

# **UNITED STATES DEPARTMENT OF AGRICULTURE**

## **BEFORE THE SECRETARY OF AGRICULTURE**

I & G Docket No. 04-0001

In re: 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;  
ALFRED LION, JR., an individual;  
BRUCE LION, an individual;  
DANIEL LION, an individual;  
ISABEL LION, an individual; and  
JEFFREY LION, an individual; and  
LARRY LION, an individual

### **MEMORANDUM OF CONFERENCE AND ORDER**

A Telephonic Conference was held on December 20, 2005. The Complainant was represented by Collene A. Carroll, Esquire, Office of General Counsel, United States Department of Agriculture, Washington, D.C. The Respondents were represented by Wesley T. Green, Esquire, Selma, California.

The Complainant had provided information concerning the location of her witnesses to facilitate a decision as to whether the hearing site, currently Washington, DC, should be altered as had been requested by the Respondents. The parties were asked for estimates as to the duration of the direct and cross examination and it appears likely that the Complainant's witnesses and their cross examination would consume the first nine days of the hearing.

The next item discussed involved the Respondents' claim that a significant number of exhibits which the Complainant had sent to Respondents' counsel could not be located. To

facilitate a resolution of the problem, counsel for the Complainant was asked to provide the Complainant's exhibits to the Office of Administrative Law Judges Staff Attorney for scanning and duplication on disc and distribution to the Respondents.

Counsel for the Complainant was asked whether the Complainant would introduce proof as to any of the violations alleged in paragraphs 11-89 of the Second Amended Complaint other than the dates alleged in the respective paragraphs. As her answer was in the negative, a ruling may be made upon the Respondents' Motion for Partial Summary Judgment.

On December 9, 2005 in I & G Docket No. 03-0001, *In re Lion Raisins, et al.*, a case involving some, but not all of the same Respondents, I ruled that the Complaint should not be entertained as it was not commenced within five years from the date the claim first occurred by reason of 28 U.S.C. § 2462. As the sanctions sought in this action, debarment from receiving inspection and grading services, are identical to those sought in I & G Docket No. 03-0001, I again find that those allegations not brought within five years of the date the claim first occurred are time barred. *See, In re George A. Bargery*, 61 Agric. Dec. 772 (2002).

The last item discussed was the future participation of Charles Pashayan, Jr. who has advised the Judge's Secretary that his participation is limited to representation in discussions of a global settlement. That being the case, as he does not wish to participate in the active representation at the hearing of case, the possibility of his withdrawal from this case was suggested.

### **ORDER**

Being sufficiently advised, it is **ORDERED** as follows:

1. The hearing currently set for February 21, 2006 in the United States Department of Agriculture Hearing Room, Room 1037, South Building, 1400 Independence Avenue, SW,

Washington, D.C. shall remain as set for the first two weeks (9 hearing days) of the hearing and shall continue in a site to be designated in Fresno, California for the third week of hearing.

2. The factual allegations set forth in Paragraphs 11-89 of the Second Amended Complaint are **DISMISSED**.

Copies of this Order will be served upon the parties by the Hearing Clerk.

Done at Washington, D.C.  
December 20, 2005

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PETER M. DAVENPORT  
Administrative Law Judge

Copies to: Collene Carroll, Esquire  
Wesley Green, Esquire  
James A. Moody, Esquire  
Charles Payashan, Jr.

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