

COMMONWEALTH OF PENNSYLVANIA  
MILK BOARD

COMMONWEALTH OF PENNSYLVANIA, :  
MILK BOARD :  
 :  
v. : LEGAL DOCKET NOS CL-23-011  
 : CL-23-012  
SHEPPER'S MILK HAULING :  
LICENSE NO. 10004299, :  
Defendant :

ORDER

I. FINDINGS OF FACT

1. On March 6, 2024, the Pennsylvania Milk Board (Board) held a hearing to consider evidence and testimony to determine whether cause existed to suspend or revoke Defendant's milk hauler's license.
2. On December 13, 2023, Board Staff issued citation CL-23-011 to Defendant, alleging that Defendant violated section 552 of the Pennsylvania Milk Marketing Law (31 P.S. sec. 700j-552) and section 150.53(b) of the Board Regulations (7 Pa. Code sec. 150.53(b)) by failing to timely file its Milk Hauler Monthly reports for July, August, September, and October 2023.
3. On January 17, 2024, Board Staff issued citation CL-23-012 to Defendant, alleging that Defendant violated section 552 of the Pennsylvania Milk Marketing Law (31 P.S. sec. 700j-552) and section 150.53(b) of the Board Regulations (7 Pa. Code sec. 150.53(b)) by failing to timely file its Milk Hauler Monthly report for November 2023.
4. James Shetter appeared at the hearing. Mr. Shetter is Defendant's owner. Mr. Shetter acknowledged that the reports had been filed late. He attributed the late filing to being a one-man operation.
5. Steven Zalman testified on behalf of Board Staff. Mr. Zalman is the Board's Enforcement Director. Mr. Zalman testified between 2017 and 2023 Defendant had filed 9 of 78 monthly reports on time. He also testified that Defendant had filed no monthly reports on time in 2023.
6. Mr. Zalman testified that the July, August, September, and October 2023 reports were filed on February 5, 2024. He also testified that Staff was aware of the late reports and offered Mr. Shetter the opportunity in October and November 2023 to file those reports prior to the filing of citation CL-23-011.

7. Mr. Zalman recommended that Defendant's license be suspended for two days for each late report that was a subject of this hearing, or a total of 10 days.
8. The Board finds that Defendant failed to timely file its Milk Hauler Monthly reports for July, August, September, October, and November 2023.
9. The Board finds that sufficient credible evidence was provided to allow the Board to conclude that Defendant's milk hauler license should be revoked for failing to timely file its July, August, September, October, and November Milk Hauler Monthly reports.
10. The Board finds that sufficient credible evidence was provided to allow the Board to conclude that Defendant's milk hauler license should be suspended for failing to timely file its July, August, September, October, and November Milk Hauler Monthly reports.

## II. CONCLUSIONS OF LAW

1. Defendant received at least five days' notice of the hearing held on March 6, 2024.
2. Defendant violated section 552 of the Pennsylvania Milk Marketing Law (31 P.S. sec. 700j-552) and section 150.53(b) of the Board Regulations (7 Pa. Code sec. 150.53(b)) by failing to timely file its Milk Hauler Monthly reports for July, August, September, October, and November 2023.
3. The evidence presented to the Board was sufficient to conclude that Defendant's milk hauler license should be revoked. However, the Board concludes that it is not in the best interests of the Pennsylvania dairy industry to revoke Defendant's milk hauler license.
4. The evidence presented to the Board was sufficient to conclude that Defendant's milk hauler license should be suspended. The Board concludes that a 10 day suspension of Defendant's milk hauler license is appropriate based on the record.

III. ORDER

AND NOW, to wit, this 1<sup>st</sup> day of May 2024, it is hereby ORDERED, ADJUDGED, AND DECREED, as follows:

Defendant's milk hauler license 10004299 shall be suspended for 10 days commencing on July 1, 2024.

Pursuant to §404.1 of the Milk Marketing Law, act of April 28, 1937, P.L. 417 as amended (31 P.S. §700j-404.1) the Board will accept an offer in compromise at the rate of \$150.00 for each day of suspension as a penalty in lieu of such suspension, and thereupon rescind the suspension. The penalty in lieu of suspension shall be \$1,500.00.

Defendant shall notify the Board on or before June 5, 2024, whether it will pay the penalty in lieu of suspension. The penalty in lieu of suspension shall be received by the Board on or before June 14, 2024.

A certified copy of this Order shall be served upon Defendant, according to Law, and the original Order shall be filed in the office of the Pennsylvania Milk Marketing Board, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110.

PENNSYLVANIA MILK BOARD

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Robert N. Barley, Chairman

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James A. Van Blarcom, Member

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Kristi Kassimer Harper, Consumer Member

Date: May 1, 2024