

Hearing Testimony, May 13, 2016
Allen v Dairy Farmers of America (DFA)
And Dairy Marketing Services (DMS)
U.S. District Court, Burlington, Vermont

Good Morning Your Honor.

I am here, with resume attached, at the request of dairy farmer and subclass member John J. King from Pequea, PA., to speak on his behalf and to object to the proposed Second Amended Settlement Agreement.

In the proposed settlement agreement, defendants DFA/DMS offer, aside from the \$50,000,000, settlement offer, other concessions that give the illusion that the defendants will become more transparent to their co-op membership. This agreement as written, and in my opinion, will do very little to change the DFA/DMS management behavior. Various provisions of the agreement are a form over any real substance.

Who is Dairy Farmers of America?

First: DFA is a co-operative, organized under the laws of the State of Kansas, Chapter 17, Article 16, where (attached) Article 17-1602, 7b, states “Associations organized under this act shall be deemed non-profit, as they are not organized to make a profit for themselves, as such, or for their members, as such, but only for their members as producers. This act shall be referred as the Cooperative Marketing Act.”

Second: DFA is a co-operative whose farmer net equity has diminished over the past 10 years from \$722 million in 2006 (attached page 13) to \$470 million in 2015 (attached page 3)

Third: It is a co-operative that has not made any net profit from its own operations and has made profits only from joint ventures in all of the last 10 years (see even pages 4-14), illustrating that only milk buying customers are making money. The co-op and its member producers are not.

Fourth: It is a co-operative offering an out of court settlement in this anti-trust case.

The proposed settlement agreement, with the stated goals (agreement p. 20) “To improve producer pay prices and net income margin of dairy farmers” and “the prudent investment of some proceeds from milk sales that advances the interests of DFA/DMS shippers”, the proposed “Advisory Council” will be severely limited in achieving any meaningful results.

Only granting Advisory Council access to the information already presented to DFA’s Northeast Area Council (NEAC) board, is not sufficient for the Advisory Council to achieve the above stated goals. The allegations contained in the original complaint occurred under the watchful eye of DFA’s NEAC. Therefore, the information DFA provides to the NEAC obviously falls short of full disclosure of information, so restricting the Advisory Council to only the information the NEAC receives from DFA will severely limit the effectiveness of the Advisory Council’s purpose.

This proposed settlement agreement does not make clear how the findings and recommendations of the proposed Advisory Council get communicated to other than DFA’s point of contact, or how the council’s findings and recommendations will get presented to the NEAC Board or, more importantly, to the corporate board in Kansas City. Additionally, the Advisory Council will be severely bound by the confidentiality provisions (p. 26) of the proposed agreement.

The proposed agreement (p. 32-33) indicates that DFA's financial information is prepared in accordance with "generally accepted accounting principles", may be true, but providing the Advisory Council with only the published accounting reports will not satisfy the goals of the Advisory Council. Published financial information did not prevent the alleged clandestine anti-trust activities of DFA/DMS. As a CPA, and a DFA dairy farmer member, I resent the insinuation that GAAP financial statements would disclose illegal business practices, and for DFA management and any legal representative in this matter, to hide illegal business activities behind accounting information published by accountants is a misrepresentation.

These apparent rights for DFA to censor or suppress the Advisory Council's findings or recommendations and the restriction of all DFA's records essentially makes the Advisory Council's efforts no more than a rubber stamp of approval of DFA's NEAC actions. So why have an "Advisory Council" and make this settlement provision appear to be a material concession on the part of defendant DFA? Do these provisions provide transparency to the DFA/DMS farmer members? I think not.

The proposed settlement agreement, as written, in my opinion will have very little impact on how DFA/DMS will do business in the future. If the court cannot grant the proposed Advisory Council access to all requested DFA/DMS records and reasonable dissemination of the Council's findings, I would urge the court to allow this case to go to trial. Our co-op's behavior must change. With continual decline of dairy farmers in this country, and continued lack of enough profitability for sustainability, we farmers feel we are in the center of a DFA circular firing squad picking off dairymen and eventually killing itself in the process.

