

Saint Regis Mohawk Tribal Court

)	
)	DISTRIBUTION ORDER
)	
Estate of Jamie C. Cole,)	
deceased)	
)	Case No.: 18-CIV-00014
)	

PROCEDURAL HISTORY

On May 16, 2018, Joni Cole filed a petition with the Saint Regis Mohawk Tribal Court requesting to be named the Administrator for the Estate of Jamie C. Cole, her husband. Mr. Cole died on March 25, 2018. Mrs. Cole submitted a death certificate and certified family tree from the Saint Regis Mohawk Tribal Clerk's Office.

On June 27, 2018, the Court found Mrs. Cole, as the surviving spouse, the only heir and issued her the Letters of Administration. Mrs. Cole submitted an inventory on February 20, 2019. The Court held several appearances on June 27, 2018, November 18, 2018, January 28, 2019, February 19, 2019, March 12, 2019, and March 29, 2019.

JURISDICTION

Pursuant to the Saint Regis Mohawk Tribe Probate Law, the Court "shall have personal jurisdiction to probate an estate when, at the time of death, (1) the deceased was either a Tribal Member or a person eligible for enrollment as a Tribal Member and the deceased resided or owned real or personal property located within the reservation."¹ Furthermore, "[t]he Tribal Court shall have exclusive jurisdiction to probate real property located within the reservation."²

In the instant matter, Mr. Cole was a tribal member, resided within the reservation, and had assets located within the reservation. Thus, the Court possesses the requisite jurisdiction in this matter.

APPLICABLE LAW

The present action is governed by the Saint Regis Mohawk Tribe Probate Law (SRMT Probate Law).³

¹ SRMT Probate Law § 1.3 (a).

² SRMT Probate Law § 1.3. (b) (1).

³ SRMT Probate Law (enacted August 16, 2017).

ANALYSIS

Mr. and Mrs. Cole purchased a HUD home on property, known as [REDACTED] which Mr. Cole purchased from Thomas Cole. Mr. and Mrs. Cole fulfilled the HUD requirements and the Akwesasne Housing Authority passed a resolution on June 24, 2010, releasing the lien. Mr. Cole's land file contains an unexecuted SRMT Use and Occupancy Deed for this property. It is unclear as to why it was not signed by Tribal Council. Given that the lien has been released and Mrs. Cole is the sole heir, the [REDACTED] [REDACTED] is transferred to Mrs. Cole.

Mr. Cole purchased another piece of property from Thomas Cole on May 24, 1997. The SRMT Tribal Clerk's land records contains a bill of sale for this land. It is signed by Jamie and Thomas Cole. This is known as [REDACTED]. The receipt or bill of sale is evidence of Jamie Cole's ownership,⁴ thus the property is transferred to Mrs. Cole.

Mrs. Cole submitted statements from several companies that had contacted her regarding Mr. Cole's debts, including debts to Sherwin Storage and US Asset Management Inc. for Verizon Wireless, and several debts for medical expenses. However, the Estate has no liquid funds to pay these debts. Bank statements from Community Bank show Mr. Cole [REDACTED] in his account as of March 2018. Moreover, none of the creditors have filed a statement with the Court objecting to the rejection of the debt.⁵ The SRMT Probate Law prohibits the sale of real property to settle a decedent's debts.⁶ Due to the foregoing, the Court finds the Estate is insolvent and as such is not able to pay the debts.

ORDER

Based on the above, the Court hereby ORDERS the following:

1. Jamie Cole's interest [REDACTED] is hereby transferred to Joni Cole.
2. Jamie Cole's interest [REDACTED] is hereby transferred to Joni Cole.
3. Joni Cole is to obtain SRMT Use and Occupancy Deeds for [REDACTED] in her name and provide copies to the Court.
4. Any remaining funds in Jamie Cole's Community Bank accounts are to be released to Joni Cole.
5. Joni Cole is to file proof of the transfer of funds, either a copy of the check or a notarized statement, with the Court.

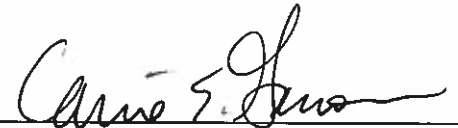
⁴ SRMT Land Laws and Land Dispute Ordinance § IV.E.3.(d).

⁵ SRMT Probate Law § 3.5(c)(4)(C).

⁶ *Id.*

6. Upon the receipt of the Deeds and proof of transfer of any funds, Joni Cole will be released as Administrator and the case will be closed.

Signed this 23rd day of April 2019



Carrie E. Garrow, Chief Judge
Saint Regis Mohawk Tribal Court

