

# NEWS RELEASE

2-27-84



**James E. Tierney**  
Attorney General

State of Maine  
Department of the Attorney General  
Augusta, Maine 04333

**For Release:** Wed., Feb. 29, 1984

**Contact:** Hyman M. Gulak  
Asst. Attorney General  
Consumer & Antitrust Div.  
State House Station 6  
Augusta, Maine 04333  
207/289-3661

Attorney General James E. Tierney announced today that the Kennebec County Superior Court has approved a settlement of a lawsuit against George E. Harris, a retail firewood seller in central Maine. The lawsuit, filed by both the Attorney General and the Commissioner of Agriculture, charged Mr. Harris with violating the Maine Unfair Trade Practices Act and the Maine Weights and Measures Law.

The specific illegal acts alleged in the State's complaint are that Mr. Harris misrepresented the amount of firewood that he delivered to customers and that he failed to provide his customers with the legally required delivery ticket. Mr. Harris has denied the State's allegations.

Attorney General Tierney commented that "because many Maine citizens rely on firewood as a primary source of heat, I view the practice of selling 'short' cords, particularly when these sales are not accompanied by the required delivery receipt, to be especially serious. This Consent Decree will help assure that purchasers of firewood receive a full cord as defined by State law and a delivery receipt which describes their purchase."

Under the terms of the Consent Decree, approved by Superior Court Justice Donald E. Alexander, Mr. Harris is enjoined from misrepresenting the

# NEWS RELEASE

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STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-

STATE OF MAINE, by and )  
through JAMES E. TIERNEY, )  
Attorney General, )  
and STEWART N. SMITH, )  
Commissioner of Agriculture, )

Plaintiffs, )

v. )

GEORGE E. HARRIS, of )  
City of Auburn, County of )  
Androscoggin, State of Maine, )  
of Lincoln, State of Maine, )

Defendant )

COMPLAINT  
(INJUNCTIVE RELIEF REQUESTED)

INTRODUCTION

1. This is an action under the Unfair Trade Practices Act, 5 M.R.S.A. §§ 206-214 (1979 & Supp. 1982) and the Maine Weights and Measures Law, 10 M.R.S.A. §§ 2301-2755 (1980 & Supp. 1982) to preliminarily and permanently enjoin Defendant from engaging in unfair and deceptive trade practices in the delivery and sale of firewood and to obtain restitution for persons injured as a result of Defendant's practices.

PARTIES AND JURISDICTION

2. Plaintiff STATE OF MAINE, a sovereign state, by and through the Attorney General, commences this action under 5 M.R.S.A. §§ 206-214 (1979 & Supp. 1982), commonly known as the Unfair Trade Practices Act, to protect the public by preventing and restraining Defendant from engaging in unfair and deceptive practices.

3. Plaintiff COMMISSIONER OF AGRICULTURE, ex-officio State Sealer of Weights and Measures, commences this action under 10 M.R.S.A. §§ 2301-2755 (1980 & Supp. 1982), commonly known as the Maine Weights and Measures Law.

4. Defendant, GEORGE E. HARRIS, is a sole proprietor who conducts a retail firewood business from his residence in Auburn, Maine.

5. This Court has jurisdiction over this action pursuant to 5 M.R.S.A. §§ 206-214 (1979 & Supp. 1982), 4 M.R.S.A. § 105 (Supp. 1982), and 10 M.R.S.A. § 2752 (1980).

STATUTORY BACKGROUND

6. Pursuant to 5 M.R.S.A. § 207 (1979), it is a violation of the Maine Unfair Trade Practices Act to engage in unfair or deceptive acts or practices in the conduct of any trade or commerce in the State of Maine.

7. Pursuant to 10 M.R.S.A. § 2621 (1980), it is a violation of the Maine Weights and Measures Law to sell, offer or expose for sale less than the quantity of wood represented.

8. 10 M.R.S.A. § 2302(1)(A) (1980 & Supp. 1982) defines a cord of wood as a unit

4 feet wide, 4 feet high and 8 feet long, or its equivalent, containing 128 cubic feet when the wood is ranked and well stowed. Any voids that will accomodate a stick, log or bolt of average dimensions to those in that pile shall be deducted from the measured volume.

