

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-82-501

STATE OF MAINE, et al.)
)
 Plaintiffs)
)
 V.)
)
ROBERT W. HALE and)
ROLAND W. HALE,)
individually and d/b/a)
HALE BROTHERS, INC.)
)
 Defendants)

CONSENT DECREE

1. Plaintiffs filed their Complaint on the Defendants, alleging that the Defendants had used the following unfair and deceptive trade practices in their business of selling firewood:

A. In violation of 10 M.R.S.A. § 2621, selling firewood and then misrepresenting to the purchasers the amount that the purchasers were actually receiving;

B. In violation of 10 M.R.S.A. § 2624, failing to provide its firewood customers with the statutorily required delivery ticket.

2. The Defendants do not admit to the State's allegations nor to any violation of Maine state law.

3. Plaintiffs and Defendants, through their respective attorneys, mutually have approved the terms of this Consent Decree and waive their right to a hearing.

4. THEREFORE, this Court finds that the Complaint states a cause of action and that it has jurisdiction in this matter, hereby permanently enjoins each Defendant, their agents, employees and assigns, persons acting in concert with them, such as independent contractors, and other persons acting under their control when selling firewood from:

A. Violating 10 M.R.S.A. § 2621 by selling less firewood than the quantity that has been represented that the customer will receive;

B. Violating 10 M.R.S.A. § 2624 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.

5. Further, this Court orders the Defendants to provide \$2,000 restitution to its customers whose wood has been measured by the State's Office of Weights and Measures.

6. The Court retains jurisdiction over the subject matter of this action and its parties for the purpose of applying to

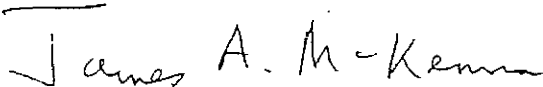
this Court at any time for any further orders or directions which may be appropriate. Violation of this Consent Decree by the Defendants shall be considered a violation of an injunction issued under 5 M.R.S.A. § 209 of the Maine Unfair Trade Practices Act and the Defendants are subject to the penalties described therein.

Dated at ^{Orono}~~Augusta~~, Maine this 14th day of June, 1983

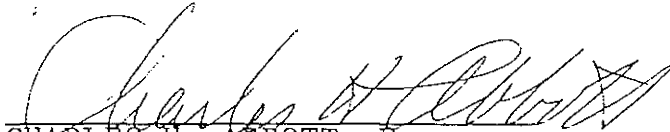


Justice
Superior Court

SEEN AND AGREED TO BY:



JAMES A. MCKENNA
Assistant Attorney General
Counsel for Plaintiffs



CHARLES H. ABBOTT, Esq.
Counsel for Defendants

STATE OF MAINE
Kennebec, ss

SUPERIOR COURT
Civil Action
Docket No. CV-82-501

STATE OF MAINE,
et al.

Plaintiffs

v.

ROBERT W. HALE
and ROLAND W. HALE,
individually and d/b/a
HALE BROTHERS, INC.

Defendants

PRELIMINARY INJUNCTION

1. This matter was first heard on the Plaintiffs' Complaint and Verified Motion, with supporting affidavits, seeking a temporary restraining order pending hearing on Plaintiffs' complaint seeking an injunction prohibiting the Defendants from misrepresenting to consumer purchasers the amount of firewood actually delivered, and ordering Defendants to give consumer purchasers delivery tickets as required by law.

2. On October 18, 1982, a temporary restraining order against the Defendants was issued prohibiting any violations of 10 M.R.S.A. §2621 and 10 M.R.S.A. §2624. A testimonial hearing was held on November 19, 1982 and December 22, 1982, and additional affidavits were submitted and considered.

