

## LAST WILL AND TESTAMENT

25-8240

of

J. VON DER HELLEN

2173.70

I, J. VON DER HELLEN, of Jackson County, Oregon, do hereby make, publish and declare this my last will and testament, hereby revoking and annulling all previous wills and testaments made by me at any time, as follows:

## I.

I direct that my just debts and funeral expenses be promptly paid. I direct my personal representative to treat as an obligation of my estate and to pay, without any apportionment thereof, all estate, inheritance or other death taxes or duties imposed and made payable by reason of my death, by the laws of the United States, or of any state, territory or country.

## II.

I hereby declare that I am married to DORIS VON DER HELLEN and that I have a daughter, JOYCE VON DER HELLEN BAILEY, a grandson, WILLIAM ROSE, a granddaughter, NANCY ROSE CHARLEY, and a granddaughter, MARILYN VON DER HELLEN WOOTON, daughter of my deceased son, Hugo von der Hellen.

## III.

I hereby give and bequeath unto my wife, DORIS VON DER HELLEN, the family car, and in the event we have more than one car she shall have her choice of any one of them. I also give and bequeath unto my said wife all of my interest in our household goods, furniture and paraphernalia, and all of my jewelry, clothing and other personal effects.

## IV.

All the rest, residue and remainder of my property, real, personal and mixed, and wheresoever situated, I give, devise and bequeath, in fee simple and absolutely, as follows:

- (a) Unto my said wife, DORIS VON DER HELLEN, a one-half thereof.

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(b) Into the trustees hereinafter named, the other one-half thereof, IN TRUST, for the uses and purposes hereinafter set forth; provided that there shall be distributed to said trust, as a part of its one-half of my residuary estate, the shares of stock, if any, which I own at the time of my death in the Grants Pass Amusement Company, an Oregon corporation, and also the shares of stock, if any, which I own at the time of my death in the Grants Pass Drive-In Theatre, Inc., an Oregon corporation. Said shares of stock, however, shall be voted and controlled by my said wife, DORIS VON DER HELLEN, as specified in paragraph VI (c) of this will.

V.

I direct said trustees, during the continuance of said trust, at convenient intervals, to pay and distribute the principal and net income of said trust estate as follows:

- (a) Four-eighteenths of the net income to my said granddaughter,  
MARILYN VON DER HELLEN SCOTCH.
- (b) Six-eighteenths of the net income to my said daughter,  
JOYCE VON DER HELLEN BAILEY.
- (c) Four-eighteenths of the net income to my said grandson,  
WILLIAM ROSE.
- (d) Four-eighteenths of the net income to my said granddaughter,  
NANCY ROSE CHARLEY.
- (e) My trustees shall pay to or apply for the benefit of the

beneficiaries named above such additional sums from the principal of said trust as may be necessary or advisable, in the discretion of the trustees, for the education, care, support and maintenance of said beneficiaries and their respective children, and also in the event of illness, accident or other emergency occurring to any of them, or their said children. No disbursement to or for the benefit of any beneficiary pursuant to this paragraph shall be a charge against the ultimate distributive share of such beneficiary, if such disbursement is made prior to the time that my trust estate is distributed, as hereinafter provided.

In making payments committed to their discretion my trustees shall take into consideration any other income or support received, or property possessed by such beneficiary and known to my trustees, but the extent to which such other income, support or property must first be used or liquidated by such beneficiary shall be in the absolute discretion of my trustees.

(f) If any of the said MARILYN VON DER HELLEN WOOTEN, WILLIAM ROSE or NANCY ROSE CHARLEY shall die during the term of this trust and shall leave a child or children surviving, my trustees shall pay to or apply for the benefit of such child or children such sums from the income and principal of said trust estate as in their discretion may be necessary for the care, support, maintenance and education of such issue in the same manner as in subparagraph (e) above provided. If any of the said MARILYN VON DER HELLEN WOOTEN, WILLIAM ROSE or NANCY ROSE CHARLEY shall die during the term of this trust and shall not leave issue surviving, my trustees shall distribute the portion of such deceased grandchild in the net income and principal of this trust among the remaining beneficiaries of this trust above named.

(g) This trust shall be handled and distributed in the following manner:

- (1) On December 31, 1965 said trust shall terminate and the trust estate shall be distributed as follows:

One-ninth thereof shall be distributed to my daughter, JOYCE VON DER HELLEN BAILEY.

Two-ninths thereof shall be distributed to my grandson, WILLIAM ROSE.

Four-ninths thereof shall be distributed to my granddaughter, NANCY ROSE CHARLEY.

Two-ninths thereof shall be distributed to my granddaughter, MARILYN VON DER HELLEN WOOTEN.

- (2) If, at the time of said distribution as provided in subparagraph (1) above, any grandchild therein named is not then living, his or her part shall be distributed one-third to his or her spouse and two-thirds to his or her issue. If he or she shall leave no spouse, all of such part shall be distributed

to his or her issue; if there is a spouse but no issue surviving, one-third of such part shall be distributed to such spouse and the remainder of such part shall be distributed to my other grandchildren and to their issue, by right of representation; and if there is neither spouse or issue surviving, such part shall be distributed to my other grandchildren and their issue, by right of representation.

(3) In case of the death of my daughter, JOYCE VON DER HEIMEN BAILEY, prior to December 31, 1965, her one-ninth part of said trust shall be distributed on December 31, 1965 to the said WILLIAM ROSE. If the said WILLIAM ROSE shall have predeceased his mother, his issue shall take said share.

