

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| SELECT MILK PRODUCERS, Inc., et al., | : | |
| | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | Civil Action No. 1:01-CV-00060 (RCL) |
| | : | |
| ANN VENEMAN, SECRETARY | : | |
| UNITED STATES DEPARTMENT OF | : | |
| AGRICULTURE, | : | |
| | : | |
| Defendant. | : | |

**DECLARATION OF DENNIS SCHAD IN SUPPORT OF THE PLAINTIFFS' REQUEST
FOR A PRELIMINARY INJUNCTION**

Dennis Schad, being of lawful age, declares under penalty of perjury pursuant to 28 U.S.C. 1746:

1. I am employed by Land O'Lakes Inc. as Director of Marketing and Regulatory Affairs. Land O'Lakes is a national dairy cooperative with membership in California, the upper midwest states and in the northeastern US. My duties as Manager of Regulatory Affairs are on national policy issues. My job responsibilities involve general economic analysis in the dairy industry, including regulatory programs and federal milk marketing orders in particular. I have responsibilities in the daily marketing of milk and milk products for LOL in the eastern United States. I do most of my regulatory work in the state orders and federal orders in the Northeast. I have a B.A. degree from the College of William and Mary and an M.B.A. from Virginia

Polytechnic Institute. I have testified as an expert witness in milk marketing and dairy regulations in numerous hearings before the USDA and state regulatory agencies.

2. As a representative of the Association of Dairy Cooperatives in the Northeast (ADCNE) of which LOL is a member, I attended the hearing in Alexandria Virginia held May 8 to 12, 2000 by the United States Department of Agriculture to consider proposals to amend federal milk marketing orders. I testified at the hearing on behalf of ADCNE and LOL.

3. The terms of federal milk marketing orders are very important to all producers and cooperatives whose milk is marketed and priced pursuant to those regulations. Consequently, proposed changes in those regulations are very important to the dairy farmers by whom I am employed. We therefore devote considerable time and resources to reviewing and analyzing proposed changes to federal milk order regulations and, where appropriate, advocating proposed changes to those regulations.

4. The hearing in May of 2000 was called as required by legislation. The hearing was preceded, as is always the case with hearings to consider amendments to federal milk order regulations, by an invitation to the industry for proposals which are reviewed and ultimately published in a Notice of hearing. The Notice of hearing informs regulated parties what the issues are in the hearing, since it is understood that the Department may only consider proposals put forth in the hearing notice and amendments to those proposals.

5. The notice for the May 2000 hearing contained 32 proposals, none of which proposed major changes in the calculation of the value of butterfat, or protein, in milk used to make cheese (Class III milk).

6. ADCNE analyzed and took a position on each proposal at the hearing. I testified for the Association with respect to those positions. We took no position, presented no testimony or evidence, and advocated no position in our post-hearing brief on changing the calculation of the

butterfat price in class III because no such changes were proposed or advocated by anyone at the hearing, other than Dr. Barbano whose proposal was held by Administrative Law Judge Hunt not to be included in the scope of the hearing. If Dr. Barbano's proposal or any like it would have been included in the agenda of the hearing, ADCNE would have had the opportunity to study it's implications and present testimony and evidence at the hearing with respect to whether we would support or oppose its adoption.

7. Because the rules of practice for milk order hearings do not allow additional evidence to be introduced in post-hearing briefs, or in comments to tentative final decisions, ADCNE, and any other industry participant does not now have the opportunity to present evidence with respect to this important price change prior to it being implemented.

Executed on _____

Dennis J. Schad