

REBUTTAL EXHIBIT D1

Jed Davis
Curriculum Vitae

EDUCATION

Youngstown State University – B.S. Degree in Accounting, (1988)

EMPLOYMENT

Herbein + Company, Inc., Reading, PA

2021 to present

Senior Consultant – Dairy Consulting

- Cost benchmarking
- Milk shrinkage reduction projects
- Dairy accounting seminars
- Regulatory issues – PA Milk Marketing Board, Federal Milk Marketing Orders, other state regulatory agencies
- Mergers and acquisitions
- Specialized financial reporting for dairy businesses
- Dairy cost accounting for basic and complex products

Dean Foods Company, Dallas, TX

2002 - 2021

Regional General Manager – West Atlantic Central

- Managed a multi facility region with full P & L responsibility
- Set business strategy through collaboration with corporate and regional resources
- Led and supervised a team of 7 professionals with focus on executing against our strategic goals
- Negotiated long term supply agreements with customers and suppliers
- Drove operational and commercial efficiencies to strengthen the bottom line

1997 - 2002

Group Controller – PA Dairies

- Directed the accounting and finance departments of four dairies within Dean Foods Company
- Provided business analysis, forecasting, strategic planning and budgeting support to General Managers
- Guided strategic initiatives to improve the accuracy of monthly forecasting.
- Consolidated the accounting and back office functions of four divisions into one shared service center.
- Led a team of accounting professionals focusing on timely and accurate financial reporting.

Jed Davis

1990 - 1997

Controller / Asst Controller / Accountant (Dean Dairy Products)

- Led the accounting and finance department with budgeting and financial reporting
- Assisted the General Manager with pricing strategies
- Provided business analysis
- Developed standard product costs for each manufactured item to support pricing decisions
- Effectively directed sales, purchasing, personnel, distribution, maintenance, and accounting functions

Universal Rundle Inc., New Castle, PA

1988 – 1990

Cost Accountant

- Maintained standard cost systems for 3 manufacturing facilities
- Prepared monthly production and inventory reports
- Prepare annual budget and operating plan
- Support department managers with variance analysis

PROFESSIONAL AND CIVIC ASSOCIATIONS AND DESIGNATIONS

Board of Directors – Pennsylvania Association of Milk Dealers

Board of Directors – Dairy Industry Association of Western PA

Shenango Valley Chamber of Congress – Board member

New York State Dairy Association – Board member

Shenango Valley Jaycees – Secretary Treasurer

**REDACTED TO PROTECT CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL SUBJECT TO PROTECTIVE ORDER
REBUTTAL EXHIBIT D2**

CONTAINS CONFIDENTIAL ATTORNEY - EYES ONLY MATERIAL HIGHLIGHTED IN GRAY
PREMIUM ANALYSIS
January 1, 2021 - June 30, 2021

Cover Farms Dairy Co., DFA Dairy Brands Fluid, LLC - Lansdale, DFA Dairy Brands Fluid, LLC - Lebanon, DFA Dairy Brands Fluid, LLC - Schuylkill Haven, DFA Dairy Brands Fluid, LLC - Sharpville, Galitker Dairy Company, Dan Ed Corp. T/A Guers Dairy, Harrisburg Dairies Inc., Marburger Farm Dairy Inc., Monroe County Milk Producers Coop Assoc. dba Pocono Mountain Dairies, Ridley's Dairy Inc., Rutter Brothers Dairy, Inc., Schneider's Dairy Inc., Turkey Hill LP dba Turkey Hill Dairy, Turner Dairy Farms, Inc., United Dairy, Inc. (Uniontown, PA), High View Inc. dba Vale Wood Farms, Valley Farms Dairy LLC, Wawa Beverage Company

	C					D		B				
1	2	3	4	5	6	6a	6b	7	8	9	10	
Product Pounds	PA Produced Pounds Received	OOP (OOP pd to PA producers per	Total Minimum Due To Producers	Total Gross Amount Paid To Producers	Amount Paid To Producers Above Min. Due	Over Pay Breakdown		PA C1 Package Sales	OOP Recovered in Whlse. Prices	OPP Recovered in Whlse. Prices	Premiums Paid To PA Producers That Exceed Total Premiums Collected Through Wholesale Minimums	
(Total lbs.)	(Per PMSM 67 Audited)	(PMSM 67 Audited)	(Per PMSM 67 Audited)	(Per PMSM 67 Audited)	(5 - 4)	PA	Out of State	(PA Class 1 Sales Total Sales)	(2 X A - 4) x 0.0000	E	((B - 6a) - (9 - 9)) = 10	
Total	1,579,962,017	1,334,442,326	5,041,335	320,976,555	327,076,982	6,100,428	3,438,542	2,661,886	583,878,853	6,238,570	1,133,797	1,107,509