So, I ask the court:

1. Reject the Second Amended Settlement Agreement, and let this matter go to trial, or
2. Order the proposed settlement agreement to:
 - A. Provide the proposed Advisory Council full access to all requested records, wherever located.
 - B. To have all findings of the Advisory Council published, without limitation
 - C. That the Advisory Council to be held harmless, without any retaliation, in the same way all attorneys in this case wish to be held harmless.
 - D. To appoint myself to chair this Advisory Council.

Respectfully,

Gary Genske, C.P.A, Dairy Farmer
John J. King, Dairy Farmer

BIOGRAPHY

Gary Genske, Certified Public Accountant
1835 Newport Blvd., Suite D-263
Costa Mesa, CA 92627
www.genskemulder.com
949-650-9580

Married, 2 children, 7 grandchildren

Accounting major from Long Beach State

U.S. Navy - 3 tours in Viet Nam in 4 years

Private Industry - 3 years

Public Accounting - 42 years working primarily with the dairy industry
- Licensed by the State of California in 1981

Founder and managing partner of Genske, Mulder & Co., LLP, Certified Public Accountants
This three office firm specializes in accounting, tax and estate planning for about 500 large dairy farms that produce about 12% of the nation's milk in 31 states from Hawaii to New York.

Partner in a dairy farm in Roswell, New Mexico, milking 2,000 cows a day.

Lobbyist and Board Member, National Dairy Producers Organization

Managing Member, 100% U.S.A. Milk, LLC

Author of accounting and tax articles

Lecturer for the dairy industry

Expert witness in legal disputes and at trial

Kansas Statutes - DFA

Browsable and searchable archive of 2009 Kansas Statutes Annotated (K.S.A.)

Chapter 17: Corporations

Article 16: Cooperative Marketing

Statutes:

- 17-1601: Purpose of cooperative marketing act.
- 17-1602: Definitions, nonprofit character of associations.
- 17-1603: Incorporation of associations.
- 17-1604: Purposes of association.
- 17-1605: Powers of association.
- 17-1606: Members or stockholders.
- 17-1607: Articles of incorporation.
- 17-1608: Amendment of charter.
- 17-1609: Bylaws.
- 17-1610: Meetings; notice.
- 17-1611: Board of directors; election from districts; delegates to meetings; compensation of officers and directors; executive committee; vacancy in board of directors.
- 17-1612: Officers; requirements; elections.
- 17-1613: Certificate of membership; stock and stockholders.
- 17-1614: Removal of director or officer.
- 17-1615: Matters subject to referendum, when.
- 17-1616: Marketing contracts; injunction to prevent breach.
- 17-1617:
- 17-1617a: Interest in other cooperative association or corporation.
- 17-1618: Annual report; annual report fee.
- 17-1619:
- 17-1620: Contracts generally.
- 17-1621: Adoption of act by existing corporations.
- 17-1622:
- 17-1623: Validity of act.
- 17-1624:
- 17-1625: Application and recording fee.
- 17-1626: Conflicting laws not to apply; exemptions under existing laws to apply.
- 17-1627: Limitation of use of term "co-operative."
- 17-1628: Application of general corporation code.
- 17-1629: Increase of capital.
- 17-1630: Meetings of stockholders and directors; resident agent.
- 17-1631: Dissolution for failure to carry on business; receivers.
- 17-1632: Contracts fixing resale prices.
- 17-1633: Same; restrictions.
- 17-1634: Same; construction.
- 17-1635: Same; invalidity of part.
- 17-1636: Disposition of property, assets and good will; notice to stockholders.
- 17-1637: Merger or consolidation of cooperative associations and corporations.
- 17-1638: Merger or consolidation of cooperative associations and domestic and foreign corporations; service of process upon surviving or resulting corporation.
- 17-1639: When mergers effective; rights and liabilities to surviving association.



- 17-1640: Surviving association right to issue bonds or other obligations.
- 17-1641: Effect of merger on pending actions.
- 17-1642: Payment for interest of member objecting to merger; demand for payment; appraisal and determination of value; taxation of costs; status of member's interest; section inapplicable to certain member's interest.
- 17-1643: Act supplemental to cooperative marketing act.

