds out of the principal or income of the trust.

D. Purchase of Assets. The Trustee is hereby authorized and empowered to apply any part or the whole amount of any insurance proceeds collected hereunder to purchase assets from the insured's estate which may be offered for sale by the legal representative of the insured's estate at a price equal to the value of such assets as fixed by competent authority for purposes of determining the liability of the insured's estate for death taxes or at such other price as may be agreed upon by the personal representative of the insured's estate.

TENTH: NON-CONTEST PROVISION. The Grantors specifically desire that these trusts created herein be administered and distributed without litigation or dispute of any kind. If any beneficiary of these trusts or any other person, whether stranger, relatives or heirs, or any legatees or devisees under the Last Will and Testament of the Grantors or the successors in interest of any such persons, including any person who may be entitled to receive any portion of the Grantors' estates under the intestate laws of the State of Nevada, seek or establish to assert any claim to the assets of these trusts established herein, or attack, oppose or seek to set aside the administration and distribution of the said trusts, or to have the same declared null and void or diminished, or to defeat or change any part of the provisions of the trust established herein, then in any and all of the above mentioned cases and events, such person or persons shall receive One Dollar (\$1.00) and no more in lieu

of any interest in the assets of the trusts.

ELEVENTH: DEATH OF ALL BENEFICIARIES. In the event the Residual Beneficiary shall predecease the Grantors without living issue or children of any deceased child, then the Grantors direct that all of the income and principal of any trusts created hereunder shall be distributed to the Shriners Hospitals for Crippled Children upon the death of the Survivor.

TWELFTH: SUCCESSOR TRUSTEE. In the event of the death or incapacity of either Grantor, the Survivor shall continue to serve as the sole Trustee of all of the trusts created hereunder. Upon the death or incapacity of the Survivor, the Grantors then nominate and appoint ELEANOR MARGUERITE CONNELL HARTMAN as the Trustee of all of the trusts created hereunder, or in the event that she is unable or unwilling to serve in the said capacity, then the Grantors nominate and appoint the FIRST NATIONAL BANK OF NEVADA to serve in the said capacity. No successor trustee shall have any responsibility for the acts or omissions of any prior trustee and no duty to audit or investigate the accounts or administration of any such trustee, nor, unless in writing requested so to do by a person having a present or future beneficial interest under a trust created hereunder, any duty to take action or obtain redress for breach of trust.

THIRTEENTH: ACKNOWLEDGEMENT, REPORTS, INSPECTION OF RECORDS. The Trustee hereby acknowledges receipt of and accepts the property and the estate of Trust No. 1 created hereunder on the terms and conditions stated and agrees to care for, manage and control the same in accordance with the directions herein specified, and to furnish to each beneficiary having income paid, distributed, credited or accumulated for his or her benefit, annually and more often if requested so to do, a statement showing

THIS TRUST AGREEMENT is accepted and executed by the Grantors and Trustee in the State of Nevada on the day and year first above written.

W. N. CONNELL

Marjorie T. Connell
MARJORIE T. CONNELL

W. N. CONNELL

Marjorie T. Connell
MARJORIE T. CONNELL

On May 18th, 1972, personally appeared before me,
a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who
declared to me that they executed the foregoing Trust Agreement.

NOTARY PUBLIC - STATE OF NEVADA
CLARK COUNTY

JUNE A. GAVIN
My Commission Expires May 2, 1975

Exhibit “B”

SCHEDULE "A"

("The W. N. Connell and Marjorie T. Connell Living Trust")

All of the Grantors' rights, title and interest in the following assets are hereby transferred to the Trustee as part of this trust estate and will be administered and distributed in accordance with the terms of the foregoing Trust Agreement.

The following real property interests constitute the community property of the Grantors:

1. Lots One (1) and Two (2) in Block Sixteen (16) of South Addition to the City of Las Vegas, as shown by map thereof on file in Book 1 of Plats, page 51, in the Office of the County Recorder of Clark County, Nevada.
2. Lot Three (3), Block Six (6), Biltmore Addition to the City of Las Vegas, as shown by map thereof on file in Book 2 of Plats, Page 33, in the Office of the County Recorder of Clark County, Nevada.
3. Lots Fifteen (15) and Sixteen (16) in Block Fifteen (15) in the South Addition to the City of Las Vegas as shown by map thereof on file in Book 1 of Plats, Page 14, in the Office of the County Recorder of Clark County, Nevada.
4. Lots Twenty-Two (22) and Twenty-Three (23) in Block Eleven (11) of South Addition to the City of Las Vegas as shown by map thereof on file in Book 1 of Plats, Page 51, in the Office of the County Recorder of Clark County, Nevada.
5. Lots Twenty-four (24) and Twenty-five (25) in Block Eleven (11) of South Addition to the City of Las Vegas, as shown by map thereof on file in Book 1 of Plats, page 51, in the Office of the County Recorder of Clark County, Nevada.

The following assets constitute the separate property of
W. N. CONNELL:

1. Real Property:

(a) That portion of the North Half (N 1/2) of the South Half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 28, Township 20 South, Range 61 East, M.D.B.&M., described as follows:

Beginning at the point of intersection of the East Line of the Northwest Quarter (NW 1/4) of

the Southeast Quarter (SE 1/4) of the Southwest Quarter (SW 1/4) of said Section 28, said Township and Range, (hereinafter called Line 1) with the South boundary of Clark Avenue produced Westerly as the same is now established (hereinafter called Line 2); thence South along said Line 1 a distance of 378 feet; thence North 89° 36' West and parallel to said Line 2 a distance of 100 feet; thence North along a line parallel to said Line 1 a distance of 378 feet to said Line 2; thence East along said Line 2, 100 feet to the point of beginning-

Together with an undivided 1/30th interest of, in and to all water flowing or otherwise produced from that certain artesian well located in the North Half of the South Half of the Southeast Quarter of Section 29, Township 20 South, Range 61 East, M.D.B.&M, known as the New Russell Well. Together with an undivided 1/30th interest in and to that certain pipe line connected to and running from said well Easterly to a point 100 feet West from said Line 1 above described; together with an easement for said pipe line in common with all the other owners of said pipe line along a strip of ground three feet in width, the center line of which is located approximately 150 feet South of and running parallel with said Line 2, and which strip extends from said well to a point 100 feet West from said Line 1; together with the right to enter thereon for the purpose of repairing, replacing and renewing said pipe line.

Reference: Deed # 180405, Book 35, pages 159 and 160.

(b) The West 1/2 of Section 37, all of Sections 38, 47 and 48 in Block 39, Township 5 South, T. & P. R.R. Co. Survey in Upton County, Texas.

2. Oil, gas and mineral rights on and under the following described real property in Upton County, Texas.

(a) Sections 31 and 42 of Block 38, Township 5 South, T. & P. R.R. Co. Survey.

(b) Sections 32, 33, 36, 37, 38, 40, 41, 44, 45, 47 and 48 of Block 39, Township 5 South, T. & P. R.R. Co. Survey.

(c) Sections 36 and 37 of Block 40, Township 5 South, T. & P. R.R. Co. Survey.

3. The oil, gas and mineral leases on the following described real property in Upton County, Texas.

(a) Sections 31 and 42 of Block 38, Township 5 South, T. & P. R.R. Co. Survey.

(b) Sections 32, 33, 36, 37, 38, 40, 41, 44, 45, 47 and 48 of Block 39, Township 5 South, T. & P. R. R. Co. Survey.

(c) Sections 36 and 37 of Block 40, Township 5 South, T. & P. R.R. Co. Survey.