3. The Court finds that Plaintiffs have shown there is a likelihood that they will succeed upon the merits, and that although the Plaintiffs in this case are not required to do so, they have shown that immediate and irreparable injury, loss and damage will continue to result to the consumers of this state before the State's request for a permanent injunction can be heard in that:

- A. Firewood is a necessary means of heating during the winter months for many consumers in Maine and therefore necessary for their health and welfare.
- B. Because this year's heating season has begun, this is the time of year that consumers are greatly concerned about the adequacy of their home heating firewood supplies, and therefore particularly susceptible to unfair or deceptive practices by sellers of firewood.
- C. Failure of a firewood seller to deliver the amount paid for and misrepresentation of the amount delivered can result in consumers being deprived of sufficient fuel to heat themselves during the remainder of this winter, thereby endangering their health and welfare.
- D. Consumers lack expertise in the measurement of firewood

or in the determination of its quality, and they must therefore rely on the accuracy of the wood seller's measurements and choice of woods.

E. Wood delivered now is often needed for the present heating season and consumers are at a significant disadvantage in attempting to challenge any suspected failure by the wood seller to comply with its contract.

4. The Court further finds that in a hearing on the merits, Plaintiffs are likely to succeed in establishing that Defendants have engaged in a pattern of conduct in which consumers have received short measure of firewood from the Defendants in violation of 10 M.R.S.A. §2621.

5. The Court concludes that more harm will result to Plaintiffs if an injunction is not issued than to Defendants if one is issued, and that rather than disserve the public interest, the issuance of an injunction will clearly serve it.

6. Defendants consent to an injunction requiring them to comply with the provisions of 10 M.R.S.A. §2624 for providing delivery tickets.

7. Accordingly, on Plaintiffs' Verified Motion it is ORDERED

that the corporate defendant, its officers, directors, agents, servants, employees, and attorneys and all persons in active concert or participation with it, and the individual defendants, their agents, servants, employees and all persons in active concert or participation with them, are all hereby preliminarily enjoined from engaging in the following unfair or deceptive sales practices:

- A. In violation of 10 M.R.S.A. §2621, delivering to a consumer purchaser less firewood than was agreed upon and then misrepresenting the actual amount of firewood delivered; and
- B. In violation of 10 M.R.S.A. §2624, failing to provide firewood customers with delivery tickets as required by law.

8. This preliminary injunction is ordered without bond as required to be posted by Rule 65(c) of the Maine Rules of Court owing to the fact that the Plaintiff is an officer of the State of Maine and is acting in his official capacity to protect Maine citizens from unfair trade practices.

1 30 P.M.

Issued at Orono this 17th day of January, 1983.

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

Louis Scalvick
Justice, Superior Court

83'

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-82-501

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

Plaintiffs

V.

ROBERT W. HALE AND ROLAND
W. HALE, PERSONALLY AND
d/b/a HALE BROTHERS, INC.,

Defendants

AFFIDAVIT

I, Donald R. Burnell, Inspector with Weights and Measures,
State Department of Agriculture, being duly sworn, depose and say
upon personal knowledge, information and belief:

1. Since the October 18, 1982 Temporary Restraining Order
against Robert W. Hale, Sr.'s firewood sale practices, I have
inspected the quantity of three additional consumer firewood sales
by Robert W. Hale.

2. These firewood deliveries were made to the consumers on
August 2, 1982, October 7, 1982, and October 18, 1982.

3. In each case, the consumer had complained to Weights and
Measures that the Defendant had delivered less firewood than had been
agreed upon by the consumer and the Defendant.

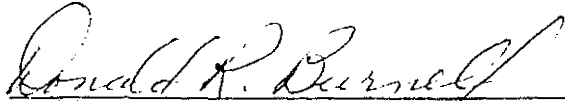
4. In each case, my measurement indicated that the Defendant
had delivered significantly less firewood than the consumer claimed

to have purchased.

5. In each case, delivery tickets required by 10 M.R.S.A. § 2624 were not given by the Defendant to the consumer.


6. The results of these three inspections are attached and incorporated herein.

Dated: 11/16/82


DONALD R. BURNELL
Inspector
Bureau of Weights and Measures
Maine Department of Agriculture

Personally appeared the above-named Donald R. Burnell
and made oath to the truth of the foregoing.