17-1601: Purpose of cooperative marketing act. The purpose of the cooperative marketing act is to promote, foster and encourage the intelligent and orderly marketing of agricultural products through cooperation and to eliminate speculation and waste; make the distribution of agricultural products as direct as can be efficiently done between producer and consumer; stabilize the marketing of agricultural products; and promote the development of the most profitable and permanent system of agriculture, the most wholesome and satisfactory living conditions, the highest ideals in home and community life and a general interest in the improvement of field crops and livestock and in the business of farming and in rural life.

History: L. 1921, ch. 148, § 1; R.S. 1923, 17-1601; L. 1953, ch. 129, § 1; L. 1992, ch. 227, § 1; July 1.

17-1602: Definitions, nonprofit character of associations. (a) As used in this act:

(1) "Agricultural products" shall include horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and farm and ranch products.

(2) "Member" shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock.

(3) "Association" means any corporation organized under this act.

(4) "Person" shall include individuals, firms, trusts, partnerships, corporations and associations.

(5) "Patronage" shall include the volume or dollar value of business transacted with the corporation.

(6) "Equity" shall include an initial share or shares of stock to reflect membership as well as amounts allocated to patrons in the form of stock, certificates, or other such instruments or book credits to reflect patronage.

(7) "Cooperative" means any association organized under this act, a cooperative association organized under the laws of any other state, any other association or corporation qualifying as a "farmer's cooperative" within the meaning of section 521 of the federal internal revenue code of 1986, and amendments thereto, or any corporation operating on a cooperative basis within the meaning of section 1381 of the federal internal revenue code of 1986, and amendments thereto.

(b) Associations organized under this act shall be deemed nonprofit, as they are not organized to make profit for themselves, as such, or for their members as such, but only for their members as producers. This act shall be referred to as the "cooperative marketing act."

Consolidated Balance Sheets

	December 31	
	2015	2014
	<i>(in thousands)</i>	
Assets		
Current assets:		
Cash and cash equivalents	\$ 227,996	\$ 440,415
Restricted cash and investments	81,291	73,644
Investments	7,500	7,648
Receivables, less allowance of \$15,789 in 2015 and \$12,748 in 2014	879,361	983,384
Inventories	436,344	331,840
Notes receivables	35,445	37,709
Other current assets	62,907	63,022
Total current assets	1,730,844	1,937,662
Investments in affiliates	360,954	391,520
Property, plant and equipment, net	503,768	349,172
Goodwill	228,395	214,134
Intangible assets, net	408,591	346,452
Notes receivable	29,316	21,794
Other long-term assets	105,384	108,735
Other real property	34,891	34,894
	\$ 3,402,143	\$ 3,404,363
Liabilities and equity		
Current liabilities:		
Checks outstanding	\$ 50,806	\$ 80,831
Due to members and haulers	757,280	1,028,591
Accounts payable and accrued expenses	644,004	673,417
Current portion of long-term debt	67,247	34,619
Total current liabilities	1,519,337	1,817,458
Long-term debt, less current portion	911,293	812,823
Other long-term liabilities	247,960	190,844
Total liabilities	2,678,590	2,821,125
Equity:		
Dairy Farmers of America equity holders:		
Preferred equity securities	225,000	150,000
Members' capital	729,029	714,603
Accumulated deficit	(158,788)	(206,014)
Accumulated other comprehensive loss	(99,764)	(100,431)
Total Dairy Farmers of America equity holders	695,477	558,158
Noncontrolling interests	28,076	25,080
Total equity	723,553	583,238
	\$ 3,402,143	\$ 3,404,363

See accompanying notes to consolidated financial statements.