Submitted: August 12, 2022



Submitted: August 12, 2022



Submitted: August 12, 2022

**REDACTED TO PROTECT CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL SUBJECT TO PROTECTIVE ORDER
REBUTTAL EXHIBIT D2**

A - Announced Over Order Premium January 2021 \$1.00, February 2021 \$1.04, March 2021 \$1.06, April 2021 \$1.08, May 2021 \$1.12, and June 2021 \$1.12

B - Note, This calculation does not reflect any wholesale discounts or tolling contracts. Including discounts in the marketplace would further reduce this amount as well as Column 9.

C - OOP refers to the PA Over Order Premium and OPP refers to the Over Price Premium.

D - Class I Package Sales Sold at wholesale in PA regardless of raw milk source.

E - OPP Recovered is calculated by multiplying the PA Class I Package Sale Pounds by the OPP for that particular month.

Submitted: August 12, 2022

SUMMARY OF PREMIUM ANALYSIS

Total PA Premiums Paid To PA Producers	Total Premiums Recovered through PA Wholesale Prices (1)	Premiums Paid in Excess of Premiums Recovered
\$ 8,479,876	\$ 7,372,367	\$ 1,107,509

1. Recovery is overstated because it does not reflect any wholesale discounts.

COMMONWEALTH OF PENNSYLVANIA

MILK MARKETING BOARD

* * * * *

IN RE: OVER-ORDER PREMIUM
CALCULATION HEARING
BEFORE: Richard Kreibel, Chairman
Barbara Grumbine,
Consumer Member
Luke Brubaker, Member

ALSO

PRESENT: Douglas L. Eberly, Esquire
Chief Counsel
Keith Bierly, Secretary

LOCATION: Agriculture Department
Building, Room 202
2301 North Cameron Street
Harrisburg, PA 17110-9408

HEARING: Tuesday, February 16, 2010
9:18 a.m.

WITNESSES: David DeSantis, Carl D.
Herbein, CPA, Todd Rutter,
Frank Chrastina, Earl Fink,
Dennis J. Schad

Reporter: Adrienne Johnson

Any reproduction of this transcript
is prohibited without authorization
by the certifying agency.

Sargent's Court Reporting Service, Inc.
(814) 536-8908

DIRECT EXAMINATION: CARL D. HERBEIN, CPA

89

1 Study conducted. On behalf of
2 the Pennsylvania Association of Milk
3 Dealers, I requested the monthly audit
4 package for each milk dealer included
5 in our cross-section from the
6 Pennsylvania Milk Marketing Board.
7 The information requested included the
8 monthly producer obligation worksheet,
9 POW, and this information was reviewed
10 and field tested for accuracy and
11 understanding of the unique
12 circumstances surrounding the
13 acquisition of raw milk by members of
14 the cross-section. I utilized
15 January, February and March 2009 as
16 the time period studied as these
17 months were the most recent for which
18 the Milk Marketing Board Staff had
19 completed all of their audits and
20 produced the final POW for each of the
21 dealers in the cross-section..

22 Cross-section. The
23 Pennsylvania Association of Milk
24 Dealers has utilized a cross-section
25 comprised of Clover Farms Dairy

Sargent's Court Reporting Service, Inc.
(814) 536-8908

DIRECT EXAMINATION: CARL D. HERBEIN, CPA

90

1 Company, Den Ed Corporation
2 (phonetic), Dean Dairy Holdings, LLC,
3 Dean Dairy Holdings, Swiss, Galliker
4 Dairy Company, Harrisburg Dairies,
5 Inc., HP Hood, LLC, Meadowbrook Dairy
6 Company, Rutter Brothers Dairy, Inc.,
7 Schneider's Dairy, Inc., Pittsburgh,
8 Schneider's Dairy, Inc., Valley Farms,
9 Turkey Hill, LP, Turner Dairy Farms,
10 Inc., Tuscan Lehigh Dairy, Lansdale,
11 Tuscan Lehigh Dairy, Schuylkill Haven,
12 United Fike Dairy and Wawa, Inc. This
13 cross-section of dealers includes
14 dealers purchasing milk from
15 Pennsylvania independent producers,
16 out-of-state independent producers,
17 co-operatives supplying them with
18 Pennsylvania milk and co-operatives
19 supplying them with out-of-state milk.
20 Additionally, the cross-section
21 tracks the individual area cost
22 replacement hearing cross-sections
23 which have been found to be very
24 representative of the fluid milk
25 business in Pennsylvania, except

Sargent's Court Reporting Service, Inc.
(814) 536-8908

DIRECT EXAMINATION: CARL D. HERBEIN, CPA

91

1 Pocono Mountain, Balford Farms and
2 United Dairy Ohio are not included.
3 Thus, it is my opinion that this
4 cross-section is valid and
5 representative for this proceeding.

