

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

2015 OCT 26 PM 12: 52

Docket No. 15-0043

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In re:

STEVE LANE,

Respondent.

**ORDER GRANTING MOTION TO REOPEN RECORD  
AND ADMITTING RESPONDENT'S POST-HEARING EVIDENCE**

On September 25, 2015, Respondent filed a motion to reopen the record to submit additional evidence created post-hearing, and brief in support thereof. Respondent advised that Complainant intended to file an objection, but needed additional time to do so. On September 25, 2015, I granted the motion to extend time for Complainant's response and suspended the time by which the parties must file written closing argument<sup>1</sup>.

On October 19, 2015, Complainant filed an objection to Respondent's motion. By email delivered on October 22, 2015, Respondent's counsel advised that he would not be filing a sur-response to Complainant's objection.

I hereby overrule the objection and GRANT Respondent's motion. There is no compelling reason to exclude evidence which may be relevant to the case. Accordingly, I hereby admit to the record submitted by Respondent post-hearing. However, the motion and objection raise issues of whether the evidence is anything but tangential to the issues that I must determine. The Arbitrator's decision is not binding on me, even in matters that underlie the findings of fact and conclusions of law that I must make upon consideration of all of the evidence. Moreover, although the evidence that was developed post-hearing may be relevant, the extent of its

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<sup>1</sup> Respondent filed post hearing argument contemporaneously with the motion, but advised that he would refile the submission by the date provided herein.

probative value can be determined only in the context of my review of all the evidence presented.

The parties are hereby directed to file their written closing arguments with the Hearing Clerk by not later than December 10, 2015.

Copies of this Order shall be served upon the parties and counsel by the Hearing Clerk.

So ORDERED this 26<sup>th</sup> day of October, 2015, in Washington, D.C.

A solid black rectangular box redacting the signature of the Administrative Law Judge.

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Janice K. Bullard  
Administrative Law Judge