

TESTIMONY OF

CARL D. HERBEIN, CPA

Appearing on Behalf of the Area 2 Milk Dealer Association

Testimony before Pennsylvania Milk Marketing Board

Small Delivery Cost Hearing

July 2, 2014

Testimony of Carl D. Herbein, CPA

Small Delivery Cost Hearing

I am Carl D. Herbein, CPA, President and CEO of Herbein + Company, Inc. and my address is 2763 Century Blvd., Reading, PA 19610. I wish to present Testimony on behalf of the Area 2 Milk Dealer Association. I attach my Curriculum Vitae, as Exhibit D-6 which outlines my education, and experience in the dairy industry.

Background and Purpose of Hearing

Pursuant to Bulletin 1503 the Pennsylvania Milk Marketing Board is conducting a public hearing to receive testimony and exhibits concerning small delivery cost. The purpose of the hearing is to receive testimony and exhibits concerning the small delivery cost and incorporation of the small delivery cost into the minimum wholesale price buildup.

Study Conducted

On behalf of the Area 2 Milk Dealer Association, I have reviewed the cost of making small deliveries. A small delivery in Area 2 is defined as a delivery of less than 200 points per stop. This definition includes delivery of both controlled and non-controlled products. Cross-section dealers were asked to stratify their deliveries into categories by size of delivery. One stratified group of routes had an average delivery size of less than 200 points per stop. From that stratified group of routes, representative "small delivery routes" were selected for detailed costing. The selected routes were discussed with dealer personnel that are familiar with the delivery function to understand the detailed characteristics of the routes to be assured the routes were in fact reflective of a small delivery route. Accordingly, there were routes from dealers that were excluded, for instance, if we determined larger trucks were being used than are normally used for small delivery. Additionally, routes from cross section dealers were excluded where we observed outliers and determined, for instance, that allocations were incorrectly done at the plant level.

The month of October 2013 was selected as a representative month for delivering controlled and non-controlled products to customers in PMMB Area 2. October is a representative month for study because there are

no unusual holidays that affect sales patterns, schools are in session, weather is reasonably predictable, and other conditions are relatively normal in Pennsylvania.

A cross-section of dealers providing small deliveries in Area 2 was chosen and is comprised of Lehigh Valley Dairies – Allentown, H.P. Hood – Hatfield, Clover Farms and Swiss Premium. These four (4) dealers were studied because they provide a significant portion of direct store door deliveries to customers receiving less than 200 points per delivery and are representative of all small deliveries made in Area 2. Cross-section dealers have experienced significant cost increases in the delivery cost center. Upon analyzing these cost increases it has been determined that labor, and fuel have increased significantly more on a per point basis in the undiscounted sales area of less than 200 points per delivery than with the average and larger deliveries. This is caused by a considerably higher concentration of fuel and wages and fringe benefits on a small delivery route than an average route. Each route has one (1) driver and a truck that consumes fuel and with lower points on a small route the labor and fuel is much larger per point. Driver wages, benefit costs, and fuel amount to more than 70% of the small delivery cost.

Based upon a review of dealer route accounting information and interviews with dealer supervisory personnel, small delivery routes were selected and information obtained for the month of October 2013. The information utilized includes total points delivered, number of stops made by the route, miles driven, fuel consumed by the delivery truck, depreciation expense or lease cost for the delivery truck and payroll and related benefit information for the drivers that operate the routes selected. Additionally, other delivery expenses were obtained from the 2012 PMMB 60 – financial report – and added on a per point basis to each route analyzed. These expenses, in total are significant and must be included in a proper cost accounting of delivery expenses, however are not of the nature to require separate accounting between small deliveries, average deliveries, and large deliveries. These expenses are allocated proportionately, per point, to all deliveries and thus utilizing the delivery cost center as presented in the annual PMMB 60 is an acceptable cost accounting procedure.

The individual routes that were studied for the cross-section dealers were then combined on a weighted average basis by reflecting each cross-section dealer's small delivery volume and comparing that with the total small delivery volume for all cross-section dealers.

Exhibits

Exhibit D-1 presents the cost per point to deliver controlled and non-controlled products to a customer receiving less than 200 points per delivery. The total cost is \$0.2313 per point as determined utilizing October 2013 cross-section dealer financial information.

