

HENRY H. LEDGER

IBLA 73-425

Decided November 15, 1973

Appeal from the rejection of oil and gas lease offer.

Dismissed.

Attorneys! ! Practice Before the Department: Persons Qualified to Practice

Qualifications to practice before the Department of the Interior are prescribed by regulations. One who does not appear to fall within any of the categories of persons authorized to practice does not become so qualified merely because he is designated "attorney in fact" for the appellant, and an appeal brought by one not eligible to practice is subject to dismissal.

APPEARANCES: B. S. Johnston, Attorney in Fact, for the appellant.

OPINION BY MR. STUEBING

Henry H. Ledger filed his offer to lease for oil and gas by filing a simultaneous oil and gas drawing entry card for Parcel No. 80, listed as available on the April 1973 list posted by the Montana State Office of the Bureau of Land Management. Ledger's card indicated that he was the sole party in interest. The offer was accompanied by a \$ 10 check drawn on the Santiago Commercial Bank of Tustin, California, and signed by one B. S. Johnston. It was intended as payment of the filing fee required by 43 CFR 3112.2-1(a)(1).

Ledger's offer was successful in the drawing and was assigned serial number M-25066. However, the filing fee check was not honored by the bank, which returned it to the Bureau marked "Not Sufficient Funds."

Accordingly, by decision dated May 17, 1973, the Montana State Office rejected Ledger's lease offer. The decision was sent to Ledger's address of record and was returned by the post office marked "Unclaimed." It was remailed to the same address on June 12, and on June 18 the Bureau's office at Billings, Montana, received an appeal from the rejection of Ledger's offer and another. 1/

The appeal was filed by B. S. Johnston as "Attorney in Fact" on stationary bearing the letterhead of U.S. Leasing Service, Tustin, California. Presumably, this is the same Johnston who signed the filing fee check which was dishonored by the bank. It might further be presumed that he is the proprietor, officer or employee of U.S. Leasing Service.

However, representation of parties before Appeals Boards of the Office of Hearings and Appeals is governed by 43 CFR Part 1, which regulates practice before the Department of the Interior. 43 CFR 4.3(a).

Johnston has made no showing that he is qualified to appear before this Department on behalf of Ledger. He has not shown himself to be an attorney at law who is admitted to practice before the courts, nor has he shown that he is eligible under any of the special circumstances listed in 43 CFR 1.3. An attorney in fact who does not appear to fall within any of the categories of persons authorized to practice before the Department is not authorized to practice merely because he has a power of attorney. Hattie M. Faults, A-27509 (November 7, 1957). Moreover, Johnston may not assert that he has an interest in the offer to lease, or if the lease is issued, as Ledger declared that he was the sole party in interest.

Where an appeal is taken by an attorney in fact, the appeal is subject to dismissal unless it is shown that the attorney in fact is authorized to practice before the Department. John W. Monzell, A 28817 (August 31, 1961); Lily L. Pearson, A-27505 (November 15,

1/ The appeal filed by Johnston in Ledger's case also purported to be an appeal from the rejection of lease offer M-25038, submitted by one Thomas P. Lang. However, on inquiry to the Montana State Office, we were informed that Lang's offer was not rejected and that lease number M-25038 was issued effective June 1, 1973.

1957); see Virginia Gail Atchison, 13 IBLA 18 (1973); Margaret Chicharello, 9 IBLA 124 (1973); Julius F. Pleasant, 5 IBLA 171 (1972); E. H. Hamlet, A-29516 (August 19, 1963); Kay Ann Turner, 68 I.D. 85 (1961); Ben P. Gleichner, 67 I.D. 321 (1960).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is hereby dismissed.

Edward W. Stuebing
Member

We concur:

Newton Frishberg
Chairman

Douglas E. Henriques
Member