Dated: 11/16/82


NOTARY PUBLIC

MY COMMISSION EXPIRES
AUGUST 29, 1987.

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV82-501

STATE OF MAINE, et al.,)
)
Plaintiffs)
)
v.)
)
ROBERT W. HALE and ROLAND)
W. HALE, personally and)
d/b/a HALE BROTHERS, INC.,)
)
Defendants)

TEMPORARY RESTRAINING ORDER

1. This matter came to be heard on the Plaintiff's Complaint and Verified Motion, with supporting Affidavit, seeking a Restraining Order pending herein in determination of the Plaintiff's prayer for Preliminary and Permanent Injunction prohibiting the Defendant from misrepresenting to consumer purchasers the amount of firewood actually delivered, and failing to give consumer purchasers the legally required delivery ticket.

2. It appears to the Court that immediate and irreparable injury, loss and damage will result to the consumers of this State before the adverse party or his attorney can be heard in opposition in that:

A. Firewood is a necessary means of heating during the winter months for many consumers in Maine and therefore necessary for their health and welfare.

- B. Because this year's heating season has begun this is the time of year that consumers are greatly concerned about the adequacy of their home heating firewood supplies, and therefore particularly susceptible to unfair or deceptive practices by firewood sellers.
- C. Consumers are now ordering firewood in amounts they have calculated sufficient to meet their heating needs for this season.
- D. Failure of the firewood seller to deliver the for amount paid for and misrepresentation of the amount delivered can result in consumers being deprived of sufficient fuel to heat themselves this winter, thereby endangering their health and welfare.
- E. As the heating season progresses and weather conditions worsen it will be increasingly difficult or impossible for consumers to supplement their firewood supplies with proper seasoned firewood or firewood at all, seasoned or not.

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F. Consumers lack expertise in the measurement of firewood or determination of its quality and therefore must rely on the accuracy of the wood seller's measurements and choice of woods.

G. Wood delivered now is often needed for the present heating season and consumers are at a significant disadvantage in attempting to challenge any suspected failure by the wood seller to comply with its contract.

3. Therefore, on Plaintiffs' Motion it is ordered that the Defendants and their officers, directors, agents, servants, employees, and attorneys and all persons in active concert or participation with it, are hereby restrained from committing the following unfair or deceptive sales practices:

A. In violation of 10 M.R.S.A. § 2621, delivering to a consumer purchaser less firewood than was contracted for and then misrepresenting the actual amount of firewood delivered; and

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B. In violation of 10 M.R.S.A. § 2624,
failing to provide its firewood customers
with the legally required delivery tickets.

4. It is further ordered that the Plaintiff's prayer for
Preliminary Injunction be set down for hearing before this
Court at the ~~Kennebec~~^{Androscoggin} County Courthouse on *November 10, 1982*
at *1:30 P.M.*

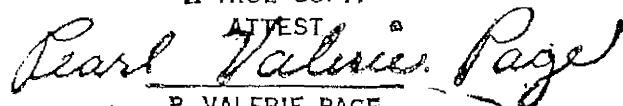
This Temporary Restraint is ordered without bond as
required to be posted by Rule 65(c) of the Maine Rules of Court
due to the fact that the Plaintiff is an officer of the State
of Maine and is acting in his official capacity to protect
Maine citizens from unfair trade practices.

Issued at *1:27* o'clock, this *18th* ^{*P.M.*} day of *October,* 1982.


JUSTICE, SUPERIOR COURT

▲ TRUE COPY:

ATTEST



P. VALERIE PAGE
CLERK OF COURTS

NEWS RELEASE

10-18-82



James E. Tierney
Attorney General

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

Date: October 18, 1982
Contact: James A. McKenna
289-3717

EMERGENCY COURT ORDER AGAINST FIREWOOD SELLERS

Attorney General James E. Tierney announced this afternoon that Kennebec Superior Court Justice Louis Scolnik has just granted the State's request for an emergency order prohibiting Robert W. Hale of Windham, Maine and Roland W. Hale of Bridgton, Maine, from misrepresenting the amount of firewood they deliver to their customers. Between them, the Hale ^{bro}thers deliver a large percentage of the firewood sold in Southern Maine.