Consolidated Statements of Income

	Year Ended December 31	
	2015	2014
	<i>(in thousands)</i>	
Net sales	\$ 13,803,107	\$ 17,856,096
Cost of sales	13,323,728	17,446,353
Gross profit	479,379	409,743
Operating costs and expenses:		
Selling	74,788	65,191
Delivery	124,753	119,337
General and administrative	223,173	188,542
Total operating costs and expenses	422,714	373,070
Operating income	56,665	36,673
Other income (expense):		
✓ Earnings of affiliates	93,799 ✓	61,577 ✓
Interest expense	(47,472)	(44,243)
Gain on acquisition of controlling interest in affiliate	55,842	—
Facility closing costs	(25,203)	—
Impairment charge	(18,800)	—
Other, net	(2,357)	1,096
Income before income taxes	112,474	55,103
Income tax expense	(14,210)	(6,484)
Net income	98,264	48,619
Net income attributable to noncontrolling interests	4,166	5,526
Net income attributable to Dairy Farmers of America	\$ 94,098	\$ 43,093

See accompanying notes to consolidated financial statements.

Consolidated Balance Sheets

	December 31	
	2014	2013
	<i>(in thousands)</i>	
Assets		
Current assets:		
Cash and cash equivalents	\$ 440,415	\$ 43,977
Restricted cash and investments	73,644	-
Investments	7,648	-
Receivables, less allowance of \$12,748 in 2014 and \$12,000 in 2013	983,384	896,668
Inventories	331,840	275,273
Notes receivables	37,709	6,398
Other current assets	71,654	48,052
Total current assets	1,946,294	1,270,368
Investments in affiliates	391,520	385,516
Property, plant and equipment, net	349,172	335,590
Goodwill	214,134	179,197
Intangible assets, net	346,452	316,399
Notes receivable	21,794	19,609
Other long-term assets	100,103	97,764
Other real property	34,894	36,180
	\$ 3,404,363	\$ 2,640,623
Liabilities and equity		
Current liabilities:		
Checks outstanding	\$ 80,831	\$ 48,443
Due to members and haulers	1,028,591	527,655
Accounts payable and accrued expenses	705,371	537,050
Current portion of long-term debt	34,619	71,613
Total current liabilities	1,849,412	1,184,761
Long-term debt, less current maturities	812,823	808,831
Other long-term liabilities	158,890	145,928
Total liabilities	2,821,125	2,139,520
Equity:		
Dairy Farmers of America equity holders:		
Preferred equity securities	150,000	150,000
Members' capital	714,603	659,950
Accumulated deficit	(206,014)	(229,082)
Accumulated other comprehensive loss	(100,431)	(103,319)
Total Dairy Farmers of America equity holders	558,158	477,549
Noncontrolling interests	25,080	23,554
Total equity	583,238	501,103
	\$ 3,404,363	\$ 2,640,623

See accompanying notes to consolidated financial statements.

Consolidated Statements of Operations

	Year Ended December 31	
	2014	2013
	<i>(in thousands)</i>	
Net sales	\$ 17,856,096	\$ 12,826,030
Cost of sales	17,446,353	12,456,887
Gross profit	409,743	369,143
Operating costs and expenses:		
Selling	65,191	68,754
Delivery	119,337	97,345
General and administrative	188,542	150,881
Total operating costs and expenses	373,070	316,980
Operating income	36,673	52,163
Other income (expense):		
X Earnings of affiliates	61,577 ✓	72,784 ✓
Impairment charge	-	(9,117)
Interest expense	(44,243)	(46,573)
Other, net	1,096	(5,222)
Income before income taxes	55,103	64,035
Income tax expense	(6,484)	(5,904)
Net income	48,619	58,131
Net income attributable to noncontrolling interests	5,526	4,992
Net income attributable to Dairy Farmers of America	\$ 43,093	\$ 53,139

See accompanying notes to consolidated financial statements.

