

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,	)	
	)	<b>Ruling Striking Supplemental</b>
	)	<b>Authority in Support of Petition</b>
Respondents	)	<b>for Reconsideration</b>

On July 27, 2009, Lion Raisins, Inc., Alfred Lion, Jr., Daniel Lion, Jeffrey Lion, and Bruce Lion [hereinafter the Lions] filed a timely Petition for Reconsideration. On September 4, 2009, the Lions filed supplemental authority in support of the Petition for Reconsideration [hereinafter Supplemental Authority]. On September 14, 2009, the Associate Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture [hereinafter the Administrator], filed a “Motion to Strike ‘Supplemental Authority in Support of Petition for Reconsideration’” [hereinafter Motion

to Strike], and on October 5, 2009, the Lions filed “Respondents’ Reply to Motion to Strike ‘Supplemental Authority in Support of Petition for Reconsideration.’” On October 7, 2009, the Hearing Clerk transmitted the record to me for a ruling on the Administrator’s Motion to Strike.

The rules of practice applicable to the instant proceeding<sup>1</sup> provide a time limit within which a party may file a petition to reconsider the decision of the Judicial Officer, as follows:

**§ 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*—(1) *Filing; service; ruling*. A petition for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the decision of the Judicial Officer, must be made by petition filed with the Hearing Clerk. Every such petition must state specifically the grounds relied upon. Any such petition filed prior to the filing of an appeal of the Judge’s decision pursuant to § 1.145 shall be ruled upon by the Judge, and any such petition filed thereafter shall be ruled upon by the Judicial Officer.

. . . .

(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.

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<sup>1</sup>The rules of practice applicable to the instant proceeding are 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].

7 C.F.R. § 1.146(a)(1), (a)(3). The Hearing Clerk served the Lions with *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), on April 27, 2009.<sup>2</sup>

Therefore, the Lions were originally required to file a petition to reconsider no later than May 7, 2009. I granted the Lions five extensions of time within which to file a petition to reconsider. The last extension of time extended the time for the Lions' filing a petition to reconsider to July 27, 2009.<sup>3</sup> The Lions' Supplemental Authority was filed 1 month 6 days after the extended deadline for filing a petition to reconsider. Therefore, the Lions' Supplemental Authority is stricken from the record.

Done at Washington, DC

January 6, 2010

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William G. Jenson  
Judicial Officer

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<sup>2</sup>United States Postal Service Domestic Return Receipt for article number 7007 0710 0001 3862 9618.

<sup>3</sup>April 29, 2009, Order Extending Time For The Lions To File A Petition To Reconsider; May 15, 2009, Order Extending Time For The Lions To File A Petition To Reconsider; June 12, 2009, Order Extending Time For The Lions To File A Petition To Reconsider; July 17, 2009, Order Extending Time For The Lions To File A Petition To Reconsider And Denying Extension Of Time For The Lions To File Petition For Rehearing; and July 24, 2009, Order Extending Time For The Lions To File A Petition To Reconsider.