

LILLIAN SWEET

IBLA 78-523

Decided September 14, 1978

Appeal from decision of Wyoming State Office, Bureau of Land Management, W64209, dismissing protest re simultaneous oil and gas lease parcel WY 187.

Affirmed.

1. Notice: Generally—Rules of Practice: Generally—Rules of Practice: Protests

Service by registered or certified mail may be proved by a Post Office return receipt showing that the document was delivered to the person's record address. The receipt need not be signed necessarily by the person to whom the mail was addressed.

2. Oil and Gas Leases: Rentals—Payments: Generally

A rental check for an oil and gas offer need not be signed necessarily by the offeror.

3. Oil and Gas Leases: Applications: Drawings—Rules of Practice: Protests

The burden is on a protestant to show, as justification for the disqualification of the successful drawee in a simultaneous filing drawing procedure, that the offer is in fact defective. A suggestion of the possibility of violation of a regulation is not sufficient; a protestant must present competent proof of such violation. Absent

an adequate showing of disqualification, a protest alleging disqualification is properly rejected.

APPEARANCES: Lillian Sweet, Dolton, Illinois, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Lillian Sweet has appealed from the June 28, 1978, decision of the Wyoming State Office, Bureau of Land Management (BLM), which dismissed her protest against the result of the May 1978 simultaneous oil and gas drawing for parcel WY 187 in which James D. Short was the number one drawee.

The protest dated June 21, 1978, recited as follows:

I wish to formally protest the results of the May, 1978 Simultaneous Oil & Gas lottery for parcel #WY 187, serial # W 64209. I came in 2nd place, and 1st place was ostensibly won by a Mr. James D. Short, of 8716 Vista Oaks P1, Dallas, TX 75243.

The Short family has won an extraordinary number of parcels over the past many months, bucking tremendous odds. I am requesting a careful inspection of Mr. Short's card. I also request that you determine that indeed he did not have any financial interest with the rest of the Short family. I am quite sure that all the Short's filed on that parcel, and I strongly suspect that one of the Short's is paying for the cards of all the other Short's. This would violate the legal regulations of the lottery. You could easily check the lease assignments to see which of the Short's wound up with all the leases. Below is a summary of the Short family's winnings for the past few months.

MONTH Parcel # # OF ENTRANTS 1st NAME OF WINNER

Nov, 1978 [1/]	WY 60	187	William Short
	WY 61	57	William
	WY 191	1189	Rita
Dec, 1978 [2/]	WY 16	157	James Short
	WY 57	169	Susan Short

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1/ and 2/ Presumably these references to 1978 are inadvertent and references to 1977 were intended.

WY 73	641	William	
WY 88	144	William	
WY 197	1061	Susan	
Jan, 1978	WY 32	171	William
WY 69	666	Rita	
WY 96	138	Rita	
WY 118	33	William	
WY 128	4	Rita	
Feb, 1978	WY 67	249	William
WY 170	504	Susan	
WY 182	1181	Mary Short	
WY 202	344	William	
March, 1978	WY 71	89	William
Apr., 1978	WY 31	84	Rita
WY 118	56	William	
WY 151	173	Rita	
May, 1978	WY 8	38	Rita
WY 14	79	William	
WY 45	266	Rita	
WY 187	895	James	

The decision dismissing the protest stated in part as follows:

On June 21, 1978, you filed a protest of the results of the May, 1978 simultaneous oil and gas filing for parcel WY 187 in which James D. Short was the number one drawee. There was no actual reason for your protest other than you stated, "The Short family has won an extraordinary number of parcels over the past many months, bucking tremendous odds."

There is nothing in the regulations that prohibit family members from filing on the same parcel. Also, we do not know for a fact that all the Shorts are related as William and Rita have a New Jersey address, James and Suzanne have a Texas address, and Margaret's spelling of the last name is Shortt and shows a New Mexico address. The qualifications for individuals to hold oil and gas leases is that they be citizens of the United States, at least 21 years of age, and their acreage holdings do not exceed 246,080 acres in any one State.

As to James D. Short's drawing entry card for parcel WY 187, the card was fully executed and originally signed and met all the requirements of the regulations. Mr. Short submitted his first year's rental within the time allowed by regulation and in reviewing the check he submitted, it was drawn from his own bank account.

The decision of June 28, 1978, further pointed out that nine parcels of the ones shown by the protest to have been won by a Short, were in fact awarded to parties having different surnames.

The appeal asserts irregularities in that proof of service of a copy of the appeal was not signed by the addressee James Short but by "Duzy Short," <sup>3/</sup> questions whether the signature on James Short's rental check matches the signature on his entry card, and asserts that members of the Short family "placed within the first three places extraordinarily often."

[1] The signature on a Post Office return receipt by an agent of a party to whom registered or certified mail is sent at the party's "address of record in the Bureau" is sufficient evidence of service. Indeed 43 CFR 4.401(c)(2) provides in part that "Service by registered or certified mail may be proved by a Post Office return receipt showing that the document was delivered at the person's record address \* \* \*." In any event, the question as to signature of the certified return receipt card is irrelevant to the merits of James Short being the number one drawee.

[2] Similarly, there is no requirement that the rental check be personally signed by the number one drawee. It would not necessarily be improper for another party to make payment therefor.

[3] Appellant suggests that persons with the surname of "Short" "have placed within the first three places extraordinarily often." Even discounting the nine parcels which the State Office states were won by persons with the surname of "Short," there remain 16 parcels won by persons with the surname of "Short." However, as BLM pointed out, there is not a scintilla of evidence to demonstrate that the "Short" winners are related or that any malfeasance or misfeasance was involved in their winning parcels.

A protest which consists of a mere suggestion that the successful drawee was engaged in practices militating against the fairness of the drawing, is properly dismissed. Duncan Miller, 26 IBLA 37 (1976).

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<sup>3/</sup> The signature actually appears to read "Suzy Short."

We held in Georgette B. Lee and James W. McDade, 3 IBLA 171, 175, 176 (1971), as follows:

In the final analysis, appellants have not shown where the land office decision was in error or that the drawing should be set aside. The burden is on the protestant to show, as justification for the disqualification of the successful drawee in simultaneous filing drawing procedure, that the offer is in fact defective. A suggestion of the possibility of violation of a regulation is not sufficient; a protestant must present competent proof of such violation. Absent an adequate showing of disqualification, a protest alleging disqualification is properly rejected. See Duncan Miller, A-29735 (September 17, 1963), and cases cited therein.

Accordingly, appellant's protest was properly dismissed.

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.

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Frederick Fishman  
Administrative Judge

We concur.

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Joseph W. Goss  
Administrative Judge

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Joan B. Thompson  
Administrative Judge