Consolidated Balance Sheets

(in thousands)	December 31	
	2012	2011
Assets		
Current assets:		
Cash and cash equivalents	\$ 465,523	\$ 51,989
Receivables, less allowance of \$12,000 in 2012 and 2011	817,164	768,998
Inventories	294,450	257,160
Other current assets	29,132	42,624
Total current assets	<u>1,606,269</u>	<u>1,120,771</u>
Investments in affiliates	345,371	325,292
Property, plant and equipment, net	266,580	223,683
Goodwill	178,094	183,268
Intangible assets, net	328,496	334,888
Notes receivable	27,881	32,649
Other long-term assets	70,962	39,622
Assets held for sale	36,416	34,728
	<u>\$ 2,860,069</u>	<u>\$ 2,294,901</u>
Liabilities and equity		
Current liabilities:		
Checks outstanding	\$ 68,592	\$ 76,398
Due to members and haulers	477,165	481,014
Accounts payable and accrued expenses	668,289	442,720
Current portion of debt	156,602	-
Total current liabilities	<u>1,370,648</u>	<u>1,000,132</u>
Long-term debt	880,417	529,019
Other long-term liabilities	166,879	145,512
Total liabilities	<u>2,417,944</u>	<u>1,674,663</u>
Equity:		
Dairy Farmers of America equity holders:		
Preferred equity securities	150,000	150,000
Members' capital	640,217	670,015
Accumulated deficit	(235,966)	(100,890)
Accumulated other comprehensive loss	(137,187)	(121,900)
Total Dairy Farmers of America equity holders	<u>417,064</u>	<u>597,225</u>
Noncontrolling interests	25,061	23,013
Total equity	<u>442,125</u>	<u>620,238</u>
	<u>\$ 2,860,069</u>	<u>\$ 2,294,901</u>

506,590 { *178,094* *328,496* } *518,156*

267,064 { *150,000* *640,217* *(235,966)* *(137,187)* } *417,225*

See accompanying notes.

⑦

Consolidated Statements of Operations

(in thousands)	Year Ended December 31	
	2012	2011
Net sales	\$ 12,082,391	\$ 12,974,213
Cost of sales	11,716,932	12,713,702
Gross profit	365,459	260,511
Operating costs and expenses:		
Selling	69,822	52,836
Delivery	89,099	39,103
General and administrative	144,863	119,287
Total operating costs and expenses	303,784	211,226
Operating income	61,675	49,285
Other income (expense):		
X Earnings of affiliates	57,614 ✓	38,920 ✓
Litigation charge	(240,000)	-
Loss on exchange of affiliate interest	-	(84,453)
Interest expense	(37,578)	(38,821)
Other income (expense), net	17,418	(5,014)
Loss before income taxes	(140,871)	(40,083)
Income tax benefit	14,753	7,679
Net loss	(126,118)	(32,404)
Net income attributable to noncontrolling interests	6,655	4,296
Net loss attributable to Dairy Farmers of America	\$ (132,773)	\$ (36,700)

See accompanying notes.

Consolidated Balance Sheets

<i>(in thousands)</i>	December 31	
	2010	2009
Assets		
Current assets:		
Cash and cash equivalents	\$ 49,943	\$ 135,971
Receivables, less allowance for doubtful accounts of \$10,000 in 2010 and 2009	661,909	610,529
Inventories	178,219	165,312
Other current assets	22,195	14,936
Total current assets	912,266	926,748
Investments in affiliates	588,573	567,541
Property, plant and equipment, net	148,479	165,594
Goodwill	151,201	118,561
Intangible assets, net	272,641	236,661
Notes receivable	35,829	124,085
Other long-term assets	20,879	37,021
Assets of discontinued operations	34,728	34,927
	<u>\$ 2,164,596</u>	<u>\$ 2,211,138</u>
Liabilities and equity		
Current liabilities:		
Checks outstanding	\$ 51,818	\$ 50,488
Due to members and haulers	339,503	313,724
Accounts payable and accrued expenses	347,161	373,613
Total current liabilities	738,482	737,825
Long-term debt	310,432	308,350
Subordinated debt	259,300	301,000
Other long-term liabilities	145,362	157,302
Liabilities of discontinued operations	16,820	18,468
Total liabilities	1,470,396	1,522,945
Equity:		
Dairy Farmers of America equity holders:		
Preferred equity securities	150,000	150,000
Members' capital	682,011	688,584
Retained earnings (accumulated deficit)	(32,867)	(38,490)
Accumulated other comprehensive loss	(134,037)	(149,485)
Total Dairy Farmers of America equity holders	665,107	650,609
Noncontrolling interests	29,093	37,584
Total equity	694,200	688,193
	<u>\$ 2,164,596</u>	<u>\$ 2,211,138</u>

See accompanying notes.

