

D. E. PACK

IBLA 78-328

Decided March 15, 1979

Appeal from decision of the New Mexico State Office, Bureau of Land Management, dismissing protest to the issuance of oil and gas lease NM 32162.

Affirmed.

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

An offeror's use of a leasing service's address on a simultaneous noncompetitive oil and gas lease offer drawing entry card does not disqualify the offer. A leasing service bound by a "put option" does not have a hidden interest in the offer and does not violate 43 CFR 3102.7 by failing to disclose this put option or 43 CFR 3112.5-2 by filing offers for more than one client on a parcel.

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents

A successful drawee in a simultaneous oil and gas lease drawing will not be disqualified to receive a lease because of an allegation that his leasing service has failed to observe the registration requirements of the Securities Act of 1933.

APPEARANCES: D. E. Pack, pro se; James W. McDade, Esq., Washington, D.C., for appellee.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

D. E. Pack (appellant) has appealed from the February 28, 1978, decision of the New Mexico State Office, Bureau of Land Management (BLM), dismissing his protest to the issuance of oil and gas lease

NM 32162 to either the number one or two drawees for parcel NM 99 in the November 1977 simultaneous noncompetitive oil and gas lease offer drawing. Pack's protest noted that these offerors were evidently clients of an oil and gas lease broker which had failed to register with the Securities and Exchange Commission (SEC). Pack argued that the broker could not legally file drawing entry cards for its clients as it was not registered with the SEC. In its decision dismissing the protest, BLM noted that Pack had failed to meet his burden of showing that there was an impropriety in the filing of these offers.

In addition to the argument raised in his protest that the failure of the leasing service to register with the SEC disqualifies any offers made by it, Pack contends on appeal that using a common address gives the service a hidden interest in the offer, the failure to disclose which violates 43 CFR 3102.7, and that the service has made multiple filings prohibited by 43 CFR 3112.5-2.

[1] Arguments similar to appellant's have been repeatedly considered and rejected by this Board. An offeror's use of a leasing service's address on a simultaneous noncompetitive oil and gas lease offer drawing entry card does not disqualify the offer. Dexter B. Spalding, 37 IBLA 4 (1978); Bruce F. Watkins, 36 IBLA 168 (1978); Clyde E. Frazier, 36 IBLA 141 (1978); Marion Bacil, 35 IBLA 366 (1978); Virginia L. Jones, 34 IBLA 188 (1978); Nadine Sanford, 31 IBLA 184 (1977); D. E. Pack, 30 IBLA 230 (1977); John V. Steffens, 74 I.D. 46 (1967). Appellant's charge that the service had a hidden interest appears from the record to be false. The service is bound by the familiar "put option," ^{1/} which we have repeatedly held does not constitute an "interest" in the offer, and it does not appear that either 43 CFR 3102.7 or 3112.5-2 have been violated. Virginia L. Jones, *supra*; D. E. Pack, *supra*; D. E. Pack, 30 IBLA 166, 84 I.D. 192 (1977); John V. Steffens, *supra*.

[2] Failure of a leasing service to register with the SEC does not invalidate any oil and gas lease offers made by its clients. Bruce F. Watkins, *supra*; John H. McGann, 35 IBLA 32 (1978); Elias C. Bacil, 34 IBLA 322 (1978); Virginia L. Jones, *supra*. Appellant's

^{1/} The so-called "put option" describes an agreement between the leasing service and its client whereby the service agrees in advance to purchase, at the client's sole election, a specified percentage of any lease which the client might be awarded at a pre-determined price. However, the leasing service has no right to compel the client to convey any interest to it, so that when the lease issues to the client, the service has no enforceable interest therein.

protest would more appropriately have been lodged with the agency charged with responsibility for the administration of the Federal statutes relating to the sales of securities, i.e., the Securities and Exchange Commission.

Accordingly, 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

Joseph W. Goss
Administrative Judge