"My ^{Consumer} and Antitrust Division noticed several firewood complaints had been received against the Hale ^{bro}thers," said Tierney. "We investigated further and found that in 15 instances the State Bureau of Weights and Measures had concluded that the Hale ^{bro}thers were delivering significantly less firewood than their customers were paying for. This is the peak of the firewood season and we concluded an emergency injunction was necessary.

Judge Scolnik's order also prohibits Hale ^{bro}thers from failing to give their customers the legally required sale receipts. Under Maine law, all firewood dealers must provide their customers with a receipt that provides information on the quantity of wood delivered, its price, and the type of wood delivered.

NEWS RELEASE

"The sales receipt is a very important requirement," said Assistant Attorney General James A. McKenna. "It provides consumers with a firm basis for challenging improper firewood deliveries."

The Attorney General's next step will be to seek a permanent injunction against unfair trade practices by the Hales and money back for their customers who received less wood than they paid for.

If any consumers would like a brief guide on how to measure a delivery of firewood, they should send a self-addressed stamped envelope to the Consumer and Antitrust Division of the Attorney General, State House Station 6, Augusta, Maine 04333.

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NEWS RELEASE



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

James E. Tierney
Attorney General

For Release: Immediate (10/15/87)

Contact: James A. McKenna
207/289-3661

Attorney General James E. Tierney announced today that a southern Maine firewood dealer has been ordered to pay a \$2,000 civil penalty and reimburse three consumers who received less firewood than they paid for. In a decision released today, Superior Court Justice Morton A. Brody found that Robert W. Hale had violated a 1983 Consent Decree which prohibited him from delivering short cords to his firewood customers and failing to provide them with the detailed delivery slip required by Maine law. In addition to the \$2,000 penalty, Mr. Hale was ordered to provide restitution totaling \$215 to three Portland area consumers and pay the costs of the State's investigation.

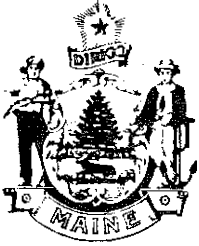
The Attorney General's Consumer and Antitrust Division urged that when consumers purchase firewood they demand a detailed delivery slip. Maine law requires firewood dealers to leave a delivery slip that lists not only the amount of wood being delivered but also the kinds of wood being delivered (e.g., soft wood, hard wood, junk wood).

The Attorney General's Office also recommended that if consumers feel they have received less firewood than they paid for, they should call the State's office of Weights and Measures at 289-3841. An inspector can come and measure the amount of wood delivered.

NEWS RELEASE

7-2-83

NEWS RELEASE



James E. Tierney
Attorney General

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

For Release: July 2, 1983

Contact: JAMES McKENNA
Assistant Attorney General
Consumer & Antitrust Div.
State House Station 6
Augusta, Maine 04333
(207)289-3717

Attorney General James E. Tierney announced today that his Consumer and Antitrust Division has reached a court approved settlement of a suit against Roland and Robert Hale, two large firewood sellers in Southern Maine.

In the settlement approved by Superior Court Justice Louis Scolnick, the Hale brothers agree to pay a total of \$2,000 in restitution to 22 customers who had complained they had received less firewood than they had paid for. The Attorney General stated that restitution would be limited to those customers who had had their wood measured by the State's Office of Weights and Measures. In addition, the defendants were enjoined by the Court from selling "short cords". The defendants denied the State's charges and admitted to no wrongdoing.

Attorney General Tierney stated that: "Complaints about the sale of short cords are both serious and frequent. If the firewood you buy in July turns out to be short measure, then you can be faced with an emergency in February when heat is a necessity. Our office will continue to aggressively pursue wood dealers who repeatedly sell less firewood than the consumers have ordered."

