

Appeal from decision of Colorado State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application C-34512.
Reversed and remanded.

1. Oil and Gas Leases: Applications: Drawings

Where applicant, who is beneficiary of a trust administered by his mother, files an application to lease in a simultaneous oil and gas lease drawing in which his mother files an application in her individual capacity Departmental regulations prohibiting multiple filings and holding owning or controlling interests in more than one application are not violated.

APPEARANCES: Phillip D. Barber, Esq., for appellant; Marla E. Mansfield, Esq., Office of the Regional Solicitor, for appellee, Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Stephen M. Grynberg appeals from a decision of the Colorado State Office, Bureau of Land Management (BLM), dated April 5, 1982, rejecting his simultaneous oil and gas lease application C-34512. Appellant is the beneficiary of a trust established by his father for which his mother, Celeste C. Grynberg, is trustee. Appellant Steven M. Grynberg's application was first drawn for parcel CO-318, in a simultaneous oil and gas lease drawing held in September 1981. An application for CO-318 was also filed by Celeste C. Grynberg, appellant's mother and trustee, who, however, filed for the parcel in her individual capacity and not as trustee of the Steven M. Grynberg trust.

The BLM decision rejecting appellant's application stated the reason for the rejection to be:

Regulation 43 CFR 3112.2-1 provides that an applicant is permitted to file only one entry card for each numbered parcel on the posted simultaneous filing list. Submission of more than one entry card by or on behalf of an applicant for any parcel will result in disqualification of all of the applications submitted by

the applicant. It is the policy of the Department of the Interior that each applicant shall have an equal chance with every other applicant in the simultaneous drawing, and that multiple applications will be rejected when they are considered to have been collectively filed for the benefit of one person by giving him an unfair advantage in the drawing.

Because of the fiduciary obligation imposed upon Celeste Grynberg as trustee of the Stephen Mark Grynberg Trust, if a suit were brought against Celeste Grynberg, trustee, by Stephen Mark Grynberg, beneficiary, the courts would hold that Mrs. Grynberg holds the lease for the use and benefit of the trust. See June Oil and Gas, Inc. v. Andrus, 506 F. Supp. 1204 (D.C. Colorado 1981).

Since Stephen M. Grynberg filed an application in his own behalf and since Mrs. Grynberg's application inures to the benefit of her son, an unfair situation has been created which enhances the mathematical advantage of Stephen Mark Grynberg over other applicants for Parcel No. CO-318. Such multiple filings are prohibited by 43 CFR 3112.6-1, and the above-referenced application is therefore rejected in its entirety.

The reasoning of the decision appealed from is, as counsel for BLM points out, based upon an attempt to apply to this appeal language from the opinions in Bruce A. Blakemore Estate Trust, 62 IBLA 336 (1982); Celeste C. Grynberg, 44 IBLA 197 (1979), aff'd, June Oil & Gas, Inc. v. Andrus, 506 F. Supp. 1204 (D. Colo. 1981). This appeal is controlled, however, by this Board's holding in Rachel S. Grynberg, 71 IBLA 83 (1983), a factually identical case also involving a trust in which Celeste C. Grynberg is the trustee. As this Board observed in Rachel S. Grynberg, supra, at pages 85, 86-87:

The issue on appeal is whether 43 CFR 3112.2-1(f) and 3112.6-1(c) have been violated where an applicant who is also an adult beneficiary of a trust files an application to lease a particular parcel in a simultaneous oil and gas lease drawing, and her mother, who is trustee for the trust, also files an application for the same parcel as an individual.

We agree with appellant that these regulations have not been violated in this situation. Rachel Grynberg and Celeste Grynberg have each filed an application for parcel CO-25 in their individual capacities. The fact that their relationship is mother and daughter does not preclude them from filing applications for the same parcel. The Department has held that a husband and wife may individually file for the same parcel of land in a simultaneous drawing without violating the sole party in interest requirement or the multiple filing prohibition. Duncan Miller, 71 I.D. 121 (1964). The Board reiterated this holding in June Oil and Gas, Inc., 41 IBLA 394, 403, 86 I.D. 374, 379 (1979), which was affirmed on other grounds in June Oil and Gas, Inc. v. Andrus, 506 F. Supp. 1204 (D. Colo. 1981). Given the facts of this case,

we find no reason why appellant and her mother could not each file an application for the same parcel.

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* * * There is no evidence showing that Rachel would have an interest in her mother's lease when her mother files as an individual. Therefore, there is no violation of 43 CFR 3112.2-1(f). Since Celeste Grynberg has filed as an individual as she is authorized to do under the terms of the trust, and has not filed on behalf of the trust, there is no violation of 43 CFR 3112.6-1(c)(4). There is no evidence that a multiple filing exists in violation of 43 CFR 3112.6-1 which would give Rachel Grynberg a greater mathematical chance to benefit from the results of the drawing. [Emphasis in original.]

The decision in Rachel S. Grynberg is directly controlling here: there was, under the circumstances of this case, no violation of 43 CFR 3112.2-1 or 3112.6-1.

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 reversed and this appeal is remanded to BLM for action consistent with this opinion.

Franklin D. Arness
Administrative Judge
Alternate Member

We concur:

Will A. Irwin
Administrative Judge

Anne Poindexter Lewis
Administrative Judge.

