

# **EXHIBIT 16**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
GREENEVILLE

IN RE: SOUTHEASTERN MILK . DOCKET NO. 2:08-MD-1000  
ANTITRUST LITIGATION, .  
. GREENEVILLE, TN  
. SEPTEMBER 10, 2009  
. 9:05 A.M.  
. . . . .

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE J. RONNIE GREER  
UNITED STATES DISTRICT JUDGE

1 TYPE YOU JUST REFERENCED, YOU HAVE A NUMBER OF PROCEDURAL  
2 MECHANISMS TO DEAL WITH THAT. YOU CAN DECERTIFY A CLASS,  
3 YOU CAN SIPHON OFF MEMBERS INTO ANOTHER SUBCLASS; BUT THAT  
4 IS ALL HYPOTHETICAL AT THIS POINT. AND WHAT WE ARE SAYING  
5 TO YOU IS OUR -- WHAT WE'RE SAYING IS ALL THE FARMERS HAVE  
6 BEEN HURT IN THE SOUTHEAST. AND YOU KNOW WHAT, YOUR  
7 HONOR, IF WE CAN'T REPRESENT THEM HERE, THEY WILL NOT HAVE  
8 THEIR DAY IN COURT, AND THEY DESERVE THEIR DAY IN COURT.  
9 AND THAT'S TRUE EVEN UNDER MR. KUNEY'S THEORY.

10 SECONDLY, MR. KUNEY WENT TO SOUTHEAST GRADERS  
11 AND SAID, WELL, GEE, THEY COULD HAVE HAD LOWER PRICE MILK.  
12 MY POINT WITH SOUTHEAST GRADERS, JUST SO IT DOESN'T GET  
13 LOST, WAS THAT THE POWER AND CONTROL OF DFA IN THIS  
14 MARKET. THEY CONTROLLED NDH. THEY CONTROLLED WHAT ONE  
15 CAN DO AND WHAT, WHAT A PROCESSOR COULD DO AND WHAT A  
16 PROCESSOR COULDN'T DO, AND NO ONE COULD ACT INDEPENDENTLY.  
17 THAT WAS THE POINT OF THE SOUTHEAST GRADERS EXAMPLE.

18 NEXT, YOUR HONOR, THERE WAS A DISCUSSION OF  
19 THE, GEE, THERE ARE DIFFERENT TYPES OF FARMERS HERE.  
20 THERE'S THE DFA MEMBER, THERE'S THE DMS AND THERE'S THESE  
21 DEAN DIRECTS. THERE ARE ABOUT 3,500 DFA MEMBERS, THERE  
22 ARE ABOUT 800 DMS MEMBERS, PEOPLE WHO ARE INDEPENDENTS WHO  
23 SOLD THROUGH DMS. AT THE TIME OUR LAWSUIT WAS FILED,  
24 THERE WEREABOUT 46 DEAN DIRECTS, NOW THERE ARE ABOUT 160  
25 DEAN DIRECTS. EVERY SINGLE ONE OF THOSE FARMERS HAS BEEN

1 HURT BY ARTIFICIALLY LOW PRICES. IN FACT, SOME OF THE  
2 CLASS REPS WHO WERE DMS MEMBERS ARE NOW DEAN DIRECTS, THEY  
3 HAVE THE SAME COMPLAINT. MR. HARRISON, MR. ROBY, THEY'RE  
4 BOTH HERE. THEY FALL INTO THAT CATEGORY. THEY HAVE BEEN  
5 HURT IN ALL OF THE -- WHETHER THEY'RE DEAN DIRECTS,  
6 WHETHER THEY'RE DMS OR WHETHER THEY'RE DFA MEMBERS.

