

GERTRUDE GALAUNER

IBLA 78-487

Decided October 19, 1978

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous noncompetitive oil and gas lease offer W 62361.

Affirmed.

1. Oil and Gas Leases: Applications: Sole Party in Interest—Words and Phrases

"Interest." Where an individual files an oil and gas lease offer drawing entry card through a leasing service under an agreement by which the first \$8,000 of the proceeds from any sale of a lease goes to the individual, the next \$3,500 goes to the leasing service, and the balance of the proceeds goes to the individual, the leasing service has an enforceable right to a defined share in profits which may derive or accrue from the lease, and therefore has an "interest" in the offer as defined in 43 CFR 3100.0-5(b).

2. Oil and Gas Leases: Applications: Sole Party in Interest

When a leasing service holds an interest in the anticipated lease at the time it files an offer on behalf of an offeror, the offeror is not the sole party in interest, and he is required by regulation, 43 CFR 3102.7, both to reveal this fact at the time his offer is filed, and to provide the names of other interested parties, the nature and extent of their interest, and the nature of the agreement between them, not later than 15 days after the filing of the offer. Failure to file the required statements must result in rejection of the offer.

APPEARANCES: William A. McCormack, Esq., Dallas, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Gertrude Galauner filed a noncompetitive simultaneous oil and gas lease offer drawing entry card for parcel number WY-63 which was drawn with first priority in the December 1977 drawing held by the Wyoming State Office, Bureau of Land Management (BLM). Apparently recognizing that Galauner had used the address of the Key Energy Corporation (Key Energy) on her drawing entry card, on February 21, 1978, BLM sent a letter to Key Energy requesting copies of any agreements between it and Galauner. On May 22, 1978, William A. McCormack, Esq., acting as Key Energy's receiver in bankruptcy, filed a copy of such an agreement.

The agreement between Galauner and Key Energy provides as follows:

The service fee of \$7,500 has been reduced to \$4,000 initially with the following stipulations: upon winning a lease the first \$8,000 from the sale of the lease shall go to Gertrude Galauner, the next \$3,500 shall go to Key Energy Corporation and all remaining profits shall go to Gertrude Galauner.

On the basis of this provision, in a decision dated May 23, 1978, BLM concluded that Key Energy held an interest in Galauner's offer for this parcel. It accordingly rejected her offer, as Galauner had not met the requirements of 43 CFR 3102.7, requiring disclosure of the identities of all parties having interests in the offer. Galauner has appealed from this decision.

[1, 2] There is no doubt that the agreement between appellant and Key Energy created an "interest" in Key Energy in whatever lease appellant might win in the drawing. Under 43 CFR 3100.0-5(b), an "interest" includes "any prospective or future claim to an advantage or benefit from a lease, and * * * any defined or undefined share in any * * * profits which may be derived from or which may accrue in any manner from the lease." The agreement between Key Energy and appellant gave Key Energy a defined share of \$3,500 in the potential profits from the sale of lease, and so creates an "interest" in Key Energy. Appellant and Key Energy failed to disclose the existence of this interest by signed statements, as required by 43 CFR 3102.7 on pain of rejection of the offer, and BLM therefore properly rejected the offer.

This Board has recently considered several cases involving lease agreements between a leasing service and its client by which

a leasing service had the right to receive a portion of the proceeds of any sale of leases won by its client. We have consistently held that where an offeror files an oil and gas lease offer through a leasing service under an agreement whereby the offeror is required to pay the service a portion of the profits from any sale of any lease rights obtained by him, the leasing service has an enforceable right to share in any profits which may derive or accrue from the lease, and therefore has an "interest" in the lease, as defined by 43 CFR 3100.0-5(b). Mary E. Sixt, 36 IBLA 374 (1978); Alfred L. Easterday, 34 IBLA 195 (1978); Sidney H. Schreter, 32 IBLA 148 (1977); Lola I. Doe, 31 IBLA 394 (1977); B. F. Sandoval, Jr., A-29975 (June 12, 1964).

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.

Edward W. Stuebing
Administrative Judge

We concur.

Frederick Fishman
Administrative Judge

Douglas E. Henriques
Administrative Judge