6 Rebuttal Exhibits. Rebuttal
7 Exhibit D-2 is prepared to present a
8 summary of the POWs for January 1st,
9 2009 to March 31st, 2009 for the
10 entire cross-section.

11 (Dealer Rebuttal Exhibit Two
12 marked for identification.)

13 A. This exhibit reflects the total
14 pounds of milk received in column one.
15 The portion of column one received
16 from Pennsylvania producers is
17 reflected in column two. The over-
18 order premium mandated to be paid to
19 Pennsylvania producers is reflected in
20 column three. The total producer
21 obligation as reflected on the POW is
22 in column four and the total amount
23 actually paid by the cross-section
24 dealers including mandated and other
25 payments is column five. Column six

Sargent's Court Reporting Service, Inc.
(814) 536-8908

DIRECT EXAMINATION: CARL D. HERBEIN, CPA

92

1 reflects the overpayment as reflected
2 on the POW. Total premiums paid are
3 shown including the mandated over-
4 order premium paid to Pennsylvania
5 producers, an additional premium as
6 reflected on the POW.

7 Column seven shows the amount
8 that producers are paid including
9 Pennsylvania's mandated over-order
10 premium above the federal and/or state
11 basic requirements and thus represents
12 total premiums paid. Column eight
13 reflects the pounds of Pennsylvania
14 Class I sales for cross-sections
15 dealers in all areas of Pennsylvania,
16 and column nine is a calculation which
17 is made by multiplying the Class I
18 sales per hundredweight times the
19 Pennsylvania mandated over-order
20 premium for the respective months to
21 reflect the value of the over-order
22 premium generated by sales in
23 Pennsylvania. This over-order premium
24 amount includes the fuel adjustor.

25 The amount reflected in column

Sargent's Court Reporting Service, Inc.
(814) 536-8908

DIRECT EXAMINATION: CARL D. HERBEIN, CPA

93

1 ten is the wholesale premium included
2 in the into and out-of-store price
3 compared with the over-order premium
4 paid to Pennsylvania producers. It is
5 my understanding that the Petitioners
6 propose to mandate that this amount be
7 paid to Pennsylvania producers as
8 well, and they refer to this as the,
9 quote, stranded premium, end quote. I
10 may reference this amount as the so-
11 called or alleged stranded premium as
12 well, but I wish to make clear at the
13 outset that my study does not support
14 such characterization.

15 Finally, column 11 reflects the
16 difference between the total
17 overpayment in column six and the
18 excess of wholesale premium less the
19 over-order premium paid and clearly
20 demonstrates that the cross-section
21 dealers have paid their producers much
22 more than the over-order premium
23 excess included in wholesale when
24 compared with the over-order premium
25 paid to producers.

Sargent's Court Reporting Service, Inc.
(814) 536-8908

DIRECT EXAMINATION: CARL D. HERBEIN, CPA

94

1 What this really tells us is
2 that the raw milk supply in
3 Pennsylvania is comprised of instate
4 and out-of-state milk for which the
5 dealers pay more than the mandated
6 amounts including the over-order
7 premium. It is also noteworthy that
8 Pennsylvania producer milk is 86.8
9 percent of the total pounds received
10 by the cross-section dealers. 43.4
11 percent of the pounds received by the
12 cross-section dealers are actually
13 sold as Class I sales in Pennsylvania.
14 Thus, the cross-section dealers have
15 developed a market to export
16 Pennsylvania milk as Class I into
17 surrounding states.

18 Rebuttal Exhibit D-3 is
19 prepared for a cross-section of
20 dealers that have at least a portion
21 of their raw milk supply provided out
22 of state by independent --- by
23 out-of-state independent farmers.

24 (Dealer's Rebuttal Exhibit
25 Three marked for

Sargent's Court Reporting Service, Inc.
(814) 536-8908