

St. Regis Mohawk Tribal Court

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██████████ Honyoust,	)	
	)	<b>DECISION AND ORDER</b>
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<b>Petitioner</b>	)	<b>Case No.: 14-CIV-00012</b>
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**PROCEDURAL HISTORY**

On April 4, 2014, ██████████ Honyoust filed a complaint requesting to be named administrator of ██████████ Honyoust, Estate. She also requested to be named the sole owner of ██████████ real property, Lot # ██████████ on the St. Regis Mohawk Indian Reservation. ██████████ Honyoust alleged her brother ██████████ had relinquished his interest in the property voluntarily and she paid her two remaining brothers, ██████████ for their interest in Lot # ██████████. ██████████ Honyoust submitted ██████████ Honyoust's death certificate to the Court. ██████████ Honyoust died on ██████████ 2001. ██████████ Honyoust was survived by four children: ██████████. ██████████ Honyoust stated on the record that ██████████ Honyoust did not have a will.

Several status conferences were held. The Court determined that there was no will and the Estate would proceed intestate. The only item remaining in ██████████ Honyoust's estate was Lot # ██████████. Given that Ms. Honyoust was requesting she be named sole owner of Lot # ██████████ and that this was an old Estate where the only remaining item was Lot # ██████████, the Court did not appoint ██████████ Honyoust as the administrator. A hearing was held to determine if the brothers had any interest in their ██████████ real estate.

**FACTUAL BACKGROUND**

At a hearing held on January 23<sup>rd</sup>, 2015 Ms. Honyoust testified that her brothers no longer held any interest in their mother's property because they voluntarily gave up their interest. With regards to ██████████ Honyoust, Ms. Honyoust submitted a notarized statement from her brother ██████████ Honyoust. The letter dated October 8, 2008 was directed to the St. Regis Mohawk Tribal Clerk, Corleen Jacco. In the letter, ██████████ requested his name be taken off any documents regarding Lot # ██████████. The letter stated that his sister ██████████ and brother ██████████ would be responsible for the property. The letter is signed by ██████████ Honyoust and is notarized.

At the hearing, ██████████ Honyoust also testified that she paid her brother, ██████████ \$██████████ for his interest in the property. Ms. Honyoust testified that because her mother paid \$██████████ for the property, which is noted in the deed, she determined the value of the property was

§ [REDACTED]. She testified that since [REDACTED] had already waived his interest voluntarily, [REDACTED] and [REDACTED] interest would each be worth \$ [REDACTED]. She submitted to the Court a signed letter from [REDACTED] Honyoust dated May 15, 2009. The letter states that he received \$ [REDACTED] from his sister [REDACTED] for his share of Lot # [REDACTED]. The letter is also signed by [REDACTED] Honyoust, [REDACTED] husband, who according to the letter was named Executor of [REDACTED] Honyoust's Estate by their lawyer. It should be noted that [REDACTED] was not a tribal member and it is clear from the letters between the Tribal Clerk and [REDACTED] Honyoust that the Estate was never closed. The letter from [REDACTED] regarding receipt of \$ [REDACTED] from his sister was not notarized. Because it was not notarized, the Court attempted to provide notice and issued a letter to [REDACTED] Honyoust notifying him of the pending case and [REDACTED] Honyoust's request to be named sole owner of Lot # [REDACTED] because she had paid him for his interest in the property. The letter was sent on July 13<sup>th</sup>, 2015 and response was requested by July 30<sup>th</sup>, 2015 if he wished to contest [REDACTED] Honyoust's request. The letter was returned to the Court.

With regards to [REDACTED] Honyoust, the Court sent several notices regarding this case to him, including notice of the hearing on June 26<sup>th</sup>, 2015. He resides in [REDACTED] and the Court would have made provisions for him to attend by teleconference. The Court received a signed returned receipt dated June 18, 2015. He failed to respond to any of the notices. [REDACTED] Honyoust testified that she paid [REDACTED] for his third of the property, but when she asked him to sign off on improvements to the property, he refused and requested more money. She testified she then sent him some more money. She submitted numerous receipts of various money orders she sent to [REDACTED] Honyoust for the property. From the receipts submitted to the Court, [REDACTED] Honyoust paid [REDACTED] Honyoust \$ [REDACTED] during the years of [REDACTED].

