

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) I & G Docket No. 04-0001
)
Lion Raisins, Inc., a California)
corporation; Lion Raisin)
Company, a partnership or)
unincorporated association;)
Lion Packing Company,)
a partnership or unincorporated)
association; Alfred Lion, Jr., an)
individual; Daniel Lion, an)
individual; Jeffrey Lion, an)
individual; Bruce Lion, an)
individual; Larry Lion, an)
individual; and Isabel Lion, an)
individual,)
)
Respondents)

**Ruling Dismissing Larry Lion’s Petition to Suspend
Balance of the Period of Debarment**

On February 27, 2009, Larry Lion filed “Petition to the Judicial Officer by Respondent Larry Lion to Suspend the Balance of the Period of Debarment.” On March 17, 2009, the Associate Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture [hereinafter the Administrator], filed

“Complainant’s Response to ‘Petition to the Judicial Officer’” stating I have no jurisdiction to grant Larry Lion’s petition.

On June 9, 2006, Administrative Law Judge Peter M. Davenport [hereinafter the ALJ] issued a Decision and Order debarring Larry Lion from receiving inspection services under the Agricultural Marketing Agreement Act of 1946, as amended (7 U.S.C. §§ 1621-1632) and the regulations governing the inspection and certification of processed fruits and vegetables (7 C.F.R. pt. 52) for a period of 5 years. The ALJ also provided, after 1 year, Larry Lion may petition the Secretary of Agriculture or the Secretary’s designee to suspend the balance of the period of debarment. (ALJ’s Decision and Order at 50.)

On June 16, 2006, the Hearing Clerk served Larry Lion with the ALJ’s Decision and Order.¹ The rules of practice applicable to the instant proceeding² provide that the administrative law judge’s decision shall become final and effective 35 days after service upon the respondent, unless appealed to the Judicial Officer (7 C.F.R. § 1.142(c)(4)). Larry Lion failed to file a timely appeal of the ALJ’s Decision and Order,³ and the ALJ’s

¹United States Postal Service Domestic Return Receipt for article number 7004 1160 0004 4087 9993.

²Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [hereinafter the Rules of Practice].

³Wesley T. Green, attorney for Lion Raisins, Inc. (Notice of Appearance and Statement of Representation filed Aug. 15, 2005), and James A. Moody, attorney for Lion
(continued...)

Decision and Order became final and effective as to Larry Lion on July 21, 2006.

Therefore, Larry Lion's 5-year period of debarment began on July 21, 2006, and he became eligible to file a petition to suspend the balance of the 5-year period of debarment on July 21, 2007. However, I have not been designated by the Secretary of Agriculture to consider any petition to suspend the balance of the 5-year period of debarment ordered by the ALJ, and Larry Lion is not a party before me with respect to the pending appeal.

Therefore, I have no jurisdiction to consider the February 27, 2009, Petition to the Judicial Officer by Respondent Larry Lion to Suspend the Balance of the Period of Debarment, and I dismiss the Petition.

Done at Washington, DC

March 19, 2009

William G. Jenson
Judicial Officer

³(...continued)

Raisins, Inc., Alfred Lion, Jr., Bruce Lion, Daniel Lion, and Jeffrey Lion (Notice of Entry of Appearance filed Dec. 1, 2005), filed "Respondents' Appeal Petition to Decision and Order and Brief in Support Thereof and Respondents' Request for Oral Argument" on July 13, 2006. Mr. Moody stated his failure to enter an appearance on behalf of Larry Lion was an oversight which he would correct by filing a notice of appearance on behalf of Larry Lion (Tr. 7). Mr. Moody failed to file a corrected notice of appearance. Larry Lion appeared pro se beginning January 24, 2006, when Charles Pashayan, Jr., withdrew as his counsel (Respondents' Notice of Withdrawal as Attorney of Record; and Notice of Designations of Mr. Pashayan as Legal Counsel for Settlement Discussions). Larry Lion failed to appeal the ALJ's June 9, 2006, Decision and Order on his own behalf. Therefore, I conclude Larry Lion failed to file a timely appeal of the ALJ's Decision and Order.