The undersigned Grantors named in the foregoing Trust Agreement hereby certify that they have read said Trust Agreement and that it fully and accurately sets out the terms, trusts and conditions under which the trust estate therein described is to be held, managed and disposed of by the Trustee therein named; and, that they hereby approve, ratify and confirm the said Trust Agreement.

W. N. CONNELL
MARJORIE T. CONNELL

STATE OF NEVADA)) SS
COUNTY OF CLARK)

On May 18th, 1972, personally appeared before me, a Notary Public, W. N. CONNELL and MARJORIE T. CONNELL, who acknowledged to me that they executed the foregoing Trust Agreement.

June A. Davis
Notary Public in and for said
County and State

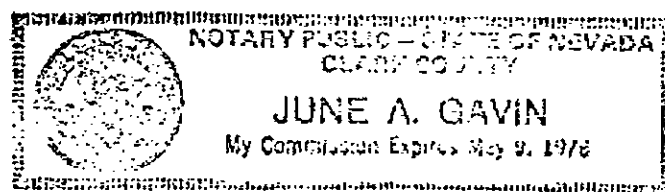


Exhibit "C"

1249 1208700
SUBSTITUTION OF TRUSTEE

1 MARJORIE T. CONNELL, surviving Trustee of the W. N.
2 CONNELL AND MARJORIE T. CONNELL LIVING TRUST, made and en-
3 tered into on May 18, 1972, by and between W. N. CONNELL
4 and MARJORIE T. CONNELL, as Grantors, and W. N. CONNELL and
5 MARJORIE T. CONNELL, as Trustee, hereby substitutes and
6 appoints ELEANOR MARGUERITE CONNELL HARTMAN, daughter of
7 W. N. CONNELL, as Co-Trustee of the separate property of
8 W. N. CONNELL presently held in the above-entitled Trust.
9 This substitution is made pursuant to the terms of said Trust.
10 due to the decease of W. N. CONNELL, who passed away Novem-
11 ber 24, 1979.

12
13 Marjorie T. Connell
14 MARJORIE T. CONNELL

15 The undersigned, ELEANOR MARGUERITE CONNELL HARTMAN, also
16 known as ELEANOR C. HARTMAN, hereby consents to serve as Co-
17 Trustee of the separate property of W. N. CONNELL in the above-
18 entitled Trust.

19 Dated this 6th day of May, 1980.

20
21 Eleanor Marguerite Connell Hartman
22 ELEANOR MARGUERITE CONNELL HARTMAN
23 Eleanor C. Hartman

24 STATE OF NEVADA)
25 : ss
26 COUNTY OF CLARK)

27 On this 6th day of May, 1980, before me, the
28 undersigned, a Notary Public in and for said County and State,
29 duly commissioned and sworn, personally appeared MARJORIE T.
30 CONNELL, known to me to be the person whose name is subscribed
31 to the within instrument, and who acknowledged to me that she
32 executed the same freely and voluntarily and for the uses and
33 purposes therein mentioned.

STATE OF NEVADA)
COUNTY OF CLARK) ss

On this 6th day of May, 1980, before me, the undersigned, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared ELEANOR MARQUERITE CONNELL HARTMAN, known to me to be the person whose name is subscribed to the within instrument, and who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein mentioned.

Gina Di Marco
NOTARY PUBLIC



Notary Public - State of Nevada
CLARK COUNTY
Gina Di Marco
My Appointment Expires Mar. 2, 1982

CLARK COUNTY, NEVADA
JOAN L. GILBERT, CLERK
RECORDED & INDEXED

Morse - Foley
JUL 7 2 25 PM '80

DEPUTY
OFFICIAL RECORDS
BOOK - CERTIFICATE

Exhibit “D”

Date Received (Do not write in this space)

INHERITANCE TAX RETURN - NON-RESIDENT

Decedent's Name (First, Middle, Maiden, Last) William M. Connell		Date of Death November 24, 1979	T CODE <input checked="" type="checkbox"/> 90100 DEPOSIT CODE <input checked="" type="checkbox"/> 110 AMOUNT
Residence (Domicile) at Time of Death (City and State) Boulder City, Nevada		Year in which domicile was established. 1936	
Marital Status: <input checked="" type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Single <input type="checkbox"/> Legally Separated <input type="checkbox"/> Widow/Widower			
If Married, Date of Marriage: June 2, 1942		Number of Children: one	Number of Children Surviving: one
Did the decedent, at any time during life, make any transfer of property within Texas in which any beneficial interest was retained? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		Did the decedent, within three years immediately prior to death, make any transfer of property within Texas without an adequate and full consideration? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
Did the decedent die testate? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "YES" attach copy of will. If "NO" attach an affidavit of heirship.		Were letters testamentary or of administration granted for this estate? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
To whom granted? (Designate "Executor," "Executrix," "Administrator," or "Administratrix")			
NAME	DESIGNATION	ADDRESS (Street & No., City, State, Zip Code)	
Name of Court		Location of Court	
Have ancillary probate proceedings been applied for and granted? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		County in Texas	
Name of ancillary administrator or executor			
Address			

INHERITANCE TAX DUE

PART I Basic inheritance tax (From Schedule B) <div style="border: 1px solid black; padding: 5px; width: 150px; float: left;">\$ -00-</div>		PART II Federal credit for state death tax (From Schedule C) <div style="border: 1px solid black; padding: 5px; width: 150px; float: left;">\$ 515.00</div>	
TAX DUE (PART I OR PART II, WHICHEVER IS GREATER) <div style="border: 1px solid black; padding: 10px; width: 200px; margin: 0 auto;">\$ 515.00</div>			

I declare that this return and any accompanying statements are true, correct and complete to the best of my knowledge. I understand that this return is subject to the fraudulent report provisions of TEX. TAX-GEN. ANN. art. 1.12 (1969).

Name of Preparer Darrel Knight Assoc., Inc.-PC	Phone (Area Code & No.) 915 695-2370	Name of Executor, Administrator, Heir at Law Marjorie Connell, Executrix	Phone (Area Code & No.) 702 293-5391
Address (Street & No., City, State, Zip Code) 301 S. Pioneer, #102, Abilene, TX 79605		Address (Street & No., City, State, Zip Code) P O Box 710, Las Vegas, Nevada 89101	
sign here <i>Darrel Knight</i>	Date 12-16-80	sign here <i>Marjorie Connell</i>	Date 12-16-80

PLEASE NOTE:

RETURN MUST BE SIGNED BY PERSONAL REPRESENTATIVE OF ESTATE AND PERSON PREPARING RETURN. A COPY OF DECEDENT'S WILL OR AFFIDAVIT OF HEIRSHIP MUST BE ATTACHED.

For assistance call Area Code 512 475-3603 or
TOLL FREE from anywhere in Texas
1-800-252-5555, Ext. 119, 120 or 121

MAIL TO: BOB BULLOCK
COMPTROLLER OF PUBLIC ACCOUNTS
INHERITANCE TAX DIVISION
CAPITOL STATION
AUSTIN, TEXAS 78774

(June, 1975)

STATE OF TEXAS

Copy

APPLICATION FOR EXTENSION OF TIME TO FILE INHERITANCE TAX RETURN AND/OR PAY INHERITANCE TAX
(Articles 14.14(C) and/or 14.16(A) and (B) of Title 122A, Chapter 14, Revised Civil Statutes, 1925)

PART I - IDENTIFICATION

Name and Mailing Address of Application Preparer Darrel Knight Associates, Inc. - P.C. 301 South Pioneer, Suite 102 Abilene, Texas 79605		Inheritance Tax Return Due Date August 24, 1980
		Decedent's County of Residence - or County of Probate Proceedings Clark County
		Decedent's Social Security Number 530-05-6631
Decedent's First Name and Middle Initial William N.	Decedent's Last Name Connell, Jr.	Date of Death Nov. 24, 1979

PART II - EXTENSION OF TIME TO FILE (Art. 14.14(C))

Extension Date Requested
Feb. 24, 1981

Reasons (state in detail):

The federal estate return is being prepared by a CPA in Nevada. He has not received all the information he needs to complete form 706 at this time. I am unable to complete the Texas return until I receive form 706 from Nevada.