7 THE NEXT ISSUE THAT WAS RAISED WAS, GEE, WHERE  
8 WILL THIS MONEY COME FROM IF WE WIN THIS CASE? WELL, THE  
9 CASES SAY -- WELL, THE CASES SAY A NUMBER OF THINGS. ONE,  
10 YOU GOT TO GET THERE FIRST, SO THIS TOO IS HYPOTHETICAL  
11 AND SPECULATIVE. BUT THE CASES ALSO SAY, GEE, THIS IS AN  
12 ANTITRUST CASE. THERE IS JOINT AND SEVERAL LIABILITY; AND  
13 IF ONE DEFENDANT CAN SATISFY THE JUDGMENT, SO BE IT.

14 MR. DOBIE TALKS ABOUT SMA. I DON'T KNOW WHAT  
15 THE FINANCIAL MONEY SITUATION IS WITH SMA, BUT WHAT I DO  
16 KNOW IS THAT DEAN HAS BILLIONS OF DOLLARS; AND WHAT THE  
17 COURT HAS NOT BEEN TOLD DIRECTLY, I SUPPOSE, BUT DFA IS A  
18 NATIONAL CO-OP THAT HAD 11 BILLION WITH A "B", \$11 BILLION  
19 IN REVENUE LAST YEAR, ONE BILLION OF WHICH WAS FROM THE  
20 SOUTHEAST. NOW, WHO'S TO SAY THOSE OTHER ASSETS ARE NOT  
21 AVAILABLE TO PAY A JUDGMENT. IT'S JUST SPECULATIVE TO SAY  
22 THAT NOW, AND THE CASES RECOGNIZE JOINT AND SEVERAL  
23 LIABILITY.

24 I HEARD MR. KUNEY SAY ABOUT SUPPLEMENTAL MILK,  
25 SOMETHING ABOUT THE SOUTHWEST NOT BEING SIGNIFICANT. AND

1 I'M NOT QUITE SURE -- I FRANKLY DON'T UNDERSTAND THAT  
2 POINT; BUT NOW I AM GOING TO PUT UP TAB 8, THE  
3 SUPPLEMENTAL MILK AGREEMENT -- ALEX, WOULD YOU HIGHLIGHT  
4 THE, OR MAKE BIGGER THE FIRST PART. THANK YOU.

5 THIS AGREEMENT IS IN ADDITION TO THE  
6 SUPPLEMENTAL AGREEMENT BETWEEN SOUTHERN MARKETING, HEREBY  
7 CALLED BUYER, AND GREATER SOUTHWEST AGENCY, HEREBY CALLED  
8 SELLER, WHICH BEGAN JANUARY 1 AND ENDS DECEMBER 31, FOR  
9 86,400,000 POUNDS A MONTH. NOW, THIS AGREEMENT WE'RE  
10 LOOKING AT IS IN ADDITION TO THAT, THAT'S OVER A BILLION  
11 POUNDS OF MILK A MONTH COMING FROM THE SOUTHWEST.

12 AND SINCE WE'RE HERE, I'LL JUST DIRECT YOUR  
13 HONOR TO PARAGRAPH 3, WHICH IS THE POINT I MADE EARLIER, I  
14 WON'T SAY IT OUT LOUD.

15 AND IF YOU WOULD, TURN TO THE NEXT PAGE, ALEX,  
16 AND HIGHLIGHT THE SIGNATURES. THE SIGNATURES, OKAY.

17 WE HAVE JOHN COLLINS SIGNING THIS FOR THE  
18 SOUTHEAST COUNSEL, WE HAVE DAVID JONES SIGNING IT FOR THE  
19 SOUTHWEST COUNSEL. OH, AND WE ALSO HAVE MARYLAND &  
20 VIRGINIA SIGNING IT BY JAY BRYANT; AND RANCE MILES FOR THE  
21 SELECT MILK PRODUCERS GREATER SOUTHWEST AGENCY. SO I'M  
22 NOT QUITE SURE WHAT POINT HE WAS MAKING, BUT TO SAY THAT  
23 THE SOUTHWEST FARMERS ARE SORT OF MINIMAL IN THIS, WHICH  
24 IS HOW I HEARD IT, IS -- I DON'T GET IT.

25 I HEARD, AND MR. BROOKHISER COMMENTED ON THE