9. Pursuant to 10 M.R.S.A. § 2624 (1980), it is a violation of the Maine Weights and Measures Law to sell and deliver firewood, when the sale is in excess of \$20, without providing the customer with a delivery ticket containing:

- A. The name and address of the vendor and purchaser;
- B. The date delivered;
- C. The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity; and
- D. The identity and amount of the different woods delivered.

#### FACTS

10. Defendant owns and operates a retail firewood business in the State of Maine.

11. Defendant, beginning in early 1981 and continuing at least through late 1983, advertised firewood for sale in the Lewiston Daily Sun and the Lewiston Evening Journal at a specified price per cord.

12. Defendant, through these advertisements, represented to customers that for the price specified, he would deliver wood by the cord, as defined by 10 M.R.S.A. § 2302(1)(A) (1980 & Supp. 1982). In fact, Defendant delivered less than the amount specified by statute.

13. On a number of occasions, the Defendant sold, delivered, and accepted payment for firewood when the quantity of firewood he delivered, as measured by weights and measures inspectors of the Maine Department of Agriculture, was significantly less than the quantity for which the customer ordered and paid.

14. On each of the occasions referred to in the preceding paragraph, Defendant represented to customers that he was delivering more firewood than he actually delivered.

15. On several occasions, Defendant sold, delivered, and accepted payment in excess of \$20.00 for firewood without providing the purchaser with the required delivery ticket.

16. Defendant's sales practices, as described in paragraphs 10 through 15, have resulted in financial loss to consumers.

17. Defendant's sales practices, as set forth in this Complaint, will continue unless enjoined by the Court.

FIRST CAUSE OF ACTION

(Misrepresentation in the Delivery of Firewood in Violation of the Unfair Trade Practices Act and Maine's Weights and Measures Law)

18. Plaintiffs reallege and incorporate herein by reference to paragraphs 1 through 17.

19. Defendant, by having represented to his customers that he had delivered and sold more firewood than he had actually delivered and sold engaged in unfair and deceptive trade practices.

20. Defendant's conduct as described in paragraphs 18 and 19 constitutes an unfair and deceptive trade practice in violation of 5 M.R.S.A. § 207 (1979 & Supp. 1982) and a violation of Maine's Weights and Measures Law 10 M.R.S.A. § 2621 (1980).

SECOND CAUSE OF ACTION

(Failure to Provide Delivery Ticket in Violation of the Maine Unfair Trade Practices Act and Maine's Weights and Measures Law)

21. Plaintiffs reallege and incorporate herein by reference to paragraphs 1 through 17.

22. Defendant's conduct in failing to provide customers with the required delivery ticket when he delivered their firewood constitutes an unfair and deceptive trade practice in violation of 5 M.R.S.A. § 207 (1979 & Supp. 1982) and a violation of Maine's Weights and Measures Law 10 M.R.S.A. § 2624 (1980).

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that the Defendant has violated 10 M.R.S.A. § 2621 (1980) by misrepresenting to his customers the amount of firewood they actually received.

2. Declare that the Defendant has violated 10 M.R.S.A. § 2624 (1980) by failing to provide his firewood customers with legally required delivery tickets.

3. Declare that the violations described above in paragraphs 1 and 2 are also unfair and deceptive practices in violation of 5 M.R.S.A. § 207 (1979).

4. Issue a Preliminary and Permanent Injunction pursuant to 5 M.R.S.A. § 209 (Supp. 1982) and 10 M.R.S.A. § 2753 (1980) enjoining the Defendant, his agents, employees, assigns, or other persons acting for the Defendant or under his control from:

A. Representing that he delivered more firewood than he actually delivered.

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

6. Order the Defendant to provide appropriate restitution to the customers injured by the Defendant's above unfair and deceptive trade practices.

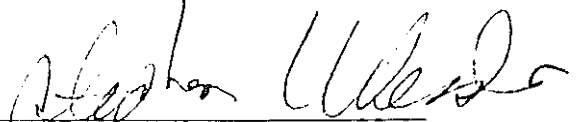
7. Order the Defendant to pay the costs of this suit and of the investigation of the Defendant by the Attorney General.