(4) If any beneficiary of this trust shall die during the term of this trust and there shall be no persons or person then living who shall be entitled to take under the terms hereof, said trust shall terminate as to such beneficiary and the trustees shall distribute the share of such beneficiary in said trust to my then heirs at law as determined by the laws of descent and distribution then in effect in the state of Oregon.

(h) The interest of the beneficiaries in principal or income of the trust herein created shall not be subject to claims of their creditors or others, nor to legal process, and may not be voluntarily or involuntarily anticipated, alienated or encumbered.

#### VI.

My trustees shall have power:

(a) To manage, sell, convey, exchange, encumber, divide, subdivide, improve and maintain the trust estate, or any part thereof; to create restrictions, easements and other servitudes; to carry insurance in such amount and against such hazards as my trustees may deem advisable; to lease, license and create such other rights, privileges and interests as my trustees may deem advisable for terms within or extending beyond the duration of the trust.

(b) Upon any division or distribution of the trust estate, to partition, allot and distribute the trust estate, in

undivided interests or in kind at valuations determined by my trustees, or partly in kind and partly in cash, and to sell such property as my trustees may deem appropriate.

(c) To give proxies, pay assessments and other sums deemed necessary by my trustees for the protection of the trust estate; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee or fiduciary; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property, whether or not authorized by law for the investment of trust funds, received through the exercise of any of the foregoing powers; provided, however, that as to any stock which I may own at my death in said Grants Pass Amusement Company, an Oregon corporation, and in said Grants Pass Drive-In Theatre, Inc., an Oregon corporation, the full voting power and control thereof shall be vested in my wife, Doris von der Hellen, as long as this trust continues, so that she may vote said stock in connection with the stock owned by her in said corporations. Said stock may be sold by my trustees only if they are in unanimous agreement as to such sale.

(d) To advance funds for the benefit of the trust estate, or for the payment of any distributive share or interest, any such advance to be a first lien upon the trust estate, with interest at current rates; to borrow money for such purpose as my trustees shall deem to be for the interest of the trust estate, upon such terms and conditions as my trustees may deem proper.

(e) To realize, by suit or otherwise, upon any promissory note or other chose in action and in settlement thereof to compromise, discount, adjust, extend or abandon same.

(f) To invest and reinvest the trust estate in such bonds, mortgages, debentures, preferred or common stocks or

either real or personal property as my trustees may in their unrestricted discretion deem advisable.

- (c) To receive indemnity to their satisfaction before taking any step which may subject them to loss.
- (d) To resign their trusteeship hereunder at any time. In the event of such resignation, the trustee or any person interested in the trust may take such steps as may be necessary to secure the appointment of new trustees in the manner provided by law.
- (e) To do all things they might do in the absence of the foregoing powers.

#### VII.

I hereby nominate and appoint my wife, DORIS VON DER HELLEN, my nephew, ROGER VON DER HELLEN and C. J. LANGST as the trustees herein mentioned. Should any of the trustees above named die, resign or become disqualified to act as such, it is my direction that the remaining trustees or trustee shall select a suitable person or persons to fill the vacancy or vacancies, said selection to be ratified or confirmed by the Circuit Court of the state of Oregon for the county of Jackson.

#### VIII.

I hereby nominate and appoint my wife, DORIS VON DER HELLEN, as executrix of this, my last will and testament, and I direct that she shall serve without bond.

I hereby empower my said executrix to lease, encumber, sell, exchange or otherwise deal with or dispose of all of my property, real or personal, or any part thereof, except for Grants Pass Amusement Company and said Grants Pass Drive-in Theatre, Inc. stock, in such manner, at such times, and upon such terms as to her shall seem for the interest of my estate. Such sale or other disposition may and shall be made without any reference to the order of disposition of real and personal property and without any petition, citation, hearing, or any other action, and may be at private or public sale as to my said executrix may seem advisable.

IN WITNESS WHEREOF, I have hereunto set my hand and seal  
this 16<sup>th</sup> day of January, 1956.

Am von der Hiltten (Said)

The above instrument, consisting of seven pages, of which this is the seventh, was at the date hereof by the said AM. VON DER HILTEN signed and sealed and published as, and declared to be his last will and testament, and in the presence of us, who, at his request, and in his presence, and in the presence of each other, have subscribed our names as witnesses thereto.

W. J. Hilbert Residing at Medford, Oregon.

Harold D. McCreath Residing at Medford, Oregon.

Return  
Transmitted

RECORDED

JAN 21 - 9:34

CLERK

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STATE OF OREGON  
County of Jackson

I, Harry Chipman, County Clerk of the above named County and State and Clerk of the Circuit Court of the County of Jackson and State of Oregon do hereby certify that the foregoing copy has been by me compared with the original, and that it is a transcript therefrom, and of the whole of such original as the same appears on file or of record in my office and in my care and custody.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 14<sup>th</sup> day of January A.D. 1975  
Harry Chipman, Jackson County Clerk  
By William H. Dietrich Deputy

STATE OF OREGON; COUNTY OF KLAMATH; ss.  
Filed for record at request of TRANSAMERICA TITLE INS. CO

this 22nd day of January A.D., 1975 at 10:45 o'clock AM., and duly recorded in  
Vol. M 75 of DEEDS on Page 983

FEES \$ 16.00

By WM. D. MILNE, County Clerk  
Hazel Brazil Deputy