Exhibit D-2 presents the adjustment methodology and results when incorporating the small delivery adjustment into the minimum wholesale price buildup. The most recent adjustment was calculated and incorporated into PMMB's pricing methodology when OGO A-953 was established in July 2008. Thus, an updating of this information was necessary due to the significant increase in delivery costs that significantly affect small deliveries.

Exhibit D-3 is presented to show the effect of substituting the current small delivery cost and updating the average delivery cost in the minimum wholesale price buildup.

Exhibit D-4 is presented to demonstrate the Pennsylvania Milk Marketing Board's minimum wholesale price buildup and to identify the portions of this buildup that are affected by the proposed update adjustments. Column I and Column J are the only portions of the minimum wholesale price buildup which are affected by this proposed update and change. This exhibit reflects the Pennsylvania Milk Marketing Board's minimum wholesale price buildup for the most recent Cost Replacement Hearing.

Exhibit D-5 and D-5A is presented to demonstrate the extreme lack of profitability experienced by Pennsylvania's regulated milk dealers. These exhibits were previously submitted to the Milk Marketing Board and it is my opinion based on my review of the vast majority of PMMB 60s filed for the year 2013 and my work on behalf of a number of dealers this year to identify sources of profitability shortfalls, that the more recent profitability performance is even less successful than Exhibits D-5 and D-5A reflect. This update is very important to the dealers both for the margin improvement that it can produce but also because I have determined that the dealers' profitability issues are not due to non-controlled sales, which is reinforced by Exhibit D-5A but which is also the result of my review of many out of state accounts and tea and drink pricing on behalf of a number of the dealers this year.

Other Factors

Based upon the results of the above described analysis it is clear that the costs associated with small deliveries have increased significantly faster than the average delivery costs experienced by the Area 2 Dealers. This increase in cost when combined with the Board's methodology for the development of the minimum wholesale price has contributed significantly to the deteriorated profit margin experience by Pennsylvania's milk dealers. I have previously presented an exhibit (PMMB Statewide Profitability) on profit and loss information, which supports this fact and now is attached as Exhibit D-5.

Summary and Recommendations

The Area 2 Milk Dealer Association recommends that the Pennsylvania Milk Marketing Board update and adjust the minimum wholesale price buildup to include the small delivery cost of \$0.2313 per point and also update the average delivery cost to \$0.0839 per point. This update and adjustment is necessary to reflect updated costs and will contribute significantly to improving dealer financial performance, which in many cases is negative. Thank you for your consideration of my analysis, exhibits and opinions.

AREA 2 MILK DEALER ASSOCIATION

SMALL DELIVERY COST HEARING EXHIBITS

JULY 2, 2014

AREA 2 MILK DEALER ASSOCIATION

SMALL DELIVERY COST HEARING

INDEX OF EXHIBITS

Exhibit D-1	Small Delivery Cost
Exhibit D-2	Small Delivery Cost Adjustment
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Exhibit D-5A	Dealer Profitability Analysis
Exhibit D-6	Carl D. Herbein, CPA Curriculum Vitae

SMALL DELIVERY COST

Area 2

October 2013

Lehigh Valley Dairies – Allentown, H.P. Hood – Hatfield, Clover Farms, and Swiss Premium

	<u>Cost Per Point</u>
Fuel	\$.0195
Depreciation or lease expense	.0109
Driver wages and benefit costs ¹	.1835
Other delivery expenses ²	.0108
Service cost centers allocated to delivery	.0048
Plant to depot costs	<u>-</u>
Total cost per point	<u>\$.2313</u>

¹ Includes payroll taxes, workmen's compensation insurance, employee health benefit costs, pension costs, uniforms and other employee relations expenses.

² Includes repairs and maintenance, tires, supplies, license, tolls, and other delivery costs.