PART III - EXTENSION OF TIME TO PAY (Art. 14.16 (A) and (B))

Extension Date Requested

Reasons (state in detail):

Amount of estimated Inheritance Tax Due

-0-

Amount of Cash Shortage Claimed

BALANCE DUE (Pay with this Application)

-0-

PART IV - SIGNATURE AND VERIFICATION

If prepared by Executor, Administrator or Person in Possession of Property. - Under penalties of Section 37.10, Title 8, Texas Penal Code, I declare that to the best of my knowledge and belief, the statements made herein are true and correct.

(Signature of executor, administrator or person in possession of property)

(Title)

(Date)

If prepared by Someone Other Than Executor, Administrator or Person in Possession of Property. - Under penalties of Section 37.10, Title 8, Texas Penal Code, I declare that to the best of my knowledge and belief, the statements made herein are true and correct, that I am authorized by the executor, administrator or person in possession of property to prepare this application and that I am:

☐ A member in good standing of the bar of the highest court of (specify jurisdiction)

☒ A certified public accountant duly qualified to practice in (specify jurisdiction) State of Texas

☐ A personal representative (as defined in Article 14.00A(e), Taxation-General, Revised Civil Statutes of Texas) other than above.

Explain

[Signature], CPA

8-22-80

(Signature of preparer other than executor, administrator or person in possession of property)

(Date)

PART V - NOTICE TO APPLICANT - TO BE COMPLETED BY INHERITANCE TAX DIVISION

1. The Application For Extension of Time to File (Part II) is:

☒ Approved until February 24, 1981

☐ Not approved because

☐ Other

2. The Application For Extension of Time to Pay (Part III) is:

☐ Approved

☐ Not approved because

☒ Other not requested

Director

[Signature]

Date August 28, 1980

SCHEDULE A

C. J.

PROPERTY SUBJECT TO TEXAS INHERITANCE TAX

Did the decedent at the time of death own an interest in real estate or minerals located within the State of Texas?
☒ Yes ☐ No If "Yes," list below.

Did the decedent at the time of death own an interest in any tangible personal property such as livestock, farm and ranching equipment, grain in storage, growing crops, all equipment used in connection with the drilling and producing of subsurface crude oil, gas or other minerals and any other tangible property having an actual situs in the State of Texas? ☐ Yes ☒ No If "Yes," list below.

All assets listed below must be clearly described and identified. If valuations are based upon appraisals, copies of such appraisals should accompany the return. If a formal appraisal of oil and gas leases and royalties is not made, a five-year payout based on the last twelve months prior to death will be used in determining the value of such mineral interest.

ALTERNATE VALUATION

An election to have the gross estate of the decedent valued as of the alternate date or dates is made by entering a check mark in the box set forth below:

☐ The executor elects to have the gross estate of the decedent valued in accordance with values as of a date or dates subsequent to the decedent's death as authorized under TEX. TAX. GEN. ANN. art. 14.11 (Supp. 1976).

ITEM NO.	DESCRIPTION	SUBSEQUENT VALUATION DATE	ALTERNATE VALUE	VALUE AT DATE OF DEATH
1	2,301 acres, pasture land, out of Block 39, T-5-S, Sections 38,47,48, W $\frac{1}{2}$ 37, Upton County, Texas. Separate property of decedent.		\$	\$ 80,535.
2	Mineral rights, Upton County, Texas, $\frac{1}{4}$ interest in Dora Connell Estate. Separate property of decedent. Valued on a 5-year payout based on payments received 12 months prior to date of death.			32,677.
TOTAL (Also enter under Schedule C, Page 4)			\$	\$ 113,212.

SCHEDULE B

COMPUTATION OF BASIC INHERITANCE TAX

- List all beneficiaries under the will of the decedent (including charitable bequests) or under the laws of intestacy who take any share of the estate.
- If beneficiaries do not share the estate equally, attach a copy of the distribution indicating the items and amounts distributed to each beneficiary.
- Attach a copy of the last will and testament or an affidavit of heirship if the decedent died intestate.
- If beneficiaries listed on the distribution schedule are not as specified in decedent's will, please explain (predeceased, disclaimed, etc.).

(1) Name and Address of Beneficiary	(2) Relationship of Beneficiary to Decedent	(3) Age of Beneficiary at date of death of Decedent	(4) Value of share of entire net estate wherever located (See Sch. B-3)	(5) Value of share of net Texas estate (See Sch. B-3)	(6) Tax at Texas rates on share of entire net estate (4). (See Tax Rate Schedule)	(7) Ratio of share of Texas net estate to share of entire net estate. (5)divided by (4)	(8) Texas Inheritance Tax (6) multiplied by (7)
Marjorie Connell P. O. Box 710 Boulder City, Nevada 89101	wife	60	\$ 69,704	-0-	\$ 197.04	-0-	\$ -0-
Eleanor M. Connell Hartman P. O. Box 710 Las Vegas, Nevada 89101	daughter	41	12,528	-0-	125.28	-0-	-0-
Robert Hartman P. O. Box 710 Las Vegas, Nevada 89101	son-in-law	43	-0-	-0-	-0-	-0-	-0-
TOTAL TEXAS INHERITANCE TAX-Col. 8 (TO BE CARRIED FORWARD TO PAGE 1, PART I)							\$ -0-

(If more space is needed, insert additional sheets of same size)

SCHEDULE C

Copy

COMPUTATION OF PROPORTIONATE SHARE OF
FEDERAL CREDIT FOR STATE DEATH TAXHAS A FORM 706, U.S. ESTATE TAX RETURN BEEN FILED WITH THE INTERNAL REVENUE SERVICE? ☒ YES ☐ NO

The following information should be furnished from Form 706, U.S. Estate Tax Return, filed or to be filed on behalf of this estate with the Internal Revenue Service.

IF FORM 706 WAS NOT FILED, COMPLETE LINES 1 THROUGH 5 AND LINE 12

1. Value of property subject to Texas Inheritance Tax.	1. \$ 113,212	
2. Total value of all other property.	2. 180,023	
3. Total gross estate (lines 1 plus 2)-(Same as recapitulation p. 3, U.S. Estate Tax Return)		3. 293,235
4. Funeral, administration expenses, debts of decedent, mortgage and liens (Schedules J & K, U.S. Estate Tax Return)	4. 10,936	
5. Total value of net estate wherever located.		5. 282,299
6. Other deductions (Total of Schedules L, M, N and O, U.S. Estate Tax Return)	6. 76,688	
7. Total allowable deductions (Line 4 plus line 6) (Same as Recapitulation, page 3, U.S. Estate Tax Return)		7. 87,624
8. Taxable estate for Federal Estate Tax purposes. (Line 3 minus line 7) (Same as page one U.S. Estate Tax Return, line 3)		8. 205,611
9. Adjustment to compute State Death Tax.	9. 60,000.00	
10. Federal adjusted taxable estate (line 8 minus line 9).		10. 145,611
11. a) Excess of gross estate tax over unified credit. (from line 12, page 1, form 706)	11a 18,596	
b) Maximum Federal Credit for State Death Tax. (Computed on Table C, Form 706)	11b 1,335	
c) Allowable Federal Credit for State Death Tax. (line 11a or 11b, whichever is smaller)		11c 1,335
12. Percentage of Texas gross estate to total gross estate. (line 1 divided by line 3)	12. 38.61%	
13. Portion of Federal Credit for State Death Tax allocated to the State of Texas. (line 11c multiplied by line 12). TO BE CARRIED FORWARD TO PAGE 1, PART II		13. 515 \$

copy

SCHEDULE B-1

William M. Connell Estate
Distribution of Net Estate Wherever Located
Supporting Schedule B-3

