

DFA/DMS Dictated Local Co-op to Deduct NY Farm Family \$167,490 in “New Member” Marketing Fees Over Past Year

by Pete Hardin

DFA/DMS’ Milk Check Thieving Ways Continue

Grand larceny against non-members’ milk checks by Dairy Farmers of America, Inc. (DFA) and Dairy Marketing Services, LLC (DMS) continues unabated ...

In spring 2016, at the same time that lawyers for defendants DFA and DMS were claiming before the federal judge in the Northeast antitrust case that those co-ops had mended their thieving ways ... DFA/DMS employees were mandating deductions totaling many thousands of dollars of unspecified marketing fees from the monthly milk checks of select members of small cooperatives in upstate New York.

The money from those deducts was passed back by local cooperatives to DFA/DMS. In April and May 2016, those special fees totaled \$7.46 and around \$8.74/cwt., respectively!!! The farmers were left with around \$6.00/cwt. to try to pay their bills as spring expenses came due. At the same time, DFA/DMS employees were chuckling about all the money they were raking off by skimming cream from “dumped” milk in the Northeast.

Lauren and Debbie Zehr received notice in early May 2015 that their long-time milk buyer – Queensboro Farms – would stop buying the Zehr’s milk as of June 1, 2015. The Zehrs mistakenly thought that marketing milk from their 250-cow herd through the local Jefferson Bulk Milk Producers (Jefferson Bulk) would offer a reasonably safe haven, in the tumultuous New York State dairy market. Boy, were the Zehrs mistaken!

Acting upon instructions from DFA/DMS, the Jefferson Bulk co-op proceeded to swipe \$167,490 in unsubstantiated marketing fees from the Zehrs, during the period ranging from June 1, 2015 through May 25, 2016. April and May 2016 featured particularly brutal special deducts, which totaled \$7.46 and around \$8.74 cwt. per hundredweight, respectively.

Lauren and Debbie know just how impossible it is to cash-flow a 250-cow Holstein herd, after all those “new member” deductions that totaled over \$75,000 in April and May 2016. These deductions **did not** include milk hauling fees and \$.25/cwt. “marketing adjustment” fee paid by all members of the Jefferson Bulk co-op – including the Zehrs. (Mercifully, Lauren and Debby were able to obtain a new milk market in late May 2016 ... one that treats and pays them equitably.)

Quick profile of Zehr’s dairy farm ...

Lauren and Debbie started milking their own cows in December 1984. Lauren had worked previously milking for his brother. JA-ZE farm currently counts 250 Holsteins and about an equal number of young stock.

The Zehr herd averages around 65-66 lbs. of milk per cow daily. No Posilac is used on their farm. The Zehrs have good milk quality records. Before the exorbitant marketing assessments from Jefferson Bulk started in June 2015, Lauren and Debbie were milking 3X per day. But Lauren quickly figured that there was no sense making more milk if they were just going to be hit with such assessments. The Zehrs own 900+ acres and rent another 150 acres nearby.

Jeff Bulk co-op contract specified paying members at same rate

The membership contract with Jefferson Bulk that Lauren and Debbie signed on May 4, 2015 specified that they would share equally in the pooled proceeds from sale of that co-op’s member milk. In part, their contract read:

“6. METHOD OF PAYMENT

“(a) The proceeds of the sale of all milk of members of this Association shall be combined or blended. After making deductions of all necessary selling or other costs and expenses and allowances or differentials which may be provided for in the contract with the purchaser or purchasers, distribution shall be made by the Association of the balance of said blended fund among the members at the same rate per unit of one hundred pounds of milk of like or equal kind or test, plus or minus such differentials established by the Association as are equitable and/or fixed by law by reason of butterfat content, special grading quality, loation [sic], certifications and/or other factors which result in the purchaser paying a greater or lesser price for the milk.”

But that paragraph apparently didn’t apply to the Zehrs, or a few other neighbors, who had joined the Jefferson Bulk co-op under similar circumstances one year ago.

In late May 2015, Jefferson Bulk mailed out a special contract “addendum” to the Zehrs. That additional contract language – dated May 17, 2015 — specified that new producers’ at Jefferson Bulk, who were signed after May 1, 2015, would be subject to special deductions. Lauren and Debbie never signed that addendum. But the special deductions against their monthly milk checks continued without the nicety of the Zehr’s formal signatures. Those deductions ultimately totaled over \$167,000 for the eleven months and 25 days that the Zehrs sold milk to Jefferson Bulk. Those additional marketing deducts were imposed **on top of** normal deductions for milk hauling and a \$0.25/cwt. “marketing adjustment” charged to the Zehrs and all other all Jefferson Bulk members. The \$.25/swt. fee added up to over \$13,000 for the Zehrs for one year.

Four key paragraphs from the May 21, 2015 contract addendum are quoted here. (Repeat, the Zehrs never signed that addendum.)

