

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AMAA Docket No. 04-0002
)	
Marvin D. Horne and Laura R.)	
Horne, d/b/a Raisin Valley Farms,)	
a partnership, and d/b/a Raisin)	
Valley Farms Marketing)	
Association, a/k/a Raisin Valley)	
Marketing, an unincorporated)	
association,)	
)	
and)	
)	
Marvin D. Horne, Laura R.)	
Horne, Don Durbahn, and)	
The Estate of Rena Durbahn, d/b/a)	
Lassen Vineyards, a partnership,)	
)	
Respondents)	Order Seeking Clarification

The Administrator, Agricultural Marketing Service, United States Department of Agriculture [hereinafter the Administrator], instituted this administrative proceeding by filing a Complaint alleging that, during crop years 2002-2003 and 2003-2004, Marvin D. Horne and Laura R. Horne, d/b/a Raisin Valley Farms, and others [hereinafter Mr. Horne and partners], did not comply with the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. §§ 601-674), and the federal order regulating the handling of Raisins

Produced from Grapes Grown in California (7 C.F.R. pt. 989) [hereinafter the Raisin Order]. On April 11, 2008, I issued a Decision and Order in which I found that Mr. Horne and partners committed 673 violations of the Raisin Order. I ordered Mr. Horne and partners to pay to the Raisin Administrative Committee [hereinafter the RAC] \$6,042.23 in assessments for crop years 2002-2003 and 2003-2004, and \$183,006.51 for the dollar equivalent of the California raisins they failed to hold in reserve for crop years 2002-2003 and 2003-2004. Finally, I assessed a civil penalty of \$202,600 against Mr. Horne and partners for their violations of the Raisin Order.

On May 12, 2008, the Administrator filed a timely Petition to Reconsider the Decision and Order of the Judicial Officer. In the petition, the Administrator alleges that the calculation of the assessments owed to the RAC by Mr. Horne and partners, as well as the calculations for the value of the raisins that Mr. Horne and partners failed to hold in reserve, are not correct and should be modified. As support for the argument that the calculations should be modified, the Administrator included "Exhibit A" which he defines as "a road map that shows how the assessments were calculated and the specific exhibit numbers that show the volume of the raisins packed by Respondents for crop year 2002-2003." (Pet. to Reconsider at 3.)

Exhibit A is a good start to the process of determining the volume of raisins packed. Column B of the table on page 1 of Exhibit A lists the total packed weight by varietal type. Page 2 of Exhibit A "contains a list of the specific exhibit numbers that

were used in the computation of the packed weight.” The problem I am having in confirming the packed weight is that each of the 147 exhibits cited contain numerous pages. Determining the weight from each exhibit involves searching through hundreds if not thousands of pages for the correct number from each exhibit. Considering the Administrator has already completed such a search in order to provide the numbers in column B of Exhibit A, my duplicating the task is not a good use of my office’s limited resources. Therefore, I order the Administrator to provide to me, no later than July 11, 2008, a breakdown of the weights from each exhibit, including the specific page within the exhibit from which the information may be obtained, that were used to calculate the totals in column B of Exhibit A.¹ The Administrator will send, via fax, a copy of this

¹While I will not mandate the specific format to be used in providing the information, I will suggest that a table or spreadsheet will facilitate review. Suggested headings include:

Exhibit #	Page	Natural Seedless	Other Seedless	Monukka	Comments
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Weights of each varietal type would be provided under the appropriate column. The comments column can be used to clarify, if necessary, any entry, including calculations used to reach the number entered.

filing to counsel for Mr. Horne and partners on the same day it is filed with the Hearing Clerk. Mr. Horne and partners will have 21 days from the date the Administrator files with the Hearing Clerk to comment on the Administrator's filing.

Done at Washington, DC

June 19, 2008

William G. Jenson
Judicial Officer