Net Taxable Estate Wherever Located \$282,299

Distribution to Marjorie Connell:

Las Vegas rental property (Sch. A, Item 3, Form 706)	\$37,500	
Stock and bonds (Sch. B, Form 706)	52,218	
Cash and First Trust Deeds (Sch. C, Form 706)	74,660	
Insurance proceeds (Sch. D, Form 706)	1,358	
Mobil home, furniture and automobiles (Sch. F, Items 3, 4, 5 and 6, Form 706)	11,250	
Marital bequest, 64.493% of 2,301 acres Upton Co., Texas land (Sch. A, Item 1, Form 706)	51,940	
Marital bequest, 64.493% of mineral rights, Upton Co., Texas (Sch. A, Item 2, Form 706)	21,074	
Distributive share of allowable deductions	(10,936)	(239,064)

Distribution to Eleanor M. Connell Hartman:

Diamond Shrine Riva (Sch. F, Item 1, Form 706)	2,750	
35.507% of 2,301 acres, Upton Co., Texas land (Sch. A, Item 1, Form 706)	28,595	
35.507% of mineral rights, Upton Co., Texas (Sch. A, Item 2, Form 706)	<u>11,603</u>	(42,948)

Distribution to Robert Hartman:

Gold Diamond Glycene wristwatch		<u>(287)</u>
---------------------------------	--	--------------

\$ -0-

Copy

SCHEDULE B-2

William M. Connell Estate
Distribution of Texas Estate
Supporting Schedule B-3

Net Texas Estate		\$113,212
------------------	--	-----------

Distribution to Marjorie Connell:

Marital bequest, 64.493% of 2,301 acres Upton County land (Sch. A, Item 1)	\$51,940	
Marital bequest, 64.493% of mineral rights, Upton County, Texas (Sch. A, Item 2)	<u>21,074</u>	(73,014)

Distribution to Eleanor M. Connell Hartman:

35.507% of 2,301 acres, Upton County land (Sch. A, Item 1)	28,595	
35.507% of mineral rights, Upton County, Texas (Sch. A, Item 2)	<u>11,603</u>	<u>(40,198)</u>

\$ -0-

SCHEDULE B-3

William M. Connell Estate
Determination of Value of Taxable Share
Supporting Schedule B, Columns 4 & 5

Beneficiary	(a) Value of share of entire net estate wherever located	(b) % of share received to total of all Class A shares	(c) Exemption	(d) Pro rata share of exemption (b) x (c)	(e) Value of taxable share (a) - (d)
Marjorie Connell	\$239,064	84.68%	\$200,000	\$169,360	\$ 69,704
Eleanor C. Hartman	42,948	15.21%	200,000	30,420	12,528
Robert Hartman	<u>287</u>	<u>.11%</u>	<u>200,000</u>	<u>25,000</u>	<u>-0-</u>
Totals	<u>\$282,299</u>	<u>100.00%</u>	<u>-</u>	<u>-</u>	<u>\$ 82,232</u>

Beneficiary	(a) Value of share of Texas net estate	(b) % of share received to total of all Class A shares	(c) Exemption	(d) Pro rata share of exemption (b) x (c)	(e) Value of taxable share (a) - (d)
Marjorie Connell	\$ 73,014	64.49%	\$200,000	\$128,980	-0-
Eleanor C. Hartman	40,198	35.51%	200,000	71,020	-0-
Robert Hartman	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Totals	<u>\$113,212</u>	<u>100.00%</u>	<u>-</u>	<u>\$200,000</u>	<u>-0-</u>

copy

Copy


MARJORIE CONNELL		242
P. O. BOX 710		
LAS VEGAS, NEVADA 89101		
		<u>Dec. 16 1980</u> 94-38/1224
Pay to the order of	<u>Bob Bullock</u>	\$ <u>515⁰⁰</u>
<u>Five Hundred Fifteen</u>		<u>00/100</u> Dollars
 SOUTH BOULEVARD OFFICE FIRST NATIONAL BANK OF NEVADA P. O. BOX 15188 LAS VEGAS, NEVADA 89114		
For <u>W.N. Connell-Inheritance Tax</u>		<u>Marjorie Connell</u>
SS# <u>330-05-6631</u>		
⑆1224⑆0038⑆069118⑆3961⑆		

Exhibit “E”

COPY

Last Will and Testament of MARJORIE T. CONNELL

The original of this LAST Will
located in the office of DAVID A. STERN
900 Rancho Lane Las Vegas, NV 89101
702-474-1500

I, MARJORIE T. CONNELL, also known as MARJORIE THRASH CONNELL, a resident of Clark County, Nevada, revoke any prior wills and codicils made by me and declare this to be my Last Will and Testament.

Article One Family Information

I am unmarried.

I have one step-child, ELEANOR C. HARTMAN AHERN, born on May 13, 1938.

Article Two Distribution of My Property

Section 2.01 Pour-Over to My Living Trust

All of my probate estate, excluding any property over which I might have a power of appointment, and after payment of expenses and taxes which are paid pursuant to this will, I give to the then acting Trustee of the MTC LIVING TRUST dated December 6, 1995 as restated on January 7, 2008 and executed prior to this will, to be added to the property of that trust. I direct that the Trustee administer the property as provided in the trust agreement and any amendments prior to my death.

Section 2.02 Alternate Disposition

If the trust referred to in Section 2.01 is not in effect at my death or if for any other reason the pour-over cannot be accomplished, I specifically and completely incorporate the terms of the trust into this will by reference. In such a situation, I direct my Personal Representative to establish a trust in accordance with the provisions of such trust and give the remainder of my estate, excluding any property over which I might have a power of

appointment, to the Trustee of said trust to be administered as provided in the trust agreement.

Article Three

Designation and Succession of Fiduciaries

Section 3.01 Personal Representative

I nominate JACQUELINE MARGUERITE MONTOYA as my Personal Representative. If JACQUELINE MARGUERITE MONTOYA fails or ceases to act as my Personal Representative, I nominate KATHRYN ANN BOUVIER as my successor Personal Representative.

Article Four

Exercise of Power of Appointment

Section 4.01 Exercise of Power of Appointment Granted by WILLIAM N. CONNELL

In the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972, Article Fifth Trust No. 3 Paragraph B(2) of the Trust, I was granted a testamentary power of appointment. I hereby exercise that power of appointment and appoint the entire principal and the undistributed income in Trust No. 3, if any, on my death to JACQUELINE MONTOYA and KATHRYN ANNE BOUVIER to be distributed in trust in accordance with the provisions of the MTC LIVING TRUST dated December 6, 1995, as restated on January 7, 2008.

Article Five

Powers of Fiduciaries

Section 5.01 Grant

My Personal Representative may perform every act reasonably necessary to administer my estate and any trust established under my will.

Specifically, my Personal Representative may exercise the following powers: hold, retain, invest, reinvest, sell, and manage real or personal property, including interests in any form of business entity including, but not limited to, limited partnerships and limited liability companies, and policies of life, health and disability insurance, without diversification as to kind, amount or risk of non-productivity and without limitation by statute or rule of law. My Personal Representative may partition, sell, exchange, grant, convey, deliver, assign, transfer, lease, option, mortgage, pledge, abandon, borrow, loan and contract. My Personal Representative may distribute the assets of my estate in cash or kind or partly in each at fair market value on the date of distribution, without requiring pro rata distribution of specific assets and without requiring pro rata allocation of the tax bases of such assets. My Personal Representative may hold in nominee form, continue businesses, carry out agreements and deal with itself, other fiduciaries and business organizations in which my Personal Representative may have an interest. It may establish reserves; release powers, and abandon, settle or contest claims. It may employ attorneys, accountants, custodians of the trust assets, and other agents or assistants as deemed advisable to act with or without discretionary powers and compensate them and pay their expenses from income or principal or both.