SMALL DELIVERY COST ADJUSTMENT

Area 2

October 2013

Lehigh Valley Dairies – Allentown, H.P. Hood – Hatfield, Clover Farms, and Swiss Premium

	<u>Cost Per Point</u>
Less: average delivery cost – OGO A-953 – CRO5	\$ (.0839)
Add: small delivery cost	<u>.2313</u>
Adjustment	<u>\$.1474</u>
Current order OGO A-953 average delivery	\$.0772/point (\$.3088/gallon)
Current order OGO A-953 small delivery	\$.0281/point (\$.8324/gallon)

SMALL DELIVERY COST

Effect of Adjustment

Area 2 – Whole Milk Gallon

October 2013

Lehigh Valley Dairies – Allentown, H.P. Hood – Hatfield, Clover Farms, and Swiss Premium

**Pennsylvania Milk Marketing Board Wholesale Price Buildup
Attachment 4 – OGO A-953 – CRO 5**

Current

Column H – Exhibit D-4	\$3.1764
Less: average delivery	(.3088)
Add: small delivery	<u>.8324</u>
	<u>\$3.7000</u>

Proposed

Column H – Exhibit D-4	\$3.1764
Less: average delivery (.0839 x 4)	(.3356)
Add: small delivery (.2313 x 4)	<u>.9252</u>
	<u>\$3.7660</u>