Consolidated Statements of Income

<i>(in thousands)</i>	Year Ended December 31	
	2010	2009
Net sales	\$ 9,829,055	\$ 8,077,155
Cost of sales	9,657,162	7,780,863
Gross profit	171,893	296,292
Operating costs and expenses:		
Selling	32,053	49,027
Delivery	—	83,110
General and administrative	86,591	104,082
Total operating costs and expenses	118,644	236,219
Operating income	53,249	60,073
Other income (expense):		
X Earnings of affiliates, excluding impairment charges incurred by affiliates	50,874 ✓	83,630 ✓
Impairment charges related to or incurred by affiliates	—	(15,104)
Interest expense	(39,859)	(47,199)
Other expense, net	(6,618)	(1,159)
Income before income taxes and discontinued operations	57,646	80,241
Income tax (expense) benefit	(4,497)	2,424
Income before discontinued operations	53,149	82,665
Loss from discontinued operations, net of tax	(1,761)	(9,443)
Net income	51,388	73,222
Net income attributable to noncontrolling interests	7,663	7,658
Net income attributable to Dairy Farmers of America	\$ 43,725	\$ 65,564
Net income attributable to Dairy Farmers of America:		
Allocated to members	\$ 26,392	\$ 32,969
Nonmember and unallocated income	17,333	32,595
	\$ 43,725	\$ 65,564

See accompanying notes.

CONSOLIDATED BALANCE SHEETS

	2008	2007
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 61,995	\$ 48,437
Receivables, less allowance for doubtful accounts of \$17,900 in 2008 and \$11,500 in 2007	759,527	937,156
Inventories	200,175	219,647
Other current assets	16,165	15,469
Total current assets	1,037,862	1,220,709
Investments in affiliates	556,544	524,630
Property, plant and equipment, net	417,828	420,490
Goodwill	128,657	128,657
Intangible assets, net	338,169	344,559
Other long-term assets	36,986	27,161
Assets of discontinued operations	36,456	54,147
	\$ 2,552,502	\$ 2,720,353
LIABILITIES AND EQUITY		
Current liabilities:		
Checks outstanding	\$ 58,105	\$ 112,240
Due to members and haulers	409,613	538,526
Accounts payable and accrued expenses	447,946	460,430
Total current liabilities	915,664	1,111,196
Long-term debt	464,032	423,154
Subordinated debt	356,225	384,675
Other long-term liabilities	156,028	107,119
Liabilities of discontinued operations	5,847	11,436
Total liabilities	1,897,796	2,037,580
Equity:		
Preferred equity securities	150,000	150,000
Members' capital	698,388	694,644
Retained earnings (deficit)	(59,963)	(81,293)
Accumulated other comprehensive loss	(133,719)	(80,578)
Total equity	654,706	682,773
	\$ 2,552,502	\$ 2,720,353

465,826 { 128,657 + 338,169 } 473,216

504,706 { 150,000 + 698,388 - 59,963 - 133,719 } 532,713

See accompanying notes.

CONSOLIDATED STATEMENTS OF OPERATIONS

	2008	2007
Net sales	\$ 11,744,979	\$ 11,076,539
Cost of sales	11,213,820	10,851,052
Gross profit	531,159	225,487
Operating costs and expenses:		
Selling	71,406	37,213
Delivery	259,835	63,549
General and administrative	135,984	75,975
Total operating costs and expenses	467,225	176,737
Operating income	63,934	48,750
Other income (expense):		
X Earnings of affiliates, excluding impairment charges incurred by affiliates	52,758 ✓	18,189 ✓
Impairment charges related to or incurred by affiliates		(96,303)
Gain on sale of investments in affiliates, net		7,023
Other income (expense), net	17,866	20,304
Interest expense	(60,296)	(58,145)
Savings (loss) before income taxes and discontinued operations	74,262	(60,182)
Income tax (expense) benefit	(5,569)	5,734
Savings (loss) before discontinued operations	68,693	(54,448)
Loss from discontinued operations, net of taxes	(7,015)	(54,829)
Net savings (loss)	\$ 61,678	\$ (109,277)
Net savings (loss):		
Allocated to members	\$ 28,535	\$
Nonmember and unallocated income (loss)	33,143	(109,277)
	\$ 61,678	\$ (109,277)

See accompanying notes.