Section 5.02 Powers Granted by State Law

In addition to all of the above powers, my Personal Representative may, without prior authority from any court, exercise all powers conferred by my will or by common law or by the Nevada Revised Statutes or other statute of the State of Nevada or any other jurisdiction whose law applies to my will. My Personal Representative shall have absolute discretion in exercising these powers. Except as specifically limited by my will, these powers shall extend to all property held by my fiduciaries until the actual distribution of the property.

Section 5.03 Distribution Alternatives

My Personal Representative may make any payments under my will:

Directly to the beneficiary;

In any form allowed by applicable state law for gifts or transfers to minors or persons under disability;

To the beneficiary's guardian, conservator or caregiver for the benefit of the beneficiary; or

By direct payment of the beneficiary's expenses.

A receipt by the recipient for any such distribution, if such distribution is made in a manner consistent with the proper exercise of my fiduciaries' duties hereunder, shall fully discharge my fiduciaries.

Article Six

Administrative Provisions

Section 6.01 Court Proceedings

If any trust is established under my will that trust shall be administered in a timely and efficient manner consistent with its terms, free of active judicial intervention and without order, approval or other action by any court. It shall be subject only to the jurisdiction of a court being invoked by the trustees or other interested parties or as otherwise provided by law.

Section 6.02 No Bond

I direct that no fiduciary shall be required to give any bond in any jurisdiction, and if, notwithstanding this direction, any bond is required by any law, statute, or rule of court, no sureties be required.

Section 6.03 Compensation

Any fiduciary under this instrument shall be entitled to reasonable compensation commensurate with services actually performed and to be reimbursed for expenses properly incurred.

Section 6.04 Ancillary Fiduciary

In the event ancillary administration shall be required or desired and my domiciliary Personal Representative is unable or unwilling to act as an ancillary fiduciary, my domiciliary Personal Representative shall have the power to designate, compensate, and remove the ancillary fiduciary. The ancillary fiduciary may either be a natural person or a corporation. My domiciliary Personal Representative may delegate to such ancillary fiduciary such powers granted to my original Personal Representative as my Personal Representative may deem proper, including the right to serve without bond or surety on bond. The net proceeds of the ancillary estate shall be paid over to the domiciliary Personal Representative.

Article Seven

Taxes, Claims and Expenses

Section 7.01 Payment of Death Taxes, Claims and Expenses

The Trustee of the trust referred to in this will is authorized to pay my funeral and burial expenses, claims against my estate, and expenses of estate administration. Accordingly, I direct my Personal Representative to consult with the Trustee to determine which such expenses and claims should be paid by my personal representative from property passing under my will, and which such expenses and claims should be paid by the trustee from the trust.

I direct my Personal Representative to follow any instructions contained in the MTC LIVING TRUST in making any tax election, including, but not limited to, the allocation of my GST Exemption. I direct that the taxes imposed by reason of my death upon property passing under and outside my will be apportioned and paid in the manner provided in the MTC LIVING TRUST, and I incorporate the tax apportionment provisions of the MTC LIVING TRUST as part of my will.

In no event shall any of such taxes be allocated to or paid from property which is not included in my gross estate for federal estate tax purposes or which qualifies for the federal estate tax charitable deduction.

Section 7.02 Tax and Administrative Elections

My Personal Representative may exercise any available elections under any applicable income, inheritance, estate, succession, or gift tax law. This authority specifically includes the power to select any alternate valuation date for death tax purposes and the power to determine whether any or all of the administration expenses of my estate are to be used as estate tax deductions or as income tax deductions, and no compensating adjustments need be made between income and principal as a result of such determinations unless my Personal Representative shall determine otherwise, in the discretion of my Personal Representative, or unless required by law.

My Personal Representative shall not be liable to any beneficiary of my estate for tax consequences occasioned by reason of the exercise or non-exercise of any such elections or by reason of the allocation and distribution of property in kind in full or partial satisfaction of any beneficiary's interest in my estate.

Article Eight General Provisions

Section 8.01 Applicable Law

The validity and construction of my will shall be determined by the laws of Nevada.

Section 8.02 No Contract to Make Will

I have not entered into any contract, actual or implied, to make a will.

Section 8.03 Contest Provision

If any beneficiary of this will or any trust created under this will, alone or in conjunction with any other person undertakes or participates in any one or more of the actions listed below, then the right of such beneficiary to take any interest given to such beneficiary under this will or any trust created pursuant to this will shall be determined as it would have been determined had such beneficiary predeceased me without surviving descendants.

Contests by a claim of undue influence, fraud, menace, duress or lack of testamentary capacity, or otherwise objects in any court to the validity of (a) this Will, (b) any trust created under the terms of this Will, (c) any other trust created by me, and any trusts created under those agreements, or (d) any beneficiary designation of an annuity, retirement plan, IRA, Keogh, pension or profit sharing plan or insurance policy signed by or created by me, (collectively referred to hereafter in this Section as "Document" or "Documents") or any amendments or codicils to any Document;

Seeks to obtain an adjudication in any court proceeding that a Document or any of its provisions is void, or otherwise seeks to void, nullify or set aside a Document or any of its provisions;

Files suit on a creditor's claim filed in a probate of my estate, against my trust estate, or any other Document, after rejection or lack of action by the respective fiduciary;

Files a petition or other pleading to change the character (community, separate, joint tenancy, partnership, domestic partnership, real or personal, tangible or intangible) of property already so characterized by a Document;

Claims ownership in a court proceeding to any asset held by me in joint tenancy, other than as a surviving joint tenant;

Files a petition to determine domestic partnership property as my cohabitant or as my Spouse;

Files a petition for probate homestead in a probate proceeding of my estate without the prior written consent of the Personal Representative designated in this Will;

Files a petition for family allowance in a probate of my estate without the prior written consent of the Personal Representative designated in this Will;

Files a petition to impose a constructive trust or resulting trust on any assets of my estate, if any; or

Participates in any of the above actions in a manner adverse to my estate, such as conspiring with or assisting any person who takes any of the above actions.

My Personal Representative is hereby authorized to defend, at the expense of my estate, any violation of this paragraph. A "contest" shall include any action described above in an arbitration proceeding and shall not include any action described above solely in a mediation not preceded by a filing of a contest with a court, notwithstanding the foregoing.

This Section shall not apply so as to cause a forfeiture of any distribution otherwise qualifying for the federal estate tax charitable deduction.

Section 8.04 Construction

Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural. Words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting another gender, if appropriate.

Section 8.05 Headings and Titles

The headings and paragraph titles are for reference only.

Section 8.06 Internal Revenue Code, IRC or Code

References to the Internal Revenue Code, the IRC or the Code shall refer to the Internal Revenue Code of the United States. References to specific sections of the Code shall be to any sections of like or similar import that replace the specific sections as a result of changes to the Internal Revenue Code made after the date of my will.

Section 8.07 Other Definitions

Except as otherwise provided in my will, terms shall be as defined in the Nevada Revised Statutes as amended after the date of my will and after my death.

Section 8.08 Survivorship

For purposes of this will, any beneficiary shall be deemed to have predeceased me if such beneficiary dies within 90 days after the date of my death.