## JURISDICTION

The Tribal Court has original jurisdiction over cases, matters or controversies arising under the laws, ordinances, regulations, customs and judicial decisions of the Tribe.<sup>1</sup> The Court possesses civil jurisdiction over disputes arising in, connected with, or substantially affecting Mohawk Indian Country.<sup>2</sup> Given that the resolution of the Estate of a Tribal member affects land on the St. Regis Mohawk Indian Reservation and resolution of a person's estate is a civil issue that substantially affects Mohawk Indian Country,<sup>3</sup> the Court assumes jurisdiction over this Estate.

## APPLICABLE LAW

The SRMT Land Dispute Resolution Ordinance (LDRO) was enacted by the Tribe in February 2010. The LDRO's stated purpose is "to provide a fair and equitable procedure for resolving land disputes within the St. Regis Mohawk Tribe's jurisdiction"<sup>4</sup>

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<sup>1</sup> The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

<sup>2</sup> SRMT Civil Code § II.A. (2008).

<sup>3</sup> The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

<sup>4</sup> LDRO Section III.

and specifically addresses intestate distribution<sup>5</sup> and wills.<sup>6</sup> This Court finds that this written Mohawk law adopted by the recognized governmental system of the Mohawk Tribe is applicable to the case at bar.

### ANALYSIS

The LDRO states that when a Tribal member dies without a will and there is no surviving spouse, the surviving Tribal member children “shall receive equal possessory interest in tribal lands formally held by a deceased tribal member parent.”<sup>7</sup> Given that [REDACTED] Honyoust died without a will, her real property proceeds intestate and is subject to this section. Her children, [REDACTED] would have received equal interests in Lot # [REDACTED]. However, [REDACTED] Honyoust waived his interest in Lot # [REDACTED]. [REDACTED] Honyoust was paid \$ [REDACTED] to waive his interest in the property and he accepted the payment. He waived any remaining interest in the letter dated May 15, 2009 and his failure to respond to the Court’s letter providing him notice of [REDACTED] Honyoust’s request to be named sole owner. [REDACTED] Honyoust accepted payment of \$ [REDACTED] for his interest. He also failed to respond to the Court’s notice that [REDACTED] Honyoust was requesting to be named sole owner of the property. As a result of accepting payment for his interest and failing to respond to the Court’s notice, his interest is also waived.

The Court makes no determination as to whether the property is worth \$ [REDACTED]. Rather the parties came to an agreement as to the value and voluntarily agreed to be compensated for their interests in their [REDACTED] land.

As a result of the brothers [REDACTED] waiving their interest in their mother’s real property, [REDACTED] Honyoust is the sole remaining heir to Lot # [REDACTED].

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<sup>5</sup> LDRO § V. E. 1-7.

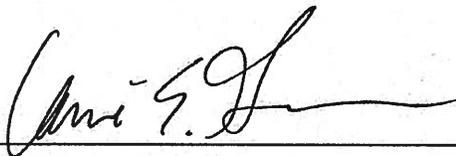
<sup>6</sup> LDRO § V. K. 1-5.

<sup>7</sup> LDRO § V. E. 2.

**ORDER**

1. The deed to the property of [REDACTED] Honyoust, Lot # [REDACTED] is now transferred to [REDACTED] Honyoust, as her brothers voluntarily waived their interest in the property. [REDACTED] Honyoust is Ordered to seek a new deed for Lot # [REDACTED] in her name from the Tribal Clerk's Office.
2. The Estate of [REDACTED] Honyoust is closed.

Signed by my hand this 15<sup>th</sup> day of September 2015



Carrie Garrow, Associate Judge St. Regis Mohawk Tribal Court