

**SAINT REGIS MOHAWK TRIBAL COURT
IN AND FOR THE SAINT REGIS MOHAWK TRIBE**

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)	Case No.: 18-PROB-00022
ESTATE OF MARGARET M. JACOBS,)	
deceased.)	Final Distribution Order
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Procedural History

On December 24, 2018, Joy Smith filed a Petition for Probate with a Will for the Estate of Margaret M. Jacobs, her mother. The Petitioner provided a Certificate of Death and a certified family tree from the Saint Regis Mohawk Tribal Clerk. The decedent died on March 31, 2016. Her husband, Richard Allen Jacobs, predeceased her. She was survived by their four children, Richard Brian Jacobs, Maxinne Ann Jacobs, Joy Lois Smith, and Michelle Theresa Williams.

Initial Appearance was held on January 30, 2019. On April 8, 2019, a hearing was held regarding the appointment of Joy Smith as Executor. Joy Smith, Michelle Williams, and Maxinne Jacobs, the decedent's daughters, were present by phone. Richard Jacobs, decedent's son, was present in the Court. Maxinne Jacobs was the only heir who objected to Joy Smith's appointment as Executor. The Court appointed Joy Smith as the Executor and issued the Letters Testamentary on April 9, 2019.

At a hearing on May 1, 2019, Maxinne Smith requested that the Court remove Joy Smith as Executor. Michelle Williams and Richard Jacobs stated they have no objections to Joy Smith continuing to serve as Executor. The Court denied the request on May 13, 2019.

Hearings on whether a building, known as the [REDACTED] building, was part of the Margaret Jacobs Estate were held on June 14, 2019 and July 19, 2019. On August 26, 2019, the Court found that the building was owned by the Estate.

Subsequent hearings were held on March 13, 2020 and April 24, 2020 to finalize the Estate's inventory and distribution. On April 24, 2020, a hearing was held regarding a piece of property the decedent transferred to Michelle Williams on September 14, 2005. Also, at this hearing, Executor Joy Smith submitted a request to the Court for reimbursement of expenses on April 24, 2020.

The Court issued a Partial Distribution Order on May 15, 2020 regarding the decedent's personal savings and checking account, personal items, and property deeded to Michelle Williams on September 14, 2005.

The Executor has also requested a survey of the decedent's land. The survey is currently on hold due to the current coronavirus.

On July 10, 2020, Joy Smith filed proof of the distribution of funds and proposal for the distribution of the Estate. The proposal for distribution was mailed with the checks to Maxinne Jacobs, Michelle Williams, and Richard Brian Jacobs. Joy Smith stated the checks were cashed on June 16, 2020 and June 22, 2020. Maxinne Jacobs and Joy Smith signed copies of the distribution plan. Joy Smith has not received any responses or counter proposals from Michelle Williams or Richard Brian Jacobs. No objections to the proposed distribution were filed with the Court.

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, Margaret M. Jacobs was an enrolled tribal member 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

Discussion

The remaining items in the inventory are the real property of Margaret Jacobs and the remaining personal property, as listed in Joy Smith's distribution proposal.

The decedent's Last Will and Testament states that her tangible personal property is to be distributed according to a separate written statement prepared by her or in the absence of this a statement, all of her personal [REDACTED] be distributed to her children.⁴ A separate written statement was not submitted to the Court. The remaining or residue of her Estate is bequeathed to her children in equal proportions.⁵

With regards to the remaining tangible personal property, Joy Smith's distribution plan outlines that Maxinne Jacobs, Joy Smith, and Michelle Williams chose what they wanted from a picture catalogue of their mother's belongs and that Brian Jacobs did not want anything. The decedent's [REDACTED] and proceeds will be divided equally between the four siblings.

¹ SRMT Probate Law § 1.3 (a).

² SRMT Probate Law § 1.3. (b) (1).

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

⁴ Fourth Paragraph, Last Will and Testament of Margaret Jacobs, February 3, 2000.

⁵ Fifth Paragraph, Last Will and Testament of Margaret Jacobs, February 3, 2000.

With regards to the decedent's real property, the distribution plan states, in accordance with the decedent's Last Will and Testament, the property will be deeded to all four siblings. The plan further outlines that once the survey is finished, an appraisal will be completed, paid for by rental income from the property. If a buyer is found and one sibling wants to keep it, they will have to buy out the siblings that want to sell. Furthermore, rental income will be kept in an account for insurance, repairs, and general upkeep. Disbursements will happen when there is a substantial amount, and everyone agrees to the disbursement. If there is not enough in the account to cover a rental-related expense, whomever pays the bill will be reimbursed as soon as possible with rental income.

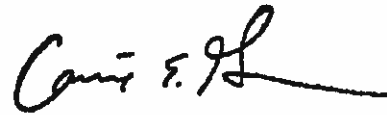
The distribution plan is in accordance with the Will and Testament of the decedent, Margaret Jacobs and no one raised an objection to it. Thus, the plan is approved.

ORDER

It is hereby **ORDERED** that

1. Upon completion of the survey, the real property of Margaret Jacobs shall be transferred to Joy Smith, Maxinne Jacobs, Michelle Williams, and Brian Jacobs as tenants in common, each shall own [REDACTED] Joy Smith shall obtain the SRMT Use and Occupancy Deed and provide copies to all siblings and the Court. Also, once the survey is completed, an appraisal will be completed, paid for by rental income from the property. If a buyer is found and one sibling wants to keep it, they will have to buy out the siblings that want to sell. Furthermore, rental income will be kept in an account for insurance, repairs, and general upkeep. Disbursements will happen when there is a substantial amount, and everyone agrees to the disbursement. If there is not enough in the account to cover a rental-related expense, whomever pays the bill will be reimbursed as soon as possible with rental income.
2. The [REDACTED] and the proceeds distributed equally to Joy Smith, Maxinne Jacobs, Michelle Williams, and Brian Jacobs. Joy Smith shall provide proof to the Court that [REDACTED] and the proceeds distributed equally to the Court.
3. Upon provision of the SRMT Use and Occupancy Deed and proof [REDACTED] proceeds have been distribution, this case shall be closed, and Joy Smith shall be released as Executor.

Signed this 17th day of August 2020.



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

No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals. Due to the coronavirus pandemic, please consult the Administrative Orders found on the Court's webpage for information on how to submit a motion for reconsideration or appeal at this time.