ALASKA BAR ASSOCIATION

Joint Alaska Native Law and Estate Planning/Probate Law Meeting

Wednesday, September 12, 2012 12 noon – 1 p.m. Anchorage, Alaska

Alaska Native Corporation Stocks – Wills, Restrictions, and Title

Presenter: Estate Planning/Probate Law Co-

Chair Tonja Woelber

Sec. 13.16.705. Inheritance of Native Corporation Stock.

- (a) The settlement common stock or other inalienable stock in a corporation organized under the laws of Alaska under 43 U.S.C. 1601 et seg. (Alaska Native Claims Settlement Act) is not subject to probate nor shall its value be considered in determining the value of an estate or allowance under this title. Upon death of the holder, if the stock does not pass by the testamentary disposition clause on the stock certificate or by the form authorized under (b) of this section, properly executed, it passes by will or intestate succession. In such a case, the determination of the person entitled to the stock shall be made by the corporation that initially issued the stock or its designated agent. The determination shall be made on the basis of an affidavit, furnished to the corporation that initially issued the stock, or its agent, showing the right of the person entitled to the stock to receive it. The affidavit, accepted in good faith by the corporation or its agent, has the same effect as an affidavit under AS 13.16.685, and the person entitled to the stock, if the affidavit is not accepted, has the remedy set out in AS 13.16.685. In case of dispute as to the person entitled to receive the stock, a person claiming ownership may bring an independent action in the superior court.
- (b) Unless a separate form is provided that substantially satisfies the requirements of this subsection and that is distributed to the same extent as the certificate, each certificate representing the stock shall bear provisions, on its reverse side, containing blanks to be filled in by the owner, constituting a last will and testament for the purposes of this section and 43 U.S.C. 1606(h) insofar as the shares represented by that certificate are concerned. The clause may be signed by the owner, dated, and notarized. This testamentary disposition may be changed from time to time or revoked, and it governs unless there is a subsequently executed certificate, form, or formal will making specific disposition of the stock.
- (c) When ownership of stock passes by devise or inheritance or as a result of court action, the stock shall be partitioned, insofar as practicable, in whole shares among those entitled to them.

- (d) If a deceased shareholder has failed to dispose of the stock by will and has no heirs under the applicable laws of intestacy, the shares escheat to the corporation.
- (e) The situs of the stock is Alaska.
- (f) This section applies to stock as long as the stock remains inalienable.
- (g) Where appropriate, terms used in this section have the meanings given in AS 13.06.050. In this section, "stock" means the settlement common stock or other inalienable stock of a corporation organized under the laws of the state under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act), and includes membership in a corporation organized under AS 10.20 and inchoate rights to stock.

CODE OF FEDERAL REGULATIONS

TITLE 25—INDIANS

PART 15—PROBATE OF INDIAN ESTATES, EXCEPT FOR MEMBERS OF THE OSAGE NATION AND THE FIVE CIVILIZED TRIBES

Current as of April 1, 2012

§ 15.9 What information must be included in an affidavit for a self-proved will, codicil, or revocation?

| | (a) A testator's affidavit must contain substantially the following content: |
|--------|---|
| | Tribe of or |
| | Tribe of or State of |
| | County of |
| | of 20 I requested and to act as |
| | I,, swear or affirm under penalty of perjury that, on the day of, 20, I requested and to act as witnesses to my will; that I declared to them that the document was my last will; that I signed the will in the presence of both witnesses; that they signed the will as witnesses in my presence and in the presence of each other; that the will was read and explained to me (or read by me), after being prepared and before I signed it, |
| | and it clearly and accurately expresses my wishes; and that I willingly made and executed the will as my free and voluntary act for the purposes expressed in the will. |
| | Testator |
| conten | (b) Each attesting witness' affidavit must contain substantially the following t: |
| | We, and swear or affirm under penalty of |
| | We, and, swear or affirm under penalty of perjury that on the day of, 20,, of the State of, published and declared the attached document to be his/her last will, signed the will in the presence of both of us, and requested both of us to sign the will as witnesses; that we, in compliance with his/her request, signed the will as witnesses in his/her presence and in the presence of each other; and that the |
| | testator was not acting under duress, menace, fraud, or undue influence of any person, so far as we could determine, and in our opinion was mentally capable of disposing of all his/her estate by will. |
| | Witness |
| | Witness |
| | Subscribed and sworn to or affirmed before me this day of, 20, by testator, and by and, attesting witnesses. |
| | |
| | (Title) |