

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,)	Rulings Denying Respondents' Motion
)	For Consolidation And Petition To
Respondents)	Reopen Evidence Or For Rehearing

Respondents' Motion for Consolidation

Lion Raisins, Inc., Alfred Lion, Jr., Daniel Lion, Jeffrey Lion, and Bruce Lion [hereinafter Respondents] seek to consolidate the instant proceeding with *In re Lion Raisins*, I & G Docket No. 01-0001, and *In re Bruce Lion*, I & G Docket No. 03-0001. Respondents assert consolidation would result in “judicial economy.”

I have issued the decision in this proceeding.¹ All that remains administratively is my consideration of Respondents' "Petition for Reconsideration" and "Complainant's Reply to Petition for Reconsideration." *In re Lion Raisins*, I & G Docket No. 01-0001, and *In re Bruce Lion*, I & G Docket No. 03-0001, are in a much different procedural posture and consolidation of the instant proceeding with these two proceedings would delay, rather than expedite, this proceeding and would not result in any administrative economy. Therefore, Respondents' motion for consolidation is denied.

Respondents' Petition to Reopen Evidence or for Rehearing

Respondents filed the petition to reopen evidence or, in the alternative, for rehearing on July 27, 2009, 3 months 10 days after I issued the decision in the instant proceeding and 3 months after the Hearing Clerk served Respondents with the decision.² The rules of practice applicable to this proceeding³ provide time limits within which a party may file a petition to reopen a hearing to take further evidence and a petition for rehearing, as follows:

¹*In re Lion Raisins, Inc.* (Decision as to Lion Raisins, Inc.; Alfred Lion, Jr.; Daniel Lion; Jeffrey Lion; and Bruce Lion) __ Agric. Dec. __ (Apr. 17, 2009).

²See United States Postal Service Domestic Return Receipt for article number 7007 0710 0001 3862 9618 establishing that the Hearing Clerk served Respondents with the Judicial Officer's decision in the instant proceeding on April 27, 2009.

³The 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).

§ 1.146 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of the decision of the Judicial Officer.

(a) *Petition requisite*—. . . .

. . . .

(2) *Petition to reopen hearing*. A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the decision of the Judicial Officer. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing.

(3) *Petition to rehear or reargue proceeding, or to reconsider the decision of the Judicial Officer*. A petition to rehear or reargue the proceeding or to reconsider the decision of the Judicial Officer shall be filed within 10 days after the date of service of such decision upon the party filing the petition. Every petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

7 C.F.R. § 1.146(a)(2)-(a)(3). Therefore, Respondents' petition is denied as late-filed.⁴

Done at Washington, DC

December 16, 2009

William G. Jenson
Judicial Officer

⁴See *In re PMD Produce Brokerage Corp.* (Order Denying Pet. for Recons. and Pet. for New Hearing on Remand), 61 Agric. Dec. 389, 396-99 (2002) (denying the respondent's petition to reopen because it was filed after issuance of the Judicial Officer's decision); *In re Judie Hansen* (Order Denying Pet. to Reopen Hearing), 58 Agric. Dec. 390, 392 (1999) (same); *In re Potato Sales Co.* (Order Denying Pet. to Reopen Hearing to Take Further Evidence as to Potato Sales Co., Inc.), 55 Agric. Dec. 708 (1996) (same).