

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
BEFORE THE SPECIAL MASTER

ELOUISE PEPION COBELL, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	1:96CV01285 (TFH)
)	
SALLY JEWELL, Secretary of the Interior, et al.,))	
)	
Defendants.)	
_____)	

SPECIAL MASTER ORDER NO. 2
PERMITTING THE USE OF FEDERAL PROBATE ORDERS IN THE
DISTRIBUTION OF SETTLEMENT FUNDS TO ESTATES AND HEIRS OF
DECEASED CLASS MEMBERS

Plaintiffs have moved, without opposition from Defendants, for permission to use federal probate orders for the distribution of settlement proceeds to estates and heirs of deceased class members. In accordance with the conditions set forth below, it is hereby ordered that Garden City Group (“GCG”), the claims administrator, may distribute settlement proceeds owed to deceased members of the Historical Accounting and Trust Administration Classes using the alternate method described below:

- I. In accordance with ¶ 2 of the district court’s *Order Granting Unopposed Motion to Modify Distribution of Settlement Proceeds to Estates and Heirs of Deceased Class Members* dated June 19, 2013 [Dkt. No. 3958], this Order permits use of a federal probate order only when, at the time of distribution:
 - a. GCG has not been provided documentation, as set forth in ¶¶ 1(a)-(c) of that order, of one of the following:

- (1) A state or tribal probate order identifying the heirs of the deceased class member;
 - (2) The existing legally appointed executor or administrator of an estate of the deceased class member; or
 - (3) A will of the deceased class member that addresses, including through a residuary clause, the distribution of the settlement funds, where that will has been accepted for probate by a state or tribal court or the Department of Interior; and
- b. GCG has not been provided documentation permitting distribution of the funds in accordance with state procedures for small estates or pursuant to orders entered in accordance with 25 C.F.R. § 11.700 *et seq.*, to the extent those methods of distribution have been approved by the Special Master.

II. Where GCG has a federal probate order, GCG may rely on it as follows:

- a. Where the class member died prior to June 20, 2006:
- (1) In accordance with federal probate orders for the distribution of trust funds to individual heirs; and
 - (2) If a federal probate order does not identify trust funds for distribution at the time of death, in accordance with a federal probate order for the distribution of trust land to individual heirs, disregarding any provision of that order allowing for the escheatment of trust land to a tribe.
- b. Where the class member died on or after June 20, 2006:
- (1) In accordance with federal probate orders to the extent they provide for the distribution of trust funds to individual heirs; and

- (2) When a federal probate order exists but makes no order for distribution of trust funds but does address trust land, and that order identifies heirs of the deceased class member, then in accordance with the rules of descent set forth in 25 U.S.C. §§ 2206(a)(1), (2)(A)(i)-(iv), and (B)(i)-(iv) for the distribution of trust personalty to individual heirs based on those heirs identified in the probate order and any other heirs who have properly identified themselves as an heir of that decedent in accordance with the claim form approved by the district court and included in the notice to class members pursuant to the *Order on Joint Motion for Preliminary Approval of Settlement Agreement* dated December 21, 2010 [Dkt. No. 3667] at ¶ 9.

Should GCG conclude that an ambiguity or a conflict in the documentation exists, then the matter shall be sent directly to the Special Master for determination.

This Order only applies with respect to final probate orders and is not intended to obligate the Department of Interior to conduct or expedite any probate proceeding or to make any decisions with respect to the distribution of settlement proceeds in this case.

This the 16th day of July, 2013



Hon. Richard A. Levie (Ret.)
Special Master