

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-85-396

STATE OF MAINE, by and)
through JAMES E. TIERNEY,)
Attorney General, and)
BARBARA S. GOTTSCHALK,)
Commission of Agriculture,)
Food and Rural Resources,)

Defendants)

v.)

PHILIP COLWELL of Berwick,)
County of York, State of)
Maine,)

Defendant)

SUMMARY JUDGMENT ORDER

This action came on for hearing on the motion of the Plaintiff, State of Maine, for default judgment, pursuant to Rule 55(b)(2) of the Maine Rules of Civil Procedure. Defendant Philip Colwell has been duly served with the Summons and Complaint and is not an infant, incompetent person or person in the military service of the United States, as defined by Article I of the "Soldiers' and Sailors' Relief Act of 1940" as amended. Venue is properly laid in Kennebec County. The Plaintiff has filed the Supporting Affidavits required by Rule 56 of the Maine Rules of Civil Procedure.

The State attempted to serve this motion by mailing it to the Defendant. However, it was returned by the United States Post Office with the notation: "MOVED - LEFT NO ADDRESS."

Therefore, it is ORDERED, ADJUDGED and DECREED that:

1. The Defendant represented to his customers that he would deliver and sell more firewood than he actually delivered and sold.

2. The Defendant failed to provide customers with the required delivery ticket when he delivered their firewood.

3. The Defendant's acts and practices as described in paragraphs 1 and 2 of this Order constitute unfair and deceptive acts or practices in the conduct of a trade or commerce, in violation of 5 M.R.S.A. § 207 (1979) and are also violations of the Maine Weights and Measures Law, 10 M.R.S.A. § 2624 (1980).

4. The Defendant, his affiliates, agents, servants, employees, attorneys, assigns and those persons in active concert or participation with him are permanently enjoined from:

A. representing that he delivered more firewood than the consumer actually received;

B. selling and delivering firewood without issuing a legally sufficient delivery ticket;

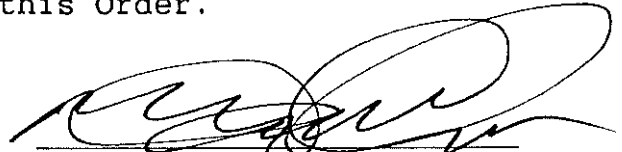
C. committing other unfair or deceptive trade practices in violation of 5 M.R.S.A. § 207 in the course of his firewood business.

5. The Defendant shall pay a total of \$1,⁴⁰¹~~500~~.25 in restitution to the State for distribution in accordance with Attachment A.

6. The Defendant shall pay to the State cost of this suit in the amount of \$136.63.

7. This Court shall retain jurisdiction on this matter for purposes of enforcement of this Order.

Dated: 8/6/86



JUSTICE, SUPERIOR COURT

ATTACHMENT A

<u>Name</u>	<u>Restitution</u>
1. John Barry 170 Littleworth Road Dover, New Hampshire 03820 (603) 742-7535	\$147.00
2. David L. Brooks Hurd Manor North Berwick, Maine 03906	\$186.00
3. David L. Burpee 47 Cottage Street Sanford, Maine 04073	\$170.00
4. Carl J. Chabot RFD 2, Box 167A Pine Hill Road Berwick, Maine 03901	\$300.00
5. Gary Hansen RFD 1, Box 200 Logging Road Cape Neddick, Maine 03902	\$159.00
6. Curtis C. Knight 3 High Knoll Drive South Berwick, Maine 03908	\$ 56.00
7. Gregory D. Konney 8 High Knoll Drive South Berwick, Maine 03908	\$ 60.00
8. Charles Osborne Box 181 Horace Mill Road Sanford, Maine 04073	\$117.00
9. Beverly Rider RR 3, Box 755 Wells, Maine 04090	\$106.25
10. Rose Ann Thibodeau RFD 1, Box 323 North Berwick, Maine 03906	\$200.00

TOTAL RESTITUTION: \$1,401.25