PENNSYLVANIA MILK MARKETING BOARD
MILK MARKETING AREA 2

WHOLESALE PRICE BUILDUP
DECEMBER 2013 MILK PRICES

Container Size	A EX. 6 Milk Cost	B EX. 3 Container Cost	C EXS. 7, 8 & 9 (1) Cost Update & Energy Add-On Adjustments	D Container Efficiency Adjustment	E EX. 2 Processing Cost	F (A+B+C+D+E) Average Delivered Cost	G Profit at 3.50%	H (F + G) Price with Profit	I Less: Average Delivery	J Plus: High Cost Delivery	K (H + I + J) Proposed Wholesale Price
STANDARD MILK (WHOLE)											
Gallon	\$ 2.1569	\$ 0.2045	\$ 0.0256	\$ (0.0794)	\$ 0.7576	\$ 3.0652	\$ 0.1112	\$ 3.1764	\$ (0.3088)	\$ 0.8324	\$ 3.7000
1/2 Gallon	\$ 1.0784	\$ 0.1520	\$ 0.0128	\$ (0.0314)	\$ 0.3788	\$ 1.5906	\$ 0.0577	\$ 1.6483	\$ (0.1544)	\$ 0.4162	\$ 1.9101
Quart	\$ 0.5392	\$ 0.1249	\$ 0.0064	\$ 0.0176	\$ 0.1894	\$ 0.7975	\$ 0.0318	\$ 0.9093	\$ (0.0772)	\$ 0.2081	\$ 1.0402
Pint	\$ 0.2696	\$ 0.0843	\$ 0.0032	\$ 0.0087	\$ 0.0947	\$ 0.4881	\$ 0.0177	\$ 0.5058	\$ (0.0386)	\$ 0.1041	\$ 0.5713
12 Ounce	\$ 0.2022	\$ 0.0630	\$ 0.0024	\$ 0.0063	\$ 0.0710	\$ 0.3709	\$ 0.0135	\$ 0.3844	\$ (0.0290)	\$ 0.0780	\$ 0.4534
10 Ounce	\$ 0.1685	\$ 0.0855	\$ 0.0020	\$ 0.0311	\$ 0.0592	\$ 0.3463	\$ 0.0126	\$ 0.3589	\$ (0.0241)	\$ 0.0650	\$ 0.3998
1/2 Pint	\$ 0.1348	\$ 0.0256	\$ 0.0016	\$ 0.0233	\$ 0.0474	\$ 0.2327	\$ 0.0084	\$ 0.2411	\$ (0.0193)	\$ 0.0520	\$ 0.2738
4 Ounce	\$ 0.0674	\$ 0.0263	\$ 0.0008	\$ 0.0398	\$ 0.0237	\$ 0.1580	\$ 0.0057	\$ 0.1637	\$ (0.0097)	\$ 0.0260	\$ 0.1800
Bulk per Quart	\$ 0.5392	\$ 0.0444	\$ 0.0064	\$ 0.0255	\$ 0.1894	\$ 0.8049	\$ 0.0292	\$ 0.8341	\$ (0.0772)	\$ 0.2081	\$ 0.9650
REDUCED FAT (2%) MILK											
Gallon	\$ 2.0050	\$ 0.2045	\$ 0.0256	\$ (0.0794)	\$ 0.7576	\$ 2.9133	\$ 0.1057	\$ 3.0190	\$ (0.3088)	\$ 0.8324	\$ 3.5426
1/2 Gallon	\$ 1.0025	\$ 0.1520	\$ 0.0128	\$ (0.0314)	\$ 0.3788	\$ 1.5147	\$ 0.0549	\$ 1.5696	\$ (0.1544)	\$ 0.4162	\$ 1.8314
Quart	\$ 0.5013	\$ 0.1249	\$ 0.0064	\$ 0.0176	\$ 0.1894	\$ 0.7576	\$ 0.0305	\$ 0.8701	\$ (0.0772)	\$ 0.2081	\$ 1.0010
Pint	\$ 0.2508	\$ 0.0843	\$ 0.0032	\$ 0.0087	\$ 0.0947	\$ 0.4691	\$ 0.0170	\$ 0.4861	\$ (0.0386)	\$ 0.1041	\$ 0.5516
12 Ounce	\$ 0.1880	\$ 0.0630	\$ 0.0024	\$ 0.0323	\$ 0.0710	\$ 0.3567	\$ 0.0129	\$ 0.3696	\$ (0.0290)	\$ 0.0780	\$ 0.4186
10 Ounce	\$ 0.1566	\$ 0.0855	\$ 0.0020	\$ 0.0311	\$ 0.0592	\$ 0.3344	\$ 0.0121	\$ 0.3465	\$ (0.0241)	\$ 0.0650	\$ 0.3674
1/2 Pint	\$ 0.1253	\$ 0.0256	\$ 0.0016	\$ 0.0233	\$ 0.0474	\$ 0.2282	\$ 0.0081	\$ 0.2313	\$ (0.0193)	\$ 0.0520	\$ 0.2640
