

**Editor's note: Appealed -- aff'd Civ.No. C-76-127K (D.Wyo. May 19, 1977), vacated and remanded, No. 77-1655 (10th Cir. Feb. 21, 1979) 594 F.2d 775**

JOSEPH A. WINKLER

IBLA 76-263

Decided April 29, 1976

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer W 52387.

Affirmed, as modified.

1. Administrative Authority: Generally -- Oil and Gas Leases:  
Applications: Generally -- Oil and Gas Leases: Applications: Drawing

Simultaneous oil and gas lease drawing entry cards which are not executed correctly will be rejected. Where an ambiguity is created by an applicant on a drawing entry card, it is not the responsibility of BLM to speculate about applicant's intention and necessarily to resolve the ambiguity in his favor.

APPEARANCES: Robert G. Pruitt, Esq., Salt Lake City, Utah, for appellant; Mitchell Melich, Esq., and Robert P. Hill, Esq., Salt Lake City, Utah, for appellee.

#### OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

In a drawing of simultaneous oil and gas lease offers conducted by the Wyoming State Office, Bureau of Land Management, the offer of "J. A. Winkler Agency" was first drawn for parcel 123 listed in the August 1975 notice. On September 16, 1975, the State Office, by a letter decision, rejected the lease offer because it was neither accompanied by a statement of corporate qualifications nor made reference to a serial number of a record in which such statement had been filed previously as required by 43 CFR 3102.4-1. Winkler appealed.

The difficulty in the case stems from the fact that the name stamped on the front of the card is "J. A. Winkler Agency" but the signature of the applicant reads "Joseph A. Winkler."

In his statement of reasons, appellant recites that he is an individual who also operates an insurance agency doing business under "J. A. Winkler Agency," a sole proprietorship, not a corporation. Appellant claims that he inadvertently stamped the front of the card with his office stamp. He states that he signed the card "Joseph A. Winkler" as an individual in his capacity as an individual applicant, and listed his individual social security number on the card. Appellant asserts that he intended to file in his individual capacity and not as a business entity. As the basis for his appeal, he contends that the State Office erroneously applied the 43 CFR 3102.4-1 corporate qualification requirements to a lease offer filed by appellant in his own name as an individual. 1/

Under 43 CFR 3102.1-1, mineral leases may be issued only to:

(a) citizens of the United States; (b) associations of such citizens organized under the laws of the United States or of any State thereof, which are authorized to hold such interest by the statute under which organized and by the instrument establishing the association; (c) corporations organized under the laws of the United States or of any State thereof; or (d) municipalities. As used in this group, "association" includes "partnership."

Appellant contends that he intended to file as an individual. 2/ The fact remains, however, that the drawing entry card reads "J. A. Winkler Agency." The word "agency" connotes some entity other than an individual. The State Office cannot be charged with knowing that appellant intended to file as an individual but mistakenly used his business office stamp to fill in information needed on

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1/ An answer responding to appellant's arguments was filed on behalf of A. Lansdale, whose drawing entry card was given second priority.

2/ Appellant's clarification on appeal that the entry card was intended to be for him in his individual capacity comes too late. The regulations require that the legal qualification of the offeror must be clearly shown on the drawing entry card and any required statements filed within the time provided by the regulations. This case is thus distinguishable from John J. Sexton (On Reconsideration), 20 IBLA 187 (1975), suit pending, where withdrawal of a lease offer made in his individual capacity was accepted although an assumed name was included with the individual's signature on the withdrawal instrument.

the card. If appellant were filing as a corporation, association or partnership, statements regarding qualifications of that entity must be submitted or reference to a previously filed statement must be made as required by 43 CFR 3102.4-1 or 3102.3-1. Silver Mountain Minerals, 14 IBLA 137 (1974); J-S Enterprises, Ltd., 2 IBLA 9 (1971).

Furthermore, 43 CFR 3112.2-1(a) provides that:

Offers to lease such designated leasing units by parcel numbers must be submitted on a form approved by the Director, "Simultaneous Oil and Gas Entry Card" signed and fully executed by the applicant or his duly authorized agent in his behalf. \* \* \* [Emphasis added.]

[1] Stamping the drawing entry card with the name of an agency as the ostensible offeror and then signing the card with an individual's signature is not a correct execution of the form. The lease offer was properly rejected and the BLM decision is so modified. When an ambiguity is created by an applicant on a drawing entry card, it is not the responsibility of the BLM to speculate about applicant's intention, and necessarily to resolve the ambiguity in his favor.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified.

Douglas E. Henriques  
Administrative Judge

We concur:

Frederick Fishman  
Administrative Judge

Joan B. Thompson  
Administrative Judge

