

WILLIAM R. BOEHM

IBLA 78-38

Decided August 28, 1978

Appeal from the decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer W 60373.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

When the president of a corporation is the successful offeror in a drawing of simultaneous oil and gas lease offers and the vice president and the corporation also file applications for the same parcel of land in the same drawing, the president's offer must be rejected because the officers of the corporation stand in a fiduciary relationship to the corporation, thereby increasing its chances to be the successful applicant under 43 CFR 3112.5-2.

APPEARANCES: William R. Boehm, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

William R. Boehm appeals the September 14, 1977, decision of the Wyoming State Office, Bureau of Land Management (BLM), which rejected his oil and gas lease offer W 60373 for failure to comply with the multiple filing regulation. This regulation states:

When any person, association, corporation, or other entity or business enterprise files an offer to lease for inclusion in a drawing, and an offer (or offers) to lease is filed for the same lands in the same drawing by any person or party acting for, on behalf of, or in collusion with the other person,

association, corporation, entity or business enterprise, under any agreement, scheme, or plan which would give either, or both, a greater probability of successfully obtaining a lease, or interest therein, in any public drawing, held pursuant to § 3110.1-6(b), all offers filed by either party will be rejected.

43 CFR 3112.5-2.

Appellant was the successful applicant for parcel WY-11 on the July 1977 simultaneous filing list. Appellant, president of Graybill Terminals Co., also signed for Graybill a drawing entry card filed on the same parcel. Graybill's vice president, Grayson Boehm, also filed a drawing entry card on this parcel. BLM, in rejecting appellant's offer, held that there appeared to be a design to enhance the mathematical probabilities of success in the drawing in violation of 43 CFR 3112.5-2.

In his statement of reasons, appellant asserts that he and the vice president filed as individuals, using private funds, and that he had no plan or agreement to assign such a lease to the corporation. He claims that the regulation does not specifically prohibit such actions.

[1] This appeal presents the same issues presented in William R. Boehm, 34 IBLA 216 (1978), and Graybill Terminals Co., 33 IBLA 243 (1978). A winning offer made by a company or its officer must be rejected where both the corporation and its officer file on the same parcel.

Where a corporation's officer files offers on behalf of the corporation, as well as himself, the corporation gains a greater possibility of successfully obtaining the lease, thus creating an inherently unfair situation which warrants rejection of the lease offer of both the corporation and its officer. 43 CFR 3112.5-2; McKay v. Wahlenmaier, 226 F.2d 35, 41-43 (1955); William R. Boehm, *supra*; Graybill Terminals Co., *supra*; Panra Corporation, 27 IBLA 220 (1976). The increased probability of success of the corporation stems from the officer's fiduciary duty to the corporation, particularly where the officer knows the corporation is interested in the lease opportunity. McKay v. Wahlenmaier, *supra* at 44-46; William R. Boehm, *supra*; Panra Corporation, *supra*. Appellant knew that Graybill desired the lease, since he signed the drawing entry card. Graybill had a greater chance to win the lease, compared with other applicants.

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.

Joseph W. Goss
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Douglas E. Henriques
Administrative Judge