4 Ounce	\$ 0.0627	\$ 0.0263	\$ 0.0008	\$ 0.0398	\$ 0.0237	\$ 0.1533	\$ 0.0056	\$ 0.1589	\$ (0.0097)	\$ 0.0260	\$ 0.1752
Bulk per Quart	\$ 0.5013	\$ 0.0444	\$ 0.0064	\$ 0.0255	\$ 0.1894	\$ 0.7670	\$ 0.0278	\$ 0.7948	\$ (0.0772)	\$ 0.2081	\$ 0.9257
LOW FAT (1%) MILK											
Gallon	\$ 1.8800	\$ 0.2045	\$ 0.0256	\$ (0.0794)	\$ 0.7576	\$ 2.7883	\$ 0.1011	\$ 2.8894	\$ (0.3088)	\$ 0.8324	\$ 3.4130
1/2 Gallon	\$ 0.9400	\$ 0.1520	\$ 0.0128	\$ (0.0314)	\$ 0.3788	\$ 1.4522	\$ 0.0527	\$ 1.5049	\$ (0.1544)	\$ 0.4162	\$ 1.7667
Quart	\$ 0.4700	\$ 0.1249	\$ 0.0064	\$ 0.0176	\$ 0.1894	\$ 0.8083	\$ 0.0293	\$ 0.8376	\$ (0.0772)	\$ 0.2081	\$ 0.9685
Pint	\$ 0.2350	\$ 0.0843	\$ 0.0032	\$ 0.0087	\$ 0.0947	\$ 0.4535	\$ 0.0164	\$ 0.4699	\$ (0.0386)	\$ 0.1041	\$ 0.5354
12 Ounce	\$ 0.1763	\$ 0.0630	\$ 0.0024	\$ 0.0323	\$ 0.0710	\$ 0.3450	\$ 0.0125	\$ 0.3575	\$ (0.0290)	\$ 0.0780	\$ 0.4065
10 Ounce	\$ 0.1469	\$ 0.0855	\$ 0.0020	\$ 0.0311	\$ 0.0592	\$ 0.3247	\$ 0.0118	\$ 0.3365	\$ (0.0241)	\$ 0.0650	\$ 0.3774
1/2 Pint	\$ 0.1175	\$ 0.0256	\$ 0.0016	\$ 0.0233	\$ 0.0474	\$ 0.2154	\$ 0.0078	\$ 0.2232	\$ (0.0193)	\$ 0.0520	\$ 0.2559
4 Ounce	\$ 0.0588	\$ 0.0263	\$ 0.0008	\$ 0.0398	\$ 0.0237	\$ 0.1494	\$ 0.0054	\$ 0.1548	\$ (0.0097)	\$ 0.0260	\$ 0.1711
Bulk per Quart	\$ 0.4700	\$ 0.0444	\$ 0.0064	\$ 0.0255	\$ 0.1894	\$ 0.7357	\$ 0.0267	\$ 0.7624	\$ (0.0772)	\$ 0.2081	\$ 0.8833
NON FAT (SKIM) MILK											
Gallon	\$ 1.7735	\$ 0.2045	\$ 0.0256	\$ (0.0794)	\$ 0.7576	\$ 2.6818	\$ 0.0973	\$ 2.7791	\$ (0.3088)	\$ 0.8324	\$ 3.3027
1/2 Gallon	\$ 0.8867	\$ 0.1520	\$ 0.0128	\$ (0.0314)	\$ 0.3788	\$ 1.3969	\$ 0.0507	\$ 1.4496	\$ (0.1544)	\$ 0.4162	\$ 1.7114
Quart	\$ 0.4434	\$ 0.1249	\$ 0.0064	\$ 0.0176	\$ 0.1894	\$ 0.7817	\$ 0.0284	\$ 0.8101	\$ (0.0772)	\$ 0.2081	\$ 0.9410
Pint	\$ 0.2217	\$ 0.0843	\$ 0.0032	\$ 0.0087	\$ 0.0947	\$ 0.4402	\$ 0.0160	\$ 0.4562	\$ (0.0386)	\$ 0.1041	\$ 0.5217
12 Ounce	\$ 0.1663	\$ 0.0630	\$ 0.0024	\$ 0.0323	\$ 0.0710	\$ 0.3350	\$ 0.0122	\$ 0.3472	\$ (0.0290)	\$ 0.0780	\$ 0.3962
10 Ounce	\$ 0.1386	\$ 0.0855	\$ 0.0020	\$ 0.0311	\$ 0.0592	\$ 0.3164	\$ 0.0115	\$ 0.3279	\$ (0.0241)	\$ 0.0650	\$ 0.3688
1/2 Pint	\$ 0.1108	\$ 0.0256	\$ 0.0016	\$ 0.0233	\$ 0.0474	\$ 0.2087	\$ 0.0076	\$ 0.2163	\$ (0.0193)	\$ 0.0520	\$ 0.2490
4 Ounce	\$ 0.0554	\$ 0.0263	\$ 0.0008	\$ 0.0398	\$ 0.0237	\$ 0.1460	\$ 0.0053	\$ 0.1513	\$ (0.0097)	\$ 0.0260	\$ 0.1676
Bulk per Quart	\$ 0.4434	\$ 0.0444	\$ 0.0064	\$ 0.0255	\$ 0.1894	\$ 0.7091	\$ 0.0257	\$ 0.7348	\$ (0.0772)	\$ 0.2081	\$ 0.8657