NEWS RELEASE

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The Attorney General warned consumers who are purchasing firewood this summer to be wary of buying it in 8 foot lengths. "What appears to be a traditional cord in 8 foot lengths," cautioned Tierney, "might turn out to be considerably less than that when all the gaps and air spaces are subtracted." Tierney emphasized that it is much easier for consumers and sellers alike to stack and measure firewood that is cut in 4 foot or smaller lengths.

The settlement was preceded by a contested hearing before Justice Scolnik and the granting last January of a Preliminary Injunction against the defendants' sale practices.

If any consumer would like advice on how to measure a delivery of firewood, they should contact the State Office of Weights and Measure, Station 28, State House, Augusta, Maine 04333.

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-82-501

STATE OF MAINE,

Plaintiff

vs.

ORDER

ROBERT W. HALE and
ROLAND W. HALE, individually
and d/b/a HALE BROTHERS,
INC.,

Defendants

This matter is before the Court on the Plaintiff's State of Maine motion for an order compelling the defendants to forfeit and pay to the State a civil penalty, cost of suit and investigation, and consumer restitution.

This Order is sought pursuant to 5 M.R.S.A. § 209 (Supp. 1986-87) for the violation of the terms of the injunction issued by this Court pursuant to the Unfair Trade Practices Act, 5 M.R.S.A. §§ 206-213 (1979 & Supp. 1983-84). This injunction is contained in the Consent Decree entered into by the Defendants and approved by this Court on June 14, 1983. After a testimonial hearing on this matter, the Court makes the following findings:

1. The Defendant Robert W. Hale was duly notified of the Plaintiff's Motion for Civil Penalty and of the date and time for the hearing on this motion.

2. On June 14, 1983, this Court entered a Consent Decree permanently enjoining Defendant Robert W. Hale from:

A. Violating 10 M.R.S.A. § 2621 by selling less firewood than the quantity that has been represented that the customer will receive;

B. Violating 10 M.R.S.A. § 2624 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 price is based, if this differs from the delivered quantity; and
- (4) the entity and amount of the different woods delivered.

3. Defendant Robert W. Hale in at least four separate sales of firewood delivered less usable firewood than was promised and failed to provide the consumer buyer with the statutorily required delivery ticket, all in violation of the June 14, 1983 Consent Decree.

4. Providing wood which was not suitable for burning is not significantly different from providing a lesser quantity of wood than was agreed upon.

5. The evidence regarding the measurement of the wood persuades the Court that the amount of wood actually delivered was somewhat more than that alleged and thus the damage to the consumer was somewhat less than that alleged.

6. The Court finds as a matter of fact that the wood received by the consumers in question was not consumed or given away prior to the measurement by the State.

7. The June 14, 1983 Consent Decree specifically stated: "Violation of this Consent Decree by the Defendants shall be considered a violation of an injunction issued under 5 M.R.S.A. § 209 of the Maine Unfair Trade Practices Act and the Defendants are subject to the penalties described therein." Section 209 authorizes a civil penalty of up to \$10,000 for each violation.

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The Motion of the Plaintiff, State of Maine, is hereby granted.

2. The Defendant Robert W. Hale shall forfeit a civil penalty of \$2,000 for his multiple violations of the Consent Decree, to be paid to the Plaintiff, State of Maine, under 5 M.R.S.A. § 209 (Supp. 1986-87). The penalty shall be paid in monthly payments of \$200. Payments shall be made to the Department of the Attorney General with the first payment due on November 15, 1987, and subsequent payments due on the fifteenth day of each following month.


3. Within thirty (30) days of the date of this Order, the

Defendants shall pay restitution, with interest, to the consumers listed below in the following amounts:

- A. Harrison T. Williams, 6 Oak Drive, Cape Elizabeth, Maine: \$40.00;
- B. Joanne Hesslein, 36 Seavey's Landing Road, Scarborough, Maine: \$100.00; and
- C. Robert True, 246 Orchard Hill Road, Cumberland, Maine: \$75.00.