“Whereas an extraordinary oversupply condition exists in the milk region including all markets to which the producer’s milk could be reasonably hauled, and

“Such oversupply has resulted in the likelihood that sale of milk acquired by the Association through contracts signed after May 1, 2015 shall require substantial reduction of premiums and/or discounts to milk component pricing sold by the Association.

“The Producer understands and agrees that the Association has no way of determining in advance what such reductions/discounts will be; that, if applicable, the Producer alone will bear these reductions/discounts with respect to the milk it ships to the Association and that the Producer may therefore be paid on terms less favorable than those terms that apply to members under contract with the Association prior to May 1, 2015.

“The Association agrees that such reductions/discounts will be no greater than those which it is required to accept in the sale of newly contracted milk and that such reductions/discounts will be directly passed through to the Producer.”

Here’s what really happened ...

The monthly special deducts applied against the Jefferson Bulk co-op’s “new” members (i.e., those who signed contracts after May 1, 2015) were dictated each month by employees of DFA/DMS. Clear proof of that chain of command was established in late April, when a Jefferson Bulk co-op official called the Zehrs, warning that DFA/DMS had dictated a whopping \$7.46/cwt. “new member” assessment against the Zehr’s milk check for April 2016 milk deliveries. Jefferson Bulk co-op, like many other smaller dairy cooperatives in the Northeast, has a marketing agreement with DMS. DMS is a subsidiary of DFA and is controlled by DFA.

The Jefferson Bulk co-op merely assessed the Zehrs (and other “new members”) whatever monthly deducts were specified by DFA/DMS officials. And then the Jefferson Bulk cooperative simply passed those huge deducts through to DFA/DMS. During the last three months the Zehrs sold milk to Jefferson Bulk, those “new member” deducts were:

March 2016\$1.06/cwt.
April 2016\$7.46/cwt.
May 2016\$8.74/cwt.

Continued on page 7

“New Milk” Assessments Deducted from Lauren & Debbie Zehr • June 1, 2015 - May 25, 2016

Month	“New Milk Deduction”/Cwt.	Total Assessment
June 2015	\$4.603	\$26,424.91
July 2015	\$3.8065	\$21,234.25
August 2015	\$1.38	\$6,438.21
September 2015	\$0.55	\$2,460.01
October 2015	\$0.76	\$3,485.54
November 2015	\$1.66	\$7,162.91
December 2015	\$3.93	\$17,016.00
January 2016	\$1.105	\$4,720.70
February 2016	\$0.55	\$2,122.86
March 2016	\$1.058	\$4,388.24
April 2016	\$7.456	\$30,963.50
May 2016	\$8.743	\$47,511.11
Total:	NA	\$167,490.00

The above table shows the monthly, “new milk” deductions (per cwt.) assessed against Lauren and Debbie Zehr’s milk income during the past year. Their local cooperative deducted what DFA/DMS dictated and then passed the funds on to DFA/DMS. These deducts really hurt the Zehr’s cash flow.



Lauren and Debbie Zehr have dairy farmed for over 30 years, several miles west of Lowville, New York. Through all the ups and downs of milk prices over that time, they’ve never been squeezed tighter on their cash flow than during the past year.

After the Zehrs and several other producers were terminated by their private handler – Queensboro Farms – in late May 2015, the Zehrs joined a local cooperative – Jefferson Bulk. But the local co-op inserted a special addendum to the Zehr’s marketing contract at the last minute. That add-on stated the Zehrs, as “new members,” would be hit with costs for marketing surplus milk. (The Zehrs never signed

April-May 2016 marketing costs obviously overstated

Hard to imagine what corrupt computer program DFA/DMS marketing personnel used to conjure up those vindictive marketing losses against the Zehr’s milk income during April-May 2016. Yes, large quantities of Northeast farm milk were being “dumped.” But big co-ops (like DFA) were skimming most of the cream off from that alleged surplus “dumped milk” — before discarding the remaining portions.

Under the prevailing, warped rules of the Northeast federal milk order, DFA/DMS kept the value of the cream extracted from “dumped milk” ... with no obligation to either report or pool that value in the monthly producer settlement fund for the Northeast milk order. In other words, “free dumping” of alleged surplus milk turned into a profit center for DFA and other big dairy cooperatives in the Northeast. (See article this page.)

(Sources report that DFA/DMS personnel have been bragging about all the money those organizations have been making with sale of cream that’s been skimmed from “dumped milk.” It’s all a damn scam, designed to rip off dairy farmers.)

Another local co-op, other producers involved

Lauren and Debbie Zehr are not the only dairy farmers in northern New York whose milk checks were abused by these massive, unspecified deductions. Lauren and Debbie are brave to allow their financial abuse to be reported. A handful of other dairy producers, who were terminated by Queensboro Farms in June 2015, have also been subjected to the same deductions dictated to their local cooperatives by DFA/DMS. Those producers include certain members of the Jefferson Bulk co-op, as well as the Lowville Milk Producers Co-op, who have been hammered by such deductions. In the case of the massive May 2016 deduction (\$8.74/cwt.), the board of directors of the Lowville Co-op dug deep and pooled the assessments against “new member” milk among all co-op members ... after the “new members” shelled out about \$1.00/cwt. for the experience.

