

**AFFIDAVIT OF SMALL SUCCESSION**<sup>1</sup>

**OF**

\_\_\_\_\_  
(hereinafter referred to as “Deceased”)

**STATE OF LOUISIANA**

**PARISH OF \_\_\_\_\_**

On this \_\_\_\_ day of \_\_\_\_\_, 2009, BEFORE ME, the undersigned Notary Public, duly commissioned and qualified, in and for the Parish and State aforesaid, and in the presence of the witnesses hereinafter named and undersigned:<sup>2</sup>

**PERSONALLY CAME AND APPEARED:**

\_\_\_\_\_  
Affiant 1

AND

\_\_\_\_\_  
Affiant 2

(hereinafter collectively and individually referred to as “Affiant”) both of whom are of full age of majority, who, after being duly sworn, did depose and say that:

(1) Affiant 1 is (the surviving spouse and/or a major heir) in relation to the Deceased. Affiant 2 is (a major heir) (or third party knowledgeable of the facts stated herein) in relation to the Deceased.

(2) The Deceased died on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. A certified copy of the Deceased’s certificate of death is attached hereto.<sup>3</sup>

(3) The Deceased’s domicile at the time of death was:

\_\_\_\_\_  
\_\_\_\_\_

(4) The Deceased’s residence at the time of death (if different from last domicile) was:

<sup>1</sup> This affidavit must satisfy the requirements of LA. CODE CIV. PROC. ANN. art. 3432 (2009). This affidavit can be found, in Word format, at <http://louisiana.appleseednetwork.org>. This form is not intended to be legal advice; it is meant as a guide. Individuals are encouraged to seek counsel; an attorney may determine that another format or provision is necessary for a particular circumstance.

<sup>2</sup> At least two persons must fill out this form. The surviving spouse, if any, must be a party to this affidavit. The surviving spouse must be joined by at least one major heir. If there is no surviving spouse, two major heirs may fill out this form. If there is only one major heir and no surviving spouse, this affidavit must also be signed by a second person who has actual knowledge of the matters stated herein. A “major heir” is an heir of the deceased who is at least eighteen years of age. In addition, a natural tutor may execute this affidavit on behalf of a minor child without the necessity of a judicial appointment or court order. The attorney should make a diligent effort to get all major heirs to sign this affidavit.

<sup>3</sup> If the deceased owned immovable property, this affidavit cannot be filed until ninety days has elapsed from the date of death. If filed too soon, it will not be effective until ninety days have elapsed.

\_\_\_\_\_

\_\_\_\_\_

(5) The Deceased died intestate.

(6) The marital status of the Deceased at the time of death was:  
single \_\_\_\_\_, married \_\_\_\_\_, widow(er) \_\_\_\_\_.

(hereinafter insert marital history of the Deceased)

\_\_\_\_\_

\_\_\_\_\_

(7) The surviving spouse's current domicile is:

\_\_\_\_\_

\_\_\_\_\_

(8) The surviving spouse's current residence (if different from current domicile) is:

\_\_\_\_\_

\_\_\_\_\_

(9) The names, relationship to the Deceased, and last known addresses of all of the heirs of the Deceased and the percentage of inheritance to which they are entitled:<sup>4</sup>

(a) _____	(b) _____
_____	_____
_____	_____
(c) _____	(d) _____
_____	_____
_____	_____
(e) _____	(f) _____
_____	_____
_____	_____

(10) Any heir not signing this Affidavit either (i) could not be located after the exercise of reasonable diligence, or (2) was given ten days notice by U.S. mail of Affiant's intent to execute this "Affidavit for Small Succession" and did not object.