4. Within thirty (30) days of the date of this Order the Defendants shall pay the Plaintiff, State of Maine, \$150 for the costs of its investigation and suit.

Dated: October 9, 1987


MORTON A. BRODY
CHIEF JUSTICE, MAINE SUPERIOR COURT

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-82-501

STATE OF MAINE, et al.)
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A. In violation of 10 M.R.S.A. § 2621, selling firewood and then misrepresenting to the purchasers the amount that the purchasers were actually receiving;

B. In violation of 10 M.R.S.A. § 2624, failing to provide its firewood customers with the statutorily required delivery ticket.

2. The Defendants do not admit to the State's allegations nor to any violation of Maine state law.

3. Plaintiffs and Defendants, through their respective attorneys, mutually have approved the terms of this Consent Decree and waive their right to a hearing.

4. THEREFORE, this Court finds that the Complaint states a cause of action and that it has jurisdiction in this matter, hereby permanently enjoins each Defendant, their agents, employees and assigns, persons acting in concert with them, such as independent contractors, and other persons acting under their control when selling firewood from:

A. Violating 10 M.R.S.A. § 2621 by selling less firewood than the quantity that has been represented that the customer will receive;

B. Violating 10 M.R.S.A. § 2624 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.

5. Further, this Court orders the Defendants to provide \$2,000 restitution to its customers whose wood has been measured by the State's Office of Weights and Measures.

6. The Court retains jurisdiction over the subject matter of this action and its parties for the purpose of applying to

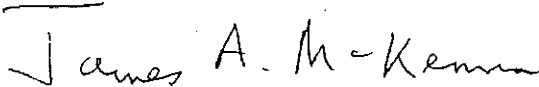
this Court at any time for any further orders or directions which may be appropriate. Violation of this Consent Decree by the Defendants shall be considered a violation of an injunction issued under 5 M.R.S.A. § 209 of the Maine Unfair Trade Practices Act and the Defendants are subject to the penalties described therein.

Dated at ^{Orono}~~Augusta~~, Maine this 14th day of June, 1983

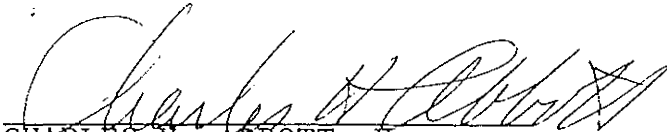


Justice
Superior Court

SEEN AND AGREED TO BY:



JAMES A. MCKENNA
Assistant Attorney General
Counsel for Plaintiffs



CHARLES H. ABBOTT, Esq.
Counsel for Defendants

STATE OF MAINE
Kennebec, ss

SUPERIOR COURT
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and ROLAND W. HALE,
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PRELIMINARY INJUNCTION

1. This matter was first heard on the Plaintiffs' Complaint and Verified Motion, with supporting affidavits, seeking a temporary restraining order pending hearing on Plaintiffs' complaint seeking an injunction prohibiting the Defendants from misrepresenting to consumer purchasers the amount of firewood actually delivered, and ordering Defendants to give consumer purchasers delivery tickets as required by law.

2. On October 18, 1982, a temporary restraining order against the Defendants was issued prohibiting any violations of 10 M.R.S.A. §2621 and 10 M.R.S.A. §2624. A testimonial hearing was held on November 19, 1982 and December 22, 1982, and additional affidavits were submitted and considered.