Footnote:
1, per O.G.O. A-972, also includes an adjustment for the 'Discount Effect' in the amount of \$0.0031 per quart equivalent.
Submitted: June 9, 2014

SURREBUTTAL EXHIBIT D7

PMMB STATE-WIDE PROFITABILITY

WHOLESALE DISCOUNT HEARING

Lehigh Valley Dairies – Lansdale, H.P. Hood, Wawa, Balford Farms, Clover Farms, Turkey Hill, Swiss Premium, Lehigh Valley Dairies – Schuylkill Haven, Schneider valley Farms, Guers Dairy, Pocono Mountain, Galliker’s Dairy, Harrisburg Dairies, Rutter’s, Turner Dairy, United Dairy – Fikes, United Dairy – Martins Ferry, Dean Foods – Sharpsville, Dean Foods – Meadow Brook, and Schneider’s Dairy

COMPARATIVE INCOME STATEMENT SUMMARY

	<u>2011</u>	<u>2010</u>	<u>2009</u>
Net Sales	\$ 2,068,609,849	\$ 1,914,710,984	\$ 1,707,884,295
Cost of goods sold	<u>1,450,984,570</u>	<u>1,283,936,406</u>	<u>1,063,716,907</u>
Gross margin	<u>\$ 617,625,279</u> 29.9%	<u>\$ 630,774,578</u> 32.9%	<u>\$ 644,167,388</u> 37.7%
Cost center costs	<u>594,857,657</u>	<u>582,747,350</u>	<u>584,449,070</u>
Operating income	<u>\$ 22,767,622</u> 1.1%	<u>\$ 48,027,228</u> 2.5%	<u>\$ 59,718,318</u> 3.5%

SURREBUTTAL EXHIBIT D8

DEALER PROFITABILITY ANALYSIS

WHOLESALE DISCOUNT HEARING

Lehigh Valley Dairies – Lansdale, H.P. Hood, Wawa, Balford Farms, Clover Farms, Turkey Hill, Swiss Premium, Lehigh Valley Dairies – Schuylkill Haven, Schneider valley Farms, Guers Dairy, Pocono Mountain, Galliker’s Dairy, Harrisburg Dairies, Rutter’s, Turner Dairy, United Dairy – Fikes, United Dairy – Martins Ferry, Dean Foods – Sharpsville, Dean Foods – Meadow Brook, and Schneider’s Dairy

	2011	
	All Twenty Cross Section Dealers (A)	Ten Dealers With Mostly PMMB Price Controlled Sales (B)
Net sales	\$2,068,609,849	\$1,033,830,890
Cost of goods sold	\$1,450,984,570	\$729,141,204
Gross margin	\$617,625,279 29.9%	\$304,689,686 29.5%
Cost center costs	\$594,857,657	\$305,252,412
Operating income	\$22,767,622 1.1%	(\$562,726) -0.1%

(A) Corresponds to PAMD Exhibit D7 (submitted August 23, 2013)

(B) Eliminates six (6) dealers from the cross-section that sell more than 60% of their milk sales outside Pennsylvania and eliminates four (4) dealers that have more than 40% of their bottling points from non-dairy packaging (juices, drinks, and teas).

Compares statewide profitability to ten (10) dealers with mostly PMMB price controlled sales.

Carl D. Herbein, CPA *Curriculum Vitae*

EDUCATION

Elizabethtown College – B.S. Degree in Accounting (1968)
Delta Mu Delta – National Honor Society – Co-captain Cross Country Team

EMPLOYMENT

Herbein + Company, Inc., Reading, PA
October, 2004 to present
President and CEO

July, 1985 to October, 2004
Managing Partner

1974 to June, 1985
Partner
Reading, PA

Carl D. Herbein, CPA – Reading, PA
1972 to 1974

Ernst & Young, Reading, PA
1967 to 1972
Staff/Senior Accountant

PROFESSIONAL AND CIVIC ASSOCIATIONS AND DESIGNATIONS

CPA – Commonwealth of Pennsylvania (1971)

Member – American Institute of CPAs – Council (1990 – 1991)

Member – Pennsylvania Institute of CPAs – President (1988 – 1989)

Firm Member – PKF North American Network – Board of Directors (1993 – 1994)

Chairman – Reading Redevelopment Authority (1992 – 1998) Board of Directors (1984 – 1998)

Board Member

- Greater Berks Development Fund (1995 – present)
- Berks County Convention Center Authority - Treasurer (1996 – present)
- Alvernia University (2012 – present)

Berks County Chamber of Commerce (1980 – present)

- Chairman of the Board (1994 – 1996)
- Treasurer (1992 – 1993)
- Treasurer (2007-2009)

Greater Reading Economic Partnership (2005 – present)

Elizabethtown College

- Board of Trustees (1987 – 1992)
- Chair – Leadership Council (2007 – 2009)

Berkshire Country Club

- Board of Directors and Treasurer (October 2001 – 2007)

C.H. Briggs Hardware, Reading, PA
Member of Board of Directors
2008 to 2012

Submitted: June 9, 2014

Carl D. Herbein, CPA

PUBLICATIONS

"Product Costing In A Volatile Environment," which appeared in the *National Ice Cream Mix Association, Inc.* publication

"Milk Costing and Regulation - Is There a Conflict?" which appeared in the 2003 *International Association of Milk Control Agencies'* publication