Section 8.09 Severability

If any part of this instrument shall be adjudicated to be void or invalid, the remaining provisions not specifically so adjudicated shall remain in full force and effect.

I, MARJORIE T. CONNELL, sign my name to this instrument consisting of 9 pages on January 7, 2008 and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament, that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.


MARJORIE T. CONNELL, Testatrix

Then and there personally appeared the within-named Sharon A. Brown and Josefina C. Jones, who, being duly sworn, depose and say under the penalty of perjury: That they witnessed the execution of the within Will of the within-named Testatrix, MARJORIE T. CONNELL, that the Testatrix subscribed the Will and declared the same to be her Last Will and Testament in their presence; that they thereafter subscribed their names as witnesses in the presence of the Testatrix and in the presence of each other and at the request of the Testatrix; that the Testatrix at the time of the execution of the Will appeared to them to be of full age and of sound mind and memory, and that they make this affidavit at the request of the Testatrix.



Sharon A. Brown, Witness
900 Rancho Lane
Las Vegas, NV 89106



Josefina C. Jones, Witness
900 Rancho Lane
Las Vegas, NV 89106

Exhibit “F”

Law Offices of
DAVID A. STRAUS
A LIMITED-LIABILITY COMPANY
NEVADA'S ESTATE PLANNING LAW FIRM

900 Rancho Lane,
Las Vegas, NV 89106
Telephone (702) 474-4500
Facsimile (702) 474-4510

VIA CERTIFIED MAIL

May 21, 2009

Eleanor C. Ahern, Trustee
6105 Elton Avenue
Las Vegas, NV 89107

Re: Estate of Marjorie Connell

Dear Ellie:

Enclosed, please find a certified copy of the Last Will and Testament of Marjorie Connell. This letter shall serve as your notice that Ms. Connell exercised her power of appointment in Article Four, Section 4.01 of her Last Will and Testament wherein she appointed that upon her death the entire principal and the undistributed income in Trust No. 3 of the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972 be distributed to Jacqueline Montoya and Kathryn Anne Bouvier in trust in accordance with the provisions of the MTC Living Trust dated December 6, 1995 as last restated on January 7, 2008.

As you are the Successor Trustee of the W.N. Connell and Marjorie T. Connell Living Trust dated May 18, 1972, I would suggest that you contact an attorney to assist you in administering the trust or our offices would be happy to assist.

In the interim, should you have any questions and/or comments, please do not hesitate to contact me personally.

Very truly yours,



DAVID A. STRAUS, ESQ.

DAS:pf

Enclosure

cc: Jacqueline Montoya
Kathryn Bouvier

Exhibit “G”

**THE MTC LIVING TRUST
DATED DECEMBER 6, 1995**

Restatement dated January 7, 2008

LAW OFFICES
LAW OFFICES OF DAVID A. STRAUS
A PROFESSIONAL CORPORATION
900 RANCHO LANE
LAS VEGAS, NEVADA 89106
(702) 474-4500

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The MTC LIVING TRUST

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The MTC LIVING TRUST

Article One Establishing My Trust

On December 6, 1995, I established the MTC LIVING TRUST, wherein I reserved the right to amend the trust agreement, in whole or in part in Article Four, Section 1(d). On this day, January 7, 2008, I now exercise my power to amend that agreement, in its entirety, so that after amendment, the MTC LIVING TRUST states as follows:

The parties to this restated agreement are MARJORIE T. CONNELL, also known as MARJORIE THRASH CONNELL, (the "Trustmaker") and MARJORIE T. CONNELL (my "Trustee").

Section 1.01 Identifying My Trust

My trust may be referred to as "MARJORIE T. CONNELL, Sole Trustee, or her successors in trust under the MTC LIVING TRUST dated December 6, 1995, and any amendments thereto."

For the purpose of transferring property to my trust, or identifying my trust in any beneficiary or pay-on-death designation, any description referring to my trust shall be effective if it reasonably identifies my trust and indicates that the trust property is held in a fiduciary capacity.

Section 1.02 Reliance by Third Parties on Affidavit or Certification of Trust

From time to time, third parties may require documentation to verify the existence of this agreement, or particular provisions of it, such as the name or names of my Trustee or the powers held by my Trustee. To protect the confidentiality of this agreement, my Trustee may use an affidavit or a certification of trust that identifies my Trustee and sets forth the authority of my Trustee to transact business on behalf of my trust. The affidavit or certification may include pertinent pages from this agreement, such as title or signature pages.

A third party may rely upon an affidavit or certification of trust that is signed by my Trustee with respect to the representations contained in the affidavit or certification of trust. A third party relying upon an affidavit or certification of trust shall be exonerated from any liability for actions the third party takes or fails to take in reliance upon the representations contained in the affidavit or certification of trust. A third party dealing with my Trustee shall not be required to inquire into the terms of this agreement or the authority of my Trustee, or to see to the application that my Trustee makes of funds or other property received by my Trustee.

Section 1.03 Transferring Property to My Trust

Any person or entity may transfer property of any kind, nature and description to my trust in any manner authorized by law.

(a) Funding of My Trust

By execution of this agreement, I transfer, convey and assign to my Trustee and my Trustee accepts and agrees to hold, the property described in Schedule A, annexed hereto, together with all my right, title and interest in and to all of my property that may by law be held in trust and that may, by this assignment, be transferred to my trust. In addition, any assets already in the name of my trust shall be controlled by this agreement. This assignment shall include, without limitation, all real and personal, tangible and intangible property, located in the United States, whether separate or community, whether acquired before or after the execution of this agreement except for the following assets that are expressly not transferred to my trust by this assignment:

Life insurance policies, unless the ownership of a policy is transferred to my trust by a separate instrument that specifically refers to such policy;

Corporate and self-employed ("Keogh") pension, profit sharing and stock bonus plans;

Qualified retirement plans;

Commercial annuities;

Any property, the transfer of which would result in the immediate recognition of income subject to income or other taxes or the transfer of which would result in the loss of a homestead exemption or violate a restriction on transfer agreement.

(b) Acceptance by My Trustee

By execution of this agreement, my Trustee accepts and agrees to hold the trust property described on Schedule A, along with all other property initially transferred to it by virtue of subsection (a). All property transferred to my trust after the date of this agreement must be acceptable to my Trustee. My Trustee may refuse to accept any property. My Trustee shall hold, administer and dispose of all trust property accepted by my Trustee for my benefit and the benefit of my beneficiaries in accordance with the terms of this agreement.

Section 1.04 Powers Reserved by Me as Trustmaker

During my lifetime, I shall retain the powers set forth in this Section in addition to any powers that I reserve in other provisions of this agreement.

(a) Action on Behalf of My Trust

During any period that I am serving as a Trustee of my trust, I may act for and conduct business on behalf of my trust without the consent of any other Trustee.

(b) Amendment, Restatement or Revocation

I have the absolute right, at any time and from time to time, to amend, restate, or revoke any term or provision of this agreement in whole or in part. Any amendment, restatement, or revocation must be in a written instrument signed by me.

(c) Addition or Removal of Trust Property

I have the absolute right, at any time and from time to time, to add to the trust property and to remove any property from my trust.

(d) Control of Income and Principal Distributions

I have the absolute right to control the distribution of income and principal from my trust. My Trustee shall distribute to me, or to such persons or entities as I may direct, as much of the net income and principal of the trust property as I deem advisable. My Trustee may distribute trust income and principal to me or for my unrestricted use and benefit, even to the exhaustion of all trust property. Any undistributed income shall be added to the principal of my trust.

(e) Approval of Investment Decisions

I reserve the absolute right to review and change my Trustee's investment decisions; however, my Trustee shall not be required to seek my approval before making investment decisions.