Lauren and Debbie Zehr believe that the \$167,490 in special assessments was taken in violation of their contract with the Jefferson Bulk co-op. They never signed the addendum. Certainly, they did not receive an equitable price for their milk, as members of the Jefferson Bulk co-op. The Zehrs had no problem paying the \$.25/cwt. “marketing adjustment” they were assessed, along with all other members of the co-op.

The Zehrs have not publicly revealed these huge “new member” deductions until now, waiting until they gained a new milk market and received final payments for May 2016 milk from Jefferson Bulk. For May 2016, Jefferson Bulk – under instructions from DFA/DMS – soaked the Zehrs for \$47,511.11 in “new milk” assessments – on only 25 days worth of milk. **On 250 milk cows, the May 2016 “new milk” deducts swiped from Lauren and Debbie totaled \$7.60 PER COW PER DAY!** Good thing that the Zehrs love their dairy animals.

One local cooperative general manager told Lauren recently that Lauren ought to be glad to find a milk market in June 2015. That logic would deem as a “Good Samaritan” a person who assisted another ... only to have the “Good Samaritan” pilfer a large amount of money from the person supposedly “rescued.”

In the analysis of The Milkweed, the Zehr’s situation raises several legal issues, including the complexities of contract law. Lauren and Debbie Zehr are looking for an honest lawyer who knows the dairy industry – a rare species in upstate New York.

The Zehrs are but one Northeast dairy farm family that has suffered exorbitant milk check deducts at the dictates of DFA/DMS. More next month ...

that addendum.) During the year they marketed milk through Jefferson Bulk, the Zehrs paid \$167,490 in special marketing assessments. Those assessments piled sky-high in April and May 2016 – that two-month total was \$78,474.61.

Unfortunately, the Jefferson Bulk co-op was merely taking orders from Dairy Farmers of America/Dairy Marketing Services about the total of those monthly deducts. And Jefferson Bulk turned over those assessments to DFA/DMS. Mercifully, Lauren and Debbie have recently shifted to a milk marketer that treats them fairly.

What’s a Trailer of “Dumped Milk” Worth?

It is hard to read about astronomical amounts of milk being “dumped” in the Northeast and Mid-East regions without disgusting images of all the wasted resources that went into production of much of that milk simply going into a manure pit.

But the truth is, official “dumping” of farm milk by major dairy cooperatives is often a much more tidy affair ... usually with “salvage value” of the cream as a consolation prize for the co-op. Let’s take a theoretical example of a “dumped” trailer of milk during the last week of June 2016 in central New York State. And look at the gross revenue enjoyed by the “dumpers.”

Here are our general assumptions:

- 60,000-lbs. of milk per trailer at 3.67% butterfat.
- The trailer will be offloaded at a dairy plant and the cream will be removed. (The Northeast and Mid-East regional milk market administrators report a monthly average of the milk fat content of the “dumped” milk. Some farm milk is dumped directly in the manure pits, but much “dumped” milk first has the cream removed at a Grade A dairy plant.)
- The value of the cream is standardized to Grade AA butter prices of \$2.30/lb.
- Butter is 80% milkfat. So milk at 3.67% butterfat will yield about 4.4 pounds of cream.
- During the last week of June, the cream “multiple” for the East was \$1.20-\$1.35, according to USDA’s Dairy Market News (June 27-July 1, 2016). Therefore, the “mid-point” for that week’s cream multiple was 1.275. Spot cream is transacted between seller and buyer based on a “multiple” of the prevailing CME Grade AA butter price.

Now let’s do the math ...

60,000 lbs. of farm milk = 600 cwt. of milk
600 cwt. of farm milk @ 3.67% butterfat will yield 2,640 pounds of butter. (600 cwt. x 4.4 lbs. butter/cwt.)

2,640 lbs. of butter @ \$2.30/lb. = \$6,072. (Call that the butter-equivalent price for the cream skimmed from “dumped” milk.)

Next ... multiply the \$6,072 by 1.275. Result: \$7,741.80 of cream could be “skimmed” from a 60,000-lb. trailerload of farm milk at standard composition during the last week of June in central New York State. Small wonder that DFA/DMS officials are chortling about all the money they’re making on cream from “dumped” milk.

The value of the cream skimmed from “dumped” milk may be just the beginning of the thievery. It appears that major dairy cooperatives engaged in such “dumping” are assessing members full value for milk hauling, stop charges, co-op dues, co-op equity contributions, and the \$.15/cwt. national dairy promotion check-off. What a scam!!!

No value returned to milk order revenue pool

Dairy cooperatives in the Northeast federal milk order enjoy “dumping” privileges from April 1 to July 15, 2016, as well as in selected months in 2015.

“Dumped milk” is simply reported to the market administrator’s office, in terms of volume and milk fat content of the material actually dumped.

Continued on page 10