INTERIOR BOARD OF INDIAN APPEALS

Estate of Ralph Franklin Young, Sr.

53 IBIA 181 (5/23/2011)

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

ESTATE OF RALPH FRANKLIN YOUNG, SR.	)	Order Docketing and Dismissing Appeal
	)	Docket No. IBIA 11-069
	)	May 23, 2011

Loretta Reynolds Young (Appellant) appealed to the Board of Indian Appeals (Board) from an Order Denying Rehearing (Rehearing Order) entered on February 18, 2011, by Administrative Law Judge Larry M. Donovan (ALJ) in the estate of Appellant's husband, Ralph Franklin Young, Sr. (Decedent), deceased Rosebud Sioux Indian, Probate No. P000071044IP. The Rehearing Order denied a petition for rehearing submitted by the Indian Land Consolidation Center (ILCC), Bureau of Indian Affairs, seeking to purchase interests in land included in Decedent's estate, pursuant to the American Indian Probate Reform Act (AIPRA), 25 U.S.C. § 2206(o)(5)(A) (small undivided interests in Indian lands).[1] Appellant appealed from the Rehearing Order because she supported ILCC's purchase offer, stating that she would like to have Decedent's "land sold and all [of Decedent's] children [to] receive a payment." Notice of Appeal.

On receipt of the appeal, the Board ordered Appellant to serve copies of her appeal on the ALJ and other interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.323. The Board also ordered Appellant to show cause why her appeal should not be dismissed for lack of standing because it did not appear that Appellant had been adversely affected by the Rehearing Order.[2] *See* Pre-Docketing Notice, Order for Appellant to Serve ALJ and

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[1] The ALJ denied the petition for rehearing because, among other things, he found that the Restricted Use Appraisal Report submitted with the petition was "insufficient to meet the fiduciary obligation of the Secretary to provide a certified appraisal of the property it seeks to purchase." Rehearing Order at 2.

[2] In the ALJ's initial August 5, 2010, Decision, the ALJ determined that under AIPRA's "single heir rule," *see* 25 U.S.C. § 2206(a)(2)(D)(iii)(I), Decedent's eldest surviving child, Kathleen Young Wooden Knife, was the sole heir of Decedent's trust real property interests

(continued...)

Interested Parties, and Order for Appellant to Show Cause, Mar. 16, 2011 (Order); *see also* 43 C.F.R. 4.320 (party must be adversely affected by a probate decision in order to have a right of appeal to the Board). The Board ordered Appellant, on or before April 15, 2011, to comply with the service requirement and to inform the Board that she had done so. The Board also ordered Appellant, by the same date, to address her standing to bring the appeal. The Board advised Appellant that if she failed to respond, her appeal might be summarily dismissed without further notice. *See* Order at 2, 4.

The U.S. Postal Service's Track-and-Confirm service on its web site indicates that Appellant received a copy of the Board's order on March 23, 2011.

The Board has received no response from Appellant.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dockets but dismisses this appeal for failure to prosecute.

I concur:

// original signed	// original signed
Steven K. Linscheid	Debora G. Luther
Chief Administrative Judge	Administrative Judge

[2](...continued)
that constituted less than 5 percent of the allotment in which the interest was held. Although Appellant wanted those interests sold to ILCC and the proceeds distributed to all of Decedent's children, it did not appear that the Rehearing Order adversely affected any right or protectable interest held by Appellant. Moreover, as the Board explained, § 2206(o)(6)(A) states that "[p]roceeds from the sale of interests under this subsection *shall be distributed to the heirs*, devisees, or spouse *whose interest was sold*." Order, Mar. 16, 2011, at 3. Thus, the Board observed, even if the ALJ had granted ILCC's petition, it appeared that the proceeds would go to Kathleen, rather than be distributed among all of Decedent's children.