"Benchmarking," which appeared in the August 2004, *422 Business Advisor*

"Financing Agribusiness Growth", which appeared in the *Pennsylvania CPA Journal*

"Processors Improve Profits With Benchmarking", which appeared in the October 2011, *Dairy Foods Magazine*

COMMUNITY AWARDS

2006 Eugene L. Shirk Community Builder Award

2010 Corporate Honoree – March of Dimes

2012 Franciscan Award – Alvernia University

2013 Business Weekly Unity Award

2014 YMCA Champion of Youth

EXPERT REPORTS, DEPOSITION AND TESTIMONY

COURT AND OTHER TESTIMONY

Montana Department of Agriculture – Testimony concerning Montana Milk pool. (hearing held July 23, 2008)

State of Vermont – Expert testimony concerning establishment floor price – raw milk. (hearing held October 9, 2008)

Windsong Farms v. Telemark – Expert testimony – lender liability November 17, 2008

Niagara Milk Cooperative, Inc. v. Thomas J. Krenzer et al. – determination of fair value of dissenter's interest February 23, 2009

State of New Jersey Department of Agriculture – Expert testimony - Farmer premium establishment. (hearing held November 19, 2009, December 17, 2009 and January 28, 2010)

Sweetwater Valley Farm, Inc. v. Dairy Farmers of America, Inc. – June 15, 2010

Bross v. Bross – domestic matter. Testimony October 16, 2010.

Van Peenen Dairy, Inc. v. Tuscan/Lehigh Dairies, Inc. – contractual dispute, November 22, 2011

Nicholas Meat Packing Co. v. Brigandi, Gleghorn and Associates – August 20, 2011 and July 2013.

Supports Coordination Organization Modeled Rate Review – payment rate dispute - July 15, 2013.

Allen S. Fisher, et. al. v. Dominion Transmission, Inc. – crop damage – loss calculation – October 2013.

DeVries Dairy v. White Eagle Cooperative Association – expert testimony – economic discrimination – October 2013.

Submitted: June 9, 2014

Carl D. Herbein, CPA

COMMONWEALTH OF PENNSYLVANIA MILK MARKETING BOARD APPEARANCES

2007

Expert witness appearing on behalf of dealer association concerning licensee to licensee discounts.

Expert witness appearing on behalf of dealer association concerning cost replacement hearings for Areas 1, 2, 3, 4, 5, and 6.

2008

Expert witness appearing on behalf of dealer association concerning cost replacement hearings for Areas 1, 2, 3, 4, 5, and 6.

Expert witness appearing on behalf of dealer association concerning bulk milk cream, shrinkage, producer premium related to recombinant bovine growth hormone, and milk prices and percentage discounts.

2009

Expert witness appearing on behalf of dealer association concerning cost replacement hearings for Areas 1, 2, 3, 4, 5 and 6.

Expert witness appearing on behalf of dealer association concerning emergency hearing related to level of Class I Over-order Premium.

2010

Expert witness appearing on behalf of dealer association concerning formula for calculating the Over Order Premium.

Expert witness appearing on behalf of dealer association concerning cost replacement in Area 4 and Area 5.

2011

Expert witness appearing on behalf of dealer associations concerning cost replacement in Areas 1, 2, 3, 4, 5, and 6.

2012

Expert witness appearing on behalf of dealer associations concerning multi-store discounts in Area 5 and Area 6.

Expert witness appearing on behalf of dealer associations concerning Over Order Premium duration and level.

Expert witness appearing on behalf of dealer associations concerning cost replacement in Areas 1, 2, 3, 4, 5, and 6.

2013

Expert witness appearing on behalf of dealer associations concerning wholesale milk discounts in Areas 1, 2, 3, 4, 5, and 6.

Expert witness appearing on behalf of dealer associations concerning over-price premium in Areas 1, 2, 3, 4, 5, and 6.

Expert witness appearing on behalf of dealer associations concerning cost replacement in Areas 1, 2, and 5.

2014

Expert witness appearing on behalf of dealer associations concerning cost replacement in Areas 1, 2, 3, 4, and 5.

Expert witness appearing on behalf of dealer associations concerning cost replacement in Areas 3, 4, and 6.

Submitted: June 9, 2014