3. The Court finds that Plaintiffs have shown there is a likelihood that they will succeed upon the merits, and that although the Plaintiffs in this case are not required to do so, they have shown that immediate and irreparable injury, loss and damage will continue to result to the consumers of this state before the State's request for a permanent injunction can be heard in that:

- A. Firewood is a necessary means of heating during the winter months for many consumers in Maine and therefore necessary for their health and welfare.
- B. Because this year's heating season has begun, this is the time of year that consumers are greatly concerned about the adequacy of their home heating firewood supplies, and therefore particularly susceptible to unfair or deceptive practices by sellers of firewood.
- C. Failure of a firewood seller to deliver the amount paid for and misrepresentation of the amount delivered can result in consumers being deprived of sufficient fuel to heat themselves during the remainder of this winter, thereby endangering their health and welfare.
- D. Consumers lack expertise in the measurement of firewood

or in the determination of its quality, and they must therefore rely on the accuracy of the wood seller's measurements and choice of woods.

E. Wood delivered now is often needed for the present heating season and consumers are at a significant disadvantage in attempting to challenge any suspected failure by the wood seller to comply with its contract.

4. The Court further finds that in a hearing on the merits, Plaintiffs are likely to succeed in establishing that Defendants have engaged in a pattern of conduct in which consumers have received short measure of firewood from the Defendants in violation of 10 M.R.S.A. §2621.

5. The Court concludes that more harm will result to Plaintiffs if an injunction is not issued than to Defendants if one is issued, and that rather than disserve the public interest, the issuance of an injunction will clearly serve it.

6. Defendants consent to an injunction requiring them to comply with the provisions of 10 M.R.S.A. §2624 for providing delivery tickets.

7. Accordingly, on Plaintiffs' Verified Motion it is ORDERED

that the corporate defendant, its officers, directors, agents, servants, employees, and attorneys and all persons in active concert or participation with it, and the individual defendants, their agents, servants, employees and all persons in active concert or participation with them, are all hereby preliminarily enjoined from engaging in the following unfair or deceptive sales practices:

- A. In violation of 10 M.R.S.A. §2621, delivering to a consumer purchaser less firewood than was agreed upon and then misrepresenting the actual amount of firewood delivered; and
- B. In violation of 10 M.R.S.A. §2624, failing to provide firewood customers with delivery tickets as required by law.

8. This preliminary injunction is ordered without bond as required to be posted by Rule 65(c) of the Maine Rules of Court owing to the fact that the Plaintiff is an officer of the State of Maine and is acting in his official capacity to protect Maine citizens from unfair trade practices.

1 30 P.M.

Issued at Orono this 17th day of January, 1983.

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

Louis Fealich
Justice, Superior Court

93'

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
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DOCKET NO. CV-82-501

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

Plaintiffs)

V.)

ROBERT W. HALE AND ROLAND)
W. HALE, PERSONALLY AND)
d/b/a HALE BROTHERS, INC.,)

Defendants)

AFFIDAVIT

I, Donald R. Burnell, Inspector with Weights and Measures, State Department of Agriculture, being duly sworn, depose and say upon personal knowledge, information and belief:

1. Since the October 18, 1982 Temporary Restraining Order against Robert W. Hale, Sr.'s firewood sale practices, I have inspected the quantity of three additional consumer firewood sales by Robert W. Hale.

2. These firewood deliveries were made to the consumers on August 2, 1982, October 7, 1982, and October 18, 1982.

3. In each case, the consumer had complained to Weights and Measures that the Defendant had delivered less firewood than had been agreed upon by the consumer and the Defendant.

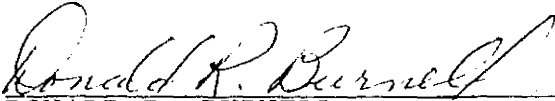
4. In each case, my measurement indicated that the Defendant had delivered significantly less firewood than the consumer claimed

to have purchased.

5. In each case, delivery tickets required by 10 M.R.S.A. § 2624 were not given by the Defendant to the consumer.


6. The results of these three inspections are attached and incorporated herein.

Dated: 11/16/82


DONALD R. BURNELL
Inspector
Bureau of Weights and Measures
Maine Department of Agriculture

Personally appeared the above-named Donald R. Burnell
and made oath to the truth of the foregoing.

Dated: 11/16/82


NOTARY PUBLIC

MY COMMISSION EXPIRES
AUGