

**REBUTTAL TESTIMONY OF**

**Jed Davis**

**Appearing on Behalf of the Pennsylvania Association of Milk Dealers**

**Rebuttal Testimony before Pennsylvania Milk Marketing Board**

**Over Order Premium Hearing**

**August 30, 2022**

## **Rebuttal Testimony of Jed Davis**

### **Over Order Premium Hearing**

I am Jed Davis, Senior Consultant at Herbein + Company, Inc. and my address is 2763 Century Blvd., Reading, PA 19610. I wish to present Rebuttal Testimony on behalf of the Pennsylvania Association of Milk Dealers (PAMD). I attach my Curriculum Vitae, as **Rebuttal Exhibit D1**, which outlines my education, and experience in the dairy industry.

### **Study Conducted**

I analyzed the economic impact of the Pennsylvania over order premium paid to Pennsylvania producers by Pennsylvania milk dealers compared to the over order premiums in the wholesale price build up recovered by Pennsylvania Milk Dealers. The study included data from 19 fluid milk dealers located in Pennsylvania. The dealers in the study are Clover Farms, DFA Dairy Brands – Lansdale, DFA Dairy Brands – Lebanon, DFA Dairy Brands – Schuylkill Haven, DFA Dairy Brands – Sharpville, Galliker Dairy, Guers Dairy, Harrisburg Dairies, Marburger Dairy, Pocono Mountain Dairies, Ritchey's Dairy, Rutter's Dairy, Schneider Dairy, Turkey Hill Dairy, Turner Dairy, United Dairy – Uniontown, Valewood Farms Dairy, Valley Farms Dairy, and Wawa Dairy. This cross section of dealers includes dealers purchasing milk from Pennsylvania independent producers, out of state independent producers, cooperatives supplying them with Pennsylvania milk and cooperatives supplying them with out of state milk. The data was collected from the audited monthly PMMB 62 reports for the 6-month period of January 2021 through June 2021.

### **Rebuttal Exhibits**

**Rebuttal Exhibit D2** presents a summary of the PMMB 62 reports for the entire cross section. This exhibit reflects total pounds of milk received in Column 1, the portion of Column 1 received from Pennsylvania producers is reflected in Column 2, and the Over-Order Premium mandated to be paid to

Pennsylvania producers is reflected in Column 3. The total producer obligation as reflected on the PMMB 62 report is in Column 4 and the total amount actually paid by the cross-section dealers is in Column 5. Column 6 reflects the over payment as reflected on the PMMB 62 report. Column 7 reflects the pounds of Pennsylvania Class I sales for the cross-section dealers in all areas of Pennsylvania and Column 8 is a calculation which is made by multiplying the Class I sales pounds (per cwt.) in Column 7 times the Pennsylvania mandated Over-Order Premium for the respective months to reflect the value of the Over-Order Premium generated by sales in Pennsylvania. This Over-Order Premium amount includes the fuel adjustor. The amount in Column 9 is the additional premium (OPP) that the Pennsylvania dealers recover through sales in Pennsylvania. This is calculated by taking each dealer's Pennsylvania class I sales pounds by area, on a per cwt. basis, and multiplying it by each area's respective OOP rate included in the wholesale price build-up. Column 10 is the amount of Pennsylvania premiums paid to Pennsylvania producers that exceeds the total premiums collected through wholesale minimums. The calculation for this is the sum of Column 3 & Column 6a, less the sum of Column 8 & Column 9.

The premiums paid to Pennsylvania producers during this 6-month time frame were \$8,479,876 while the amount the dealers recovered through wholesale pricing was \$7,372,367 during this same time frame. Since many customers earn discounts based on their volume, the dealers do not recover the full amount of the premiums added to the wholesale price. A more accurate reflection of what the dealers recover through wholesale pricing must include the impact of discounting. For example, if a customer earns a 10% discount, the dealer only recovers 90% of the premium that is in the wholesale price.

I analyzed the data from these reports and determined that the Pennsylvania Dealers paid Pennsylvania producers more in premium dollars than they recovered in premiums through wholesale pricing.

I also conclude that Pennsylvania Dealers are not purchasing out of state milk in order to decrease their obligation to Pennsylvania producers. In the 6 months we studied, 84% of the milk purchased by the 19 dealers was from Pennsylvania farms. There were only [BEGIN CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL] [REDACTED]

[REDACTED]

[REDACTED] [END CONFIDENTIAL ATTORNEY EYES ONLY MATERIAL] There are reasons that these dealers may need to purchase out of state milk. One reason is based on their geographic location, another is based on their customer base, and a third reason is based on their only [BEGIN CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL] [REDACTED].

[END CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL] All dealers must purchase enough milk to meet their demand and, if the plant is located close to the state border, then a dealer's closest milk supply most likely include out of state milk producers. This effect can be driven by building efficient routes to the milk source for the hauler as well. Another reason that a dealer may purchase out of state milk is due to a customer's request. Some customers request that you support the farmers in their marketing area and, if you have customers with out of state locations, a dealer may need to to purchase out of state milk to show support for local milk producers at that out of state store. [BEGIN CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL] [REDACTED]

[REDACTED]

[REDACTED] [BEGIN CONFIDENTIAL ATTORNEY-EYES ONLY MATERIAL]

This study reinforces what Herbein & Co, through Carl Herbein, testified to in 2010, and that although the Over Order Premium may not be mandated to be paid on 100% of a plant's raw milk due to the requirement that the mandate only apply to Pennsylvania produced, processed and sold milk, it is clear that Pennsylvania producers are being paid more than the Over Order Premium in the form of premiums paid that the PMMB does not mandate. The PMMB can be assured that these milk dealers, which constitute the vast majority of fluid milk dealers located in Pennsylvania, are not avoiding the over order premium and are in fact passing back more than the over order premium to PA producers serving their plants.

In addition, I compared our cross-section data using the same plants as Carl Herbein in 2010, except for two plants that have closed, to the 2010 cross section to see if the percentage of PA milk purchased changed substantially, and it did not. Today the percentage is 83% based on that cross section and in 2010 the percentage was 87%.

Thank you for your time today and for considering this testimony