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IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

IN THE MATTER OF:	)	FILED
	) No: 08P-677	
ESTATE OF JOY MOSS	)	AUG 17 2012

RICHARD R. ROOKER, Clerk
By _____ Deputy

ORDER APPROVING SETTLEMENT AND CLOSING ESTATE UPON PAYMENT OF FINAL COURT COSTS

This matter came before the Court on August 17, 2012 on the motion filed by Kathleen Dynabursky, through counsel, to approve settlement and give notice to all heirs at law. Movant states that she and her sister, Linda Gail Moss, have agreed to settlement terms regarding all disputed matters in this estate, including the pending will contest. Movant also requests the Court to determine that all four (4) of Decedent's heirs at law have been given notice of this proceeding and the proposed settlement.

Based upon a review of the facts stated in the motion, the lack of any objection from any interested party, and the entire record, the Court finds:

1. The Settlement Agreement between Kathleen Dynabursky and Linda Gail Ross provides:

2621 Brick Church Pike ("the property")

A. **Conditional Life Estate to Linda Gail Moss** A quitclaim deed has been recorded granting Ms. Moss a conditional life estate in 2621 Brick Church Pike, Nashville, TN as long as she: (1) resides in the property; (2) does not default, and fail to cure such default within 60 days, a Line of Credit with Regions Bank represented by a Deed of Trust recorded in instrument number 20080521-0052145, Register's Office for Davidson County, and (3) complies with the remaining terms of this settlement, such as paying property taxes for 2621 Brick Church Pike and maintaining insurance on the property for its full market value. Ms. Moss's failure to comply with any of these three (3) conditions will result in a forfeit of her life estate.

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B. **Equal Ownership of Fee Simple Interest** The fee simple interest in the property is held by Linda Gail Moss and Kathleen Dynabursky, in equal shares as tenants in common, and by their heirs and assigns; provided, however, that the one-half (1/2) undivided fee simple interest held by Linda Gail Moss is subject to the $70,000 Line of Credit with Regions Bank obtained by Ms. Moss and represented by a Deed of Trust recorded in instrument number 20080521-0052145.

C. **Negative Pledge Agreement** Linda Gail Moss has agreed to refrain from further encumbering the property and has executed a Negative Pledge Agreement to that effect that has been recorded.

D. **Liability for Timely Payment of Property Taxes, Insurance Premiums, Upkeep and Maintenance** Linda Gail Moss shall be solely responsible for timely payment of property taxes, insurance premiums (insuring the property for its full market value), and for upkeep and maintenance of the property for the duration of her conditional life estate.

E. **Distribution of Sale Proceeds upon Sale of Property** At Linda Gail Moss's death, or the termination of her life estate, whichever comes first, the property shall be sold by commercially reasonable means. One-half (1/2) of the net sale proceeds, after costs of sale, will be distributed to Kathleen Dynabursky or her heirs. The remaining one-half (1/2) of the net sale proceeds will be applied, first, to satisfy any balance owed on the $70,000 Regions Bank line of credit obtained by Linda Gail Moss represented by a Deed of Trust on the property recorded in instrument number 20080521-0052145. Any remaining net sales proceeds will be paid to Ms. Moss's heirs.

1208 Avondale Circle Kathleen Dynabursky is the fee simple owner of 1208 Avondale Circle and has owned since the death of Decedent Joy P. Moss on April 1, 2008.

Decedent's IRA Account Kathleen Dynabursky is entitled to control, receive, and/or benefit from all funds held by UBS Financial Services in IRA account No. [redacted] titled to Joy P. Moss. Ms. Dynabursky has authority, if she so chooses, to direct UBS to maintain all funds in IRA account No. 1R33161 as a tax-deferred IRA for her benefit.

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Woodlawn Cemetery Lots The four (4) cemetery lots at Woodlawn Cemetery owned by Decedent Joy P. Moss will be divided equally between Kathleen Dynabursky and Linda Gail Moss. Ms. Dynabursky has authority to direct Woodlawn Cemetery regarding the use of two (2) of the lots and Linda Gail Moss has authority to direct Woodlawn Cemetery regarding the use of the other two (2) lots.

Funds Remaining in Estate After payment of approved fees and costs of the Administrator ad Litem and any final court costs, any funds remaining in the estate will be paid to Kathleen Moore Dynabursky and Norris & Norris PLC jointly.

Decedent's Personal Property Linda Gail Moss and Kathleen Dynabursky have divided certain items of personal property in accordance with a list signed by Linda Gail Moss on May 11, 2011, which was attached to the Motion.

Mutual Release of All Claims Upon approval by the Court of the proposed settlement, the Complaint to Contest Will filed in the Estate of Joy P. Moss shall be dismissed. Further, Ms. Dynabursky and Ms. Moss mutually release each other from all claims regarding this Estate and confirm that all matters involving the Estate of Joy P. Moss have been settled and resolved in their entirety.

Court costs Court costs will be charged to Linda Gail Moss.

2. Four (4) of Decedent's heirs at law, including Glenn Wallace Moss III and Timothy W. Moss, were sent copies of the motion to approve the proposed settlement and, after having had an opportunity to object, have made no objection.

ACCORDINGLY, IT IS ORDERED, ADJUDGED, AND DECREED that the terms of the Settlement, as set forth above, are approved and adopted by the Court and made a part of the record.

IT IS FURTHER ORDERED that upon entry of this order, this estate shall be closed upon payment of final court costs, which are charged to Linda Gail Moss for which execution may issue.

ENTERED this 17 day of Aug, 2012.

RANDY KENNEDY, JUDGE

APPROVED FOR ENTRY:

Christina Norris, No. 6599
424 Church Street, Suite 1300
Nashville, TN 37219
(615) 627-3959
Attorney for Kathleen Dynabursky

John Clemmons, No. 18354 by cr
306 Gay St. Ste. 301
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Attorney for Linda Gail Moss

M. Allison Thompson, No. 17203 by cr
Thompson Law Office
4525 Harding Rd. Ste. 200
Nashville, TN 37205
(615) 620-4613
Administrator ad Litem for Moss Estate

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CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of August, 2012, a true copy of the foregoing Order was forwarded to:

Mr. John Clemmons
Attorney at Law
306 Gay St. Ste. 301
Nashville, TN 37201
Attorney for Linda Gail Moss

Allison Thompson
Thompson Law Office
4525 Harding Rd. Ste. 200
Nashville, TN 37205
Administrator ad Litem for Moss Estate

Glenn Wallace Moss III
2002 Northside Dr.
Valdosta GA 31602-1532

Timothy W. Moss
2002 Northside Dr.
Valdosta GA 31602-1532

Christina Norris

STATE OF TENNESSEE

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the FINAL ORDER heretofore entered in the SEVENTH Circuit Court for Davidson County, Tennessee, on the 17 day of AUGUST , 2012 , in Case Number 08P677 between MOSS, LINDA GAIL ET.AL Petitioner, and MOSS, JOY PRIMROSE Respondent, as same remains in the records of said Court.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 27 day of SEPTEMBER 2012

RICHARD R. ROOKER, Clerk,

By _____
Deputy Clerk

SEAL