Section 1.05 Grantor Trust Status

By reserving the broad rights and powers set forth in Section 1.04 of this Article, I intend to qualify my trust as a "Grantor Trust" under Sections 671 to 677 of the Internal Revenue Code so that, for federal income tax purposes, I will be treated as the owner during my lifetime of all the assets held in my trust as though I held them in my individual capacity.

During any period that my trust is a Grantor Trust, the taxpayer identification number of my trust shall be my social security number, in accordance with Treasury Regulation Section 301.6109-1(a)(2).

Article Two Family Information

I am unmarried.

I have one child ELEANOR C. HARTMAN AHERN, born on May 13, 1938.

I have also made provision for the following individuals in this agreement:

Name	Relationship
JACQUELINE MARGUERITE MONTOYA	Granddaughter
KATHRYN ANN BOUVIER	Granddaughter

Article Three

Trustee Succession Provisions

Section 3.01 Resignation of a Trustee

A Trustee may resign by giving notice to me. If I am deceased, a resigning Trustee shall give notice to the income beneficiaries of the trust and to any other Trustee then serving.

Section 3.02 Trustee Succession During My Lifetime

During my lifetime, this Section shall govern the removal and replacement of my Trustees.

(a) Removal and Replacement by Me

I may remove any Trustee with or without cause at any time. If a Trustee is removed, resigns or cannot continue to serve for any reason, I may serve as sole Trustee, appoint a Trustee to serve with me or appoint a successor Trustee.

(b) During My Incapacity

During any time that I am incapacitated, the following, in the order named, shall replace any then serving Trustee:

First, JACQUELINE MARGUERITE MONTOYA; and
then

Second, KATHRYN ANN BOUVIER

If I am incapacitated, a Trustee may be removed only for cause, which removal must be approved by a court of competent jurisdiction upon the petition of an interested party.

All appointments, removals and revocations shall be by signed written instrument.

Notice of removal shall be delivered to the Trustee being removed and shall be effective in accordance with the provisions of the notice.

Notice of appointment shall be delivered to and accepted by the successor Trustee and shall become effective at that time. A copy of the notice shall be attached to this agreement.

Section 3.03 Trustee Succession After My Death

After my death, this Section shall govern the removal and replacement of my Trustees.

(a) Successor Trustee

Upon my death, the following, in the order named, shall serve as my successor Trustee, replacing any then serving Trustee:

First, JACQUELINE MARGUERITE MONTOYA; and
then

Second, KATHRYN ANN BOUVIER

(b) Trustees of the Separate Trusts

The primary beneficiary of a separate trust created under this agreement may, upon attaining the age of 21, appoint himself or herself as a Cotrustee of his or her separate trust to serve with the then serving successor Trustee. Upon attaining the age of 25, the primary beneficiary may serve as sole trustee.

At any time a beneficiary is serving as a Trustee of his or her trust before attaining the age of 25, there must be at least one other Trustee serving with the beneficiary. If a Trustee vacancy occurs and no designated successor Trustee is available to serve, the vacancy shall be filled as provided in subsection (d) of this Section.

If the interest of a beneficiary will be merged into a life estate or an estate for years because the beneficiary is serving as sole Trustee, the beneficiary shall appoint a Cotrustee to avoid such merger. Similarly, if the interest of a beneficiary becomes, or is likely to become, subject to the claims of any creditor or to legal process as a result of serving as sole Trustee the beneficiary shall appoint an Independent Trustee to serve as Cotrustee.

(c) Removal of a Trustee

A Trustee may be removed only for cause, which removal must be approved by a court of competent jurisdiction upon the petition of any beneficiary.

In no event shall the court petitioned to approve the removal of a Trustee acquire any jurisdiction over the trust except to the extent necessary to approve or disapprove removal of a Trustee.

If a beneficiary is a minor or is incapacitated, the parent or legal representative of the beneficiary may act on behalf of the beneficiary.

(d) Default of Designation

If the office of Trustee of a trust created under this agreement is vacant and no designated successor Trustee is able and willing to act as Trustee, the primary beneficiary of the trust shall appoint an individual or corporate fiduciary as successor Trustee.

Any beneficiary may petition a court of competent jurisdiction to appoint a successor Trustee to fill any vacancy remaining unfilled after a period of 30 days. By making such appointment, the court shall not thereby acquire any jurisdiction over the trust, except to the extent necessary for making the appointment.

If a beneficiary is a minor or is incapacitated, the parent or legal representative of the beneficiary may act on behalf of the beneficiary.

Section 3.04 Notice of Removal and Appointment

Notice of removal shall be in writing and shall be delivered to the Trustee being removed, along with any other Trustees then serving. The notice of removal shall be effective in accordance with its provisions.

Notice of appointment shall be in writing and shall be delivered to the successor Trustee and any other Trustees then serving. The appointment shall become effective at the time of acceptance by the successor Trustee. A copy of the notice shall be attached to this agreement.

Section 3.05 Appointment of a Cotrustee

Any individual Trustee may appoint an individual or a corporate fiduciary as a Cotrustee. A Cotrustee so named shall serve only as long as the Trustee who appointed such Cotrustee serves (or, if such Cotrustee was named by more than one Trustee acting together, by the last to serve of such Trustees), and such Cotrustee shall not become a successor Trustee upon the death, resignation, or incapacity of the Trustee who appointed such Cotrustee, unless so appointed under the terms of this agreement. Although such Cotrustee may exercise all the powers of the appointing Trustee, the combined powers of such Cotrustee and the appointing Trustee shall not exceed the powers of the appointing Trustee alone. The Trustee appointing a Cotrustee may revoke the appointment at any time with or without cause.

Section 3.06 Corporate Fiduciaries

Any corporate fiduciary serving under this agreement as a Trustee must be a bank, trust company, or public charity that is qualified to act as a fiduciary under applicable federal and state law and that is not related or subordinate to any beneficiary within the meaning of Section 672(c) of the Internal Revenue Code.

Such corporate fiduciary shall:

- Have a combined capital and surplus of at least Five Million Dollars; or

- Maintain in force a policy of insurance with policy limits of not less than Five Million Dollars covering the errors and omissions of my Trustee with a solvent insurance carrier licensed to do business in the state in which my Trustee has its corporate headquarters.

Section 3.07 Incapacity of a Trustee

If any individual Trustee becomes incapacitated, it shall not be necessary for the incapacitated Trustee to resign as Trustee. For Trustees other than me, a written declaration of incapacity by the Cotrustee, if any, or, if none, by the party designated to succeed the incapacitated Trustee, if made in good faith and if supported by a written opinion of incapacity by a physician who has examined the incapacitated Trustee, will terminate the trusteeship.

Section 3.08 Appointment of Independent Special Trustee

If for any reason the Trustee of any trust created under this agreement is unwilling or unable to act with respect to any trust property or any provision of this agreement, the Trustee shall appoint, in writing, a corporate fiduciary or an individual to serve as an Independent Special Trustee as to such property or with respect to such provision. The Independent Special Trustee appointed shall not be related or subordinate to any beneficiary of the trust within the meaning of Section 672(c) of the Internal Revenue Code.

An Independent Special Trustee shall exercise all fiduciary powers granted by this agreement unless expressly limited elsewhere in this agreement or by the Trustee in the instrument appointing the Independent Special Trustee. An Independent Special Trustee may resign at any time by delivering written notice of resignation to the Trustee. Notice of resignation shall be effective in accordance with the terms of the notice.

Section 3.09 Rights and Obligations of Successor Trustees

Each successor Trustee serving under this agreement, whether corporate or individual, shall have all of the title, rights, powers and privileges granted to the initial Trustee named under this agreement. In addition, each successor Trustee shall be subject to all of the restrictions imposed upon, as well as all obligations and duties, both discretionary and ministerial, given to the initial Trustee named under this agreement.

