

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) I & G Docket No. 03-0001
)
Lion Raisins, Inc., a)
California corporation formerly)
known as Lion Enterprises,)
Inc.; Lion Raisin Company,)
a partnership or unincorporated)
association; Lion Packing)
Company, a partnership or)
unincorporated association;)
Al Lion, Jr., an individual;)
Dan Lion, an individual;)
Jeff Lion, an individual; and)
Bruce Lion, an individual,)
)
Respondents) **Remand Order**

Kenneth C. Clayton, Associate Administrator, Agricultural Marketing Service,
United States Department of Agriculture [hereinafter Complainant], instituted this
disciplinary administrative proceeding by filing a Complaint on October 11, 2002.
Complainant instituted the proceeding under the Agricultural Marketing Act of 1946, as
amended (7 U.S.C. §§ 1621-1632 (1994)) [hereinafter the Agricultural Marketing Act];
the regulations and standards governing the inspection and certification of processed
fruits and vegetables (7 C.F.R. pt. 52) [hereinafter the Regulations]; and the Rules of
Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under

Various Statutes (7 C.F.R. §§ 1.130-.151) and the Rules of Practice Governing Withdrawal of Inspection and Grading Services (7 C.F.R. pt. 50) [hereinafter the Rules of Practice].

On May 24, 2004, I issued a Decision and Order: (1) finding Lion Raisins, Inc.; Lion Raisin Company; Lion Packing Company; Al Lion, Jr.; Dan Lion; Jeff Lion; and Bruce Lion [hereinafter Respondents] failed to file a timely answer to the Complaint; (2) holding Respondents are deemed, based upon their failure to file a timely answer, to have admitted the allegations of the Complaint and waived the opportunity for hearing; (3) concluding Respondents violated the Agricultural Marketing Act and the Regulations, as alleged in the Complaint; and (4) debaring Respondents for 1 year from receiving inspection services under the Agricultural Marketing Act.¹

Respondents sought judicial review of *In re Lion Raisins, Inc.*, 63 Agric. Dec. 211 (2004). On May 12, 2005, the United States District Court for the Eastern District of California found that I abused my discretion by entering a default judgment against Respondents because of their minor deviation from the Rules of Practice with no showing of prejudice to Complainant and remanded the case to me for further proceedings.² A notice of appeal of *Lion Raisins, Inc. v. United States Dep't of Agric.* No. CV-F-04-5844 REC DLB (E.D. Cal. May 12, 2005), is not due until July 11, 2005; however, on June 28,

¹*In re Lion Raisins, Inc.*, 63 Agric. Dec. 211 (2004).

²*Lion Raisins, Inc. v. United States Dep't of Agric.* No. CV-F-04-5844 REC DLB (E.D. Cal. May 12, 2005).

2005, I received a determination against appeal issued on June 16, 2005, by the United States Department of Justice, Civil Division.

As proceedings for judicial review are concluded and the United States District Court for the Eastern District of California has remanded the case to me, the proceeding should be remanded to the administrative law judge to whom the case was previously assigned for further proceedings in accordance with the Rules of Practice.

For the foregoing reasons, the following Order should be issued.

ORDER

This proceeding is remanded to Administrative Law Judge Jill S. Clifton for further proceedings in accordance with the Rules of Practice.

Done at Washington, DC

June 30, 2005

William G. Jenson
Judicial Officer