8. Grant such other relief as the Court deems just and equitable.

Dated: 2/24/84

Respectfully submitted,

JAMES E. TIERNEY  
Attorney General



STEPHEN L. WESSLER  
Assistant Attorney General



HYMAN M. GULAK  
Assistant Attorney General  
Consumer and Antitrust Division  
State House Station 6  
Augusta, Maine 04333  
(207)289-3717



STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. ~~83-591~~  
CV 84-87

STATE OF MAINE, )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 GEORGE E. HARRIS, of )  
 City of Auburn, County of )  
 Androscoggin, State of Maine )  
 )  
 )  
 )

CONSENT DECREE

Plaintiff, the STATE OF MAINE, has filed its Complaint in the above-captioned matter on February 24, 1984. Plaintiff by its respective authorized agent and Defendant have consented to the entry of this Consent Decree without trial or adjudication of any Issue of fact or law herein. This Decree does not constitute an admission by Defendants of any of the allegations in Plaintiff's Complaint.

NOW THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered and Decreed as follows:

1. This Court has jurisdiction of the subject matter of this action and has jurisdiction over the party consenting to this Decree. The Complaint states a claim on which relief may be granted against the

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PEARL VALENE PAGE

FEB 24 1984

CLERK OF COURTS  
KENNEBEC COUNTY

Defendant under 5 M.R.S.A. § 207 (1979), 10 M.R.S.A. § 2621 (1980) and 10 M.R.S.A. § 2624 (1980).

2. Defendant acknowledges that he received written notice of the intention of the Attorney General to commence an action under 5 M.R.S.A. §§ 206-214 (1979 & Supp. 1982) more than 10 days prior to the filing of the Complaint in this matter.
3. Defendant, his agents, employees, heirs, assigns or other persons acting for Defendant or under his control are permanently enjoined and restrained from:
  - A. Violating 5 M.R.S.A. § 207 (1979) and 10 M.R.S.A. § 2621 (1980) by representing that he delivered more firewood than he actually delivered;
  - B. Violating 5 M.R.S.A. § 207 (1979) and 10 M.R.S.A. § 2624 (1980) by failing to provide firewood customers with the statutorily required delivery ticket containing the following information:
    - (1) Name and address of purchaser;
    - (2) The date delivered;
    - (3) The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity; and
    - (4) The identity and amount of the different woods delivered.

4. Defendant shall maintain copies of all delivery tickets for a period of three years from the date of the wood delivery. Defendant, upon receipt of a written request from the Attorney General's Office, shall make these tickets available to the Office of the Attorney General during normal business hours within 7 days.
5. Defendant shall pay to the Plaintiff, on or before February 24, 1984, the sum of \$249.00 for restitution to be distributed to the complainants listed in Appendix A. Plaintiff shall account to this Court within 60 days of the entry of this Decree as to its distribution of said sum.
6. Pursuant to 5 M.R.S.A. § 209 (1979), Defendants shall pay the Department of the Attorney General the sum of \$500.00, which sum shall represent reimbursement of the cost of this suit and of the investigation of the Defendants made by the Attorney General. Defendant shall pay to the Plaintiff \$500 in two equal payments, the first \$250.00 due and payable on April 15, 1984, and the second \$250.00 due and payable on May 15, 1984.
7. Jurisdiction is retained by this Court for the purpose of enabling any of the parties of this Consent Decree to apply to this Court at any time for such further orders and directions as may be necessary or

appropriate for the construction or modification of any of the provisions of this Decree, for the enforcement of compliance with its provisions and for the punishment [pursuant to 5 M.R.S.A. § 209 (1979)] of any violations of such provisions, including, but not limited to, the provisions of the permanent injunction set forth in paragraph 3 above.

The undersigned, with knowledge of the terms of the above Consent Decree, agree to those terms and to the entry of the Decree.

Date: *February 15, 1984*

DEFENDANT:

FOR PLAINTIFF, STATE OF MAINE:

*George E. Harris*  
GEORGE E. HARRIS  
RFD #1, Pownal Road  
Auburn, Maine 04210

*Hyman M. Gulak*  
HYMAN M. GULAK  
Assistant Attorney General  
Consumer & Antitrust Division  
State House Station 6  
Augusta, Maine 04333

*2-24-84*

*leave approval. Judgment shall be entered in accordance with the above decree.*

*[Signature]*

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PEARL VALERIE PAGE

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KENNEBEC COUNTY

TRUE COPY  
ATTEST  
*Pearl Valerie Page*  
P. VALERIE PAGE  
CLERK OF COURTS

APPENDIX A

<u>Complainant</u>	<u>Amount of Money Owed</u>
Paul Goding 201 Derosey Ave. Auburn, Maine 04210	\$75.00
David & Martha Rice 116 Boulder Drive Auburn, Maine 04210	\$174.00