Article Four

Administration of My Trust During My Incapacity

Section 4.01 Definition of My Incapacity

I shall be considered incapacitated during any time that, because of age, illness, mental disorders, dependence on prescription medications or other substances, or any other cause, I am unable to effectively manage my property or financial affairs.

Section 4.02 Determination of My Incapacity

For purposes of this agreement, I am incapacitated if I am determined to be so under any one of the following subsections.

(a) Determination by Physicians

I shall be deemed incapacitated if in the opinion of two licensed physicians my then existing circumstances fall within the definition of incapacity as provided in Section 4.01.

I shall be deemed restored to capacity if my personal or attending physician signs a written opinion that I can manage my property and financial affairs.

(b) Court Determination

I shall be deemed incapacitated if a court of competent jurisdiction determines that I am legally incapacitated, incompetent, or otherwise unable to effectively manage my property or financial affairs.

(c) Detention or Disappearance

I shall be deemed incapacitated if I cannot effectively manage my property or financial affairs due to my unexplained disappearance or absence for more than 30 days, or if I am detained under duress. My disappearance, absence, or detention under duress may be established by an affidavit of my Trustee, or, if no Trustee is serving under this agreement, by the affidavit of any beneficiary under this agreement. The affidavit shall describe the circumstances of my disappearance, absence, or detention under duress. A third party dealing with my Trustee in good faith may always rely on the representations contained in the affidavit.

Section 4.03 Trust Distributions During My Incapacity

During any period of time that I am incapacitated, my Trustee shall administer my trust and distribute its net income and principal as provided in this Section.

(a) Distributions for My Benefit

My Trustee shall regularly and conscientiously make appropriate distributions of trust income and principal for my general welfare and

comfort under the circumstances existing at the time such distributions are made.

Distributions under this subsection shall include payments for any of my enforceable legal obligations. My Trustee may also make distributions for the payment of insurance premiums for insurance policies owned by me or by my trust, including but not limited to, life, medical, disability, property and casualty, errors and omissions and long-term health care insurance policies.

My Trustee is authorized to honor pledges and continue to make gifts to charitable organizations that I have regularly supported in the amounts I have customarily given.

The examples included in this subsection are for purposes of illustration only and are not intended to limit the authority of my Trustee to make distributions for my benefit that my Trustee determines to be appropriate.

(b) Manner of Making Distributions

My Trustee may make distributions for my benefit in any one or more of the following ways:

To me, but only to the extent I am able to manage such distributions;

To other persons and entities for my use and benefit;

To my agent or attorney-in-fact authorized to act for me under a legally valid durable power of attorney executed by me prior to my incapacity;

To my guardian or conservator who has assumed responsibility for me under any court order, decree or judgment issued by a court of competent jurisdiction.

(c) Distributions for the Benefit of Persons Dependent on Me

My Trustee also may distribute as much of the net income and principal as my Trustee deems necessary for the health, education, maintenance or support of persons that my Trustee determines to be dependent on me for support.

(d) Guidance for My Trustee Regarding Distributions

In making distributions under subsections (a) and (c), my Trustee shall give consideration first to my needs, and then to the needs of those persons dependent on me.

When making distributions under subsections (a) and (c), I request, but do not require, that my Trustee, in its sole and absolute discretion, consider other income and resources available to the beneficiaries. My Trustee

may make unequal distributions, distributions to some but not all beneficiaries or no distributions.

A distribution made to a beneficiary under this Section shall not be considered an advance and shall not be charged against the share of the beneficiary that may be distributable under any other provision of this agreement.

Section 4.04 Appointment of the Trustmaker's "HIPAA" "Personal Representative"

a. Provisions of the Act Regarding Personal Representatives.

Pursuant to 45 CFR 164.502(g)(1), promulgated under the Health Insurance Portability and Accountability Act of 1996 (the Act), any entity covered by the Act must treat the Personal Representative of an individual as follows:

"(g)(1) Standard: Personal representatives. As specified in this paragraph, a covered entity must, except as provided in paragraphs (g)(3) and (g)(5) of this section, treat a personal representative as the individual for purposes of this subchapter." (emphasis supplied) (Neither of paragraphs (g)(3) nor (g)(5) apply in this situation.)

b. Appointment of the Trustmaker's Personal Representative.

For purposes of this Section and the Act, the serving Trustee, or Co-Trustees, if more than one Trustee is serving, of my Trust shall be the Trustmaker's appointed "Personal Representative." As such, the Personal Representative appointed under this Section shall have the same rights as the Trustmaker, whether the Trustmaker is or is not considered disabled pursuant to any standard contained in this agreement or otherwise.

c. Covered Entities Under the Act.

A covered entity includes, but is not limited to, the physician, health care professionals, dentists, a health plan, hospital, laboratory, pharmacy, insurance company, the Medical Information Bureau, Inc., other health care clearinghouses or persons or entities requiring compliance with the Act before releasing protected health care information.

d. Coordination with an Agent or Attorney in Fact under any Health Care Power of Attorney

For the purpose of accessing any health care information covered by the Act, both the Personal Representative appointed under this Section, and the Health Care Agent appointed under my Health Care Power of Attorney shall be

considered as "Personal Representatives" under the Act, and either may request health care information covered by the Act.

e. Legal Action to Enforce the Terms of this Section

My Trustee is specifically empowered to take any and all legal action necessary to enforce the intent of this Section as regards accessing the Trustmaker's health care information in compliance with the Act. My Trustee is specifically empowered to seek a recovery of any legal fees and costs incurred as a result of any legal action taken hereunder, or for any damages caused by a covered entity's failure to comply with the Act.

Section 4.05 Special Disability Instructions for MARJORIE T. CONNELL.

I have led an independent life. And through the course of my life I have managed to set aside some savings and assets of value. I am mindful of the fact that nursing home care is very costly and that, even at the rates currently in effect, the costs can be in the neighborhood of \$60,000.00 per year. I request my disability Trustee to investigate the resources and services available through Visiting Nurses Association, Home Hospice Health Care, Meals on Wheels, part-time private nursing care, or any and all other then-available services which might provide for in-home care.

I request that my disability Trustee, make every reasonable effort to see to it that I am taken care of in my own home, at least or in the home of members of my family or loved ones, and not placed in a long-term convalescent health care facility, nursing home, or any similar facility. In my own home I find convenience, comfortable surroundings, and I can maintain my own privacy and my own dignity.

In the event that family members or others are so kind as to care for me under circumstances where that care is necessary to prevent me from being institutionalized in a nursing home, I direct my disability Trustee to pay to them upon their written request, fair compensation for their abilities, talent, and time dedicated on my behalf. I further request that whenever possible, in my Trustee discretion, my disability Trustee would see to it that one or more family members or others may, if they wish, occupy my home together with me, without payment or rent, so that I may receive care in my home to the extent that is medically and physically possible.

I wish to remain in my personal residence unless I am in a coma. I request my Trustee to pay the operating expenses of maintaining my residence, including normal domestic help.

I direct my Trustee to consult with my Health Care Representative regarding the cost of my medical care, and to pay all expenses incurred as a result of the decisions made by my Trustee and Health Care Representative. The decision as to whether to reimburse my Health Care Representative for expenses incurred in fulfilling the duties of the Health Care Representative position shall be in the sole and absolute discretion of my Trustee.

I further specifically prohibit my Trustee from expending any trust funds for medical treatment considered "extraordinary" or "heroic" by my Health Care Representative. The decision as to whether treatment shall be considered "extraordinary" or "heroic" shall be