

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) I & G Docket No. 01-0001  
Lion Raisins, Inc., a California )  
corporation formerly known as )  
Lion Enterprises, Inc., and as )  
Lion Raisins; 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 )

**Rulings Denying the Lions' July 27, 2009, Motion for Consolidation and  
Petition to Reopen or, in the Alternative, Petition for Rehearing**

*The Lions' Motion for Consolidation*

Lion Raisins, Inc.; Lion Raisin Company; Lion Packing Company; Al Lion, Jr.;  
Dan Lion; Jeff Lion; and Bruce Lion [hereinafter the Lions] requested that I consolidate  
the instant proceeding with *In re Bruce Lion*, I & G Docket No. 03-0001, and *In re Lion  
Raisins, Inc.*, I & G Docket No. 04-0001.

As an initial matter, administrative proceedings with respect to the merits of *In re  
Lion Raisins, Inc.*, I & G Docket No. 04-0001, are concluded, and my final decision in  
that proceeding has been appealed to the United States District Court for the Eastern

District of California.<sup>1</sup> All that is pending before me with respect to *In re Lion Raisins, Inc.*, I & G Docket No. 04-0001, is “Respondents’ Motion to Stay Any Further Action by USDA Re the Judicial Officer’s Decision and Order as to Lion Raisins, Inc.; Alfred Lion, Jr.; Daniel Lion; Jeffrey Lion; and Bruce Lion.” Therefore, I have no jurisdiction to consolidate *In re Lion Raisins, Inc.*, I & G Docket No. 04-0001, with the instant proceeding.

*In re Bruce Lion*, I & G Docket 03-0001, is in a much different procedural posture than the instant proceeding<sup>2</sup> and consolidation with the instant proceeding would delay, rather than expedite, this proceeding and would not result in any administrative economy. Therefore, the Lions’ July 27, 2009, motion for consolidation is denied.

*The Lions’ Petition to Reopen to Take Further Evidence*

The 72-day hearing in the instant proceeding concluded on March 31, 2006. During the hearing, the Lions introduced hundreds of pages of exhibits and presented the testimony of 12 witnesses. The Lions had ample opportunity to obtain and present their evidence during the 72-day hearing. Moreover, the purpose of the Lions’ petition to reopen to take further evidence appears to be to present evidence that is merely

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<sup>1</sup>*Lion Raisins, Inc. v. U.S. Dep’t of Agric.*, No. 1:10-CV-00217-AWI-DLB (E.D. Cal. Feb. 10, 2010).

<sup>2</sup>For a brief recitation of the procedural posture of *In re Lion Raisins, Inc.*, I & G Docket No. 01-0001, and *In re Bruce Lion*, I & G Docket No. 03-0001, see the January 19, 2010, “Order Severing Cases and Remanding I & G Docket No. 03-0001.”

cumulative. Therefore, the Lions' July 27, 2009, petition to reopen to take further evidence is denied.

*The Lions' Petition for Rehearing*

The rules of practice applicable to the instant proceeding<sup>3</sup> provide that a petition for rehearing must be filed after the Judicial Officer issues a decision, 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*— . . . .

. . . .

(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)(3). I have not yet issued a decision in the instant proceeding; therefore, the Lions' July 27, 2009, petition to rehear is denied as premature.

Done at Washington, DC

March 5, 2010

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William G. Jenson  
Judicial Officer

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<sup>3</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).