(11) The Deceased owned no immovable property other than "small succession

<sup>4</sup> If more than six, please attach a supplementary list. At this point it may be appropriate to note whether decedent's parents survived decedent and whether decedent ever adopted children or was adopted. Also note whether heirs are over 23 years of age, and their mental and/or physical disabilities.

immovable property” as defined by Act 81 of 2009<sup>5</sup>,

(12) The properties owned by the Deceased at the time of death, both movable and immovable, are more particularly described below:

**[Herein insert full legal description of all movable and immovable property, show the value of each item, and include whether property is separate or community and whether it is subject to a legal usufruct]<sup>6</sup>**

The aggregate value of the above described property (ies) at the time of the Deceased’s death was \$\_\_\_\_\_.

The above properties, under the intestacy laws of the State of Louisiana, are owned (in undivided interests) by \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_.

(13) There is no need for an administration of this estate.

(14) Affiant understands and affirms under penalty of perjury that if Affiant is an heir, Affiant accepts the succession of the deceased, including the Deceased’s debts. Affiant further acknowledges and affirms under penalty of perjury that Affiant executes this document after having read the document line-by-line, that Affiant understands the legal significance of this document, that the information contained in this Affidavit is true, correct and complete to the best of Affiant’s knowledge, information, and belief, and that Affiant executes this document knowingly, freely and voluntarily and without any coercion or reservation whatsoever.

(15) Affiant understands that Article 3434 of the LA Code of Civil Procedure (1) instructs all banks, financial institutions, trust companies, warehousemen or other depository, or any person having property in his possession or under his control, upon receipt of a multiple original of this Affidavit, to pay or deliver any money or property of the deceased, as more particularly described herein, to the heirs of the deceased and the surviving spouse, if any, in the percentages listed herein; (2) instructs any domestic or foreign corporation, and the transfer agent for such corporation, upon receipt of a multiple original of this Affidavit, to transfer any stock or registered bonds in the name of the deceased and described herein, to the heirs of the

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<sup>5</sup> LA. CODE OF CIV. PROC. ANN. art. 3431(D) (2009) defines “small succession immovable property” as: (1) immovable property, comprised of a single lot or contiguous lots, on which is situated a single building that, together with any ancillary buildings, contains not more than four dwelling units, each of which has its primary use as a residence, and in a portion of which either the deceased or the surviving spouse resided or a portion of which was the last place of residence of either the deceased or the surviving spouse if neither the deceased nor the surviving spouse was residing in that residence on the date of death because of illness, incapacity, natural disaster or destruction; or (2) any cemetery spaces.

<sup>6</sup> Insert (A) property description, (B) whether the property is separate or community property, (C) whether a legal usufruct of the surviving spouse attaches to the property, (D) the value of the property, and (E) a listing of the heirs and their respective proportionate shares of the property

deceased and surviving spouse, if any, in the percentages listed herein; and (3) provides that receipt of such money or property by the heir(s) named herein constitutes a full release and discharge of the payor for the payment of money or delivery of property made under the provisions of said Article 3434.

(16) The making of or swearing to a false affidavit is punishable by civil and criminal penalties under Louisiana law.

**THUS DONE AND PASSED** in \_\_\_\_\_, Louisiana, on the day, month and year herein first above written, in the presence of the undersigned competent witnesses, who hereunder sign their names with the said appearers, and me, Notary, after reading of the whole.

**WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_ Affiant 1<sup>7</sup>

\_\_\_\_\_  
Print Name: \_\_\_\_\_ Affiant 2

\_\_\_\_\_  
NOTARY PUBLIC

PRINT NAME: \_\_\_\_\_  
LA BAR/NOTARY/ID. No. \_\_\_\_\_

<sup>7</sup> LA. CODE OF CIV. PROC. ANN. art. 3432(B) provides that if the deceased had no surviving spouse, the affidavit must be signed by at least two heirs. If the deceased had no surviving spouse and only one heir, the affidavit must also be signed by a second person who has actual knowledge of the matters stated herein and LA. CODE OF CIV. PROC. ANN. art. 3432(C) provides that in addition to the powers of a natural tutor otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition pursuant to Article 4061.