CONSOLIDATED BALANCE SHEETS

(INCLUDES NATIONAL DAIRY HOLDINGS, LP ON A CONSOLIDATED BASIS
AT DECEMBER 31, 2007)

(In thousands)	December 31,	
	2007	2006
Assets		
Current Assets:		
Cash and cash equivalents	\$ 48,437	\$ 35,151
Receivables, less allowance for doubtful accounts of \$11,500 in 2007 and \$8,000 in 2006	937,156	603,637
Inventories	219,647	138,753
Other current assets	15,469	11,578
Total Current Assets	1,220,709	789,119
Investments in Equity Affiliates	524,630	985,680
Property, Plant and Equipment, net	420,490	131,776
Goodwill	128,657	118,561
Intangible and Other Assets	371,720	301,279
Assets of Discontinued Operations	54,147	100,445
	\$ 2,720,353	\$ 2,426,860
Liabilities and Equity		
Current Liabilities:		
Checks outstanding	\$ 112,240	\$ 92,188
Due to members and haulers	538,526	305,940
Accounts payable and accrued expenses	460,430	307,624
Total Current Liabilities	1,111,196	705,752
Long-Term Debt	423,154	305,000
Subordinated Debt	384,675	413,125
Other Long-Term Liabilities	107,119	122,304
Liabilities of Discontinued Operations	11,436	8,506
Total Liabilities	2,037,580	1,554,687
Equity:		
Preferred equity securities	150,000	150,000
Members' capital	694,644	703,076
Retained earnings (deficit)	(81,293)	47,297
Accumulated other comprehensive (loss)	(80,578)	(28,200)
Total Equity	682,773	872,173
	\$ 2,720,353	\$ 2,426,860

419,840

722,173

30% EQUITY

See accompanying notes.

CONSOLIDATED STATEMENTS OF OPERATIONS

(INCLUDES NATIONAL DAIRY HOLDINGS, LP ON A CONSOLIDATED BASIS
FOR THE PERIOD OCTOBER 1, 2007 THROUGH DECEMBER 31, 2007)

<i>(In thousands)</i>	Year Ended December 31,	
	2007	2006
Net Sales	\$ 11,076,539	\$ 7,547,282
Cost of Sales	10,851,052	7,406,502
Gross profit	225,487	140,780
Operating Costs and Expenses:		
Selling	37,213	27,903
Delivery	63,549	—
General and administrative	75,975	52,152
Total Operating Costs and Expenses	176,737	80,055
Operating Income (excluding operating losses of \$4,857 in 2007 and \$25,712 in 2006 from operations that were discontinued in 2007)	48,750	60,725
Other Income (Expense):		
X Earnings of affiliates, excluding impairment charges incurred by affiliates	18,189	53,744 ✓
Impairment charges related to or incurred by affiliates	(96,303)	(5,955)
Gain on sale of investments in affiliates, net	7,023	—
Other income, net	20,304	19,410
Interest expense	(58,145)	(56,373)
Savings (Loss) Before Income Taxes and Discontinued Operations	(60,182)	71,551
Income tax (expense) benefit	5,734	(8,023)
Net Savings (Loss) Before Discontinued Operations	(54,448)	63,528
Loss from discontinued operations, net of taxes	(54,829)	(28,795)
Net Savings (Loss)	\$ (109,277)	\$ 34,733
Net Savings (Loss):		
Allocated to members	\$ —	\$ 26,407
Non-member and unallocated income (loss)	(109,277)	8,326
	\$ (109,277)	\$ 34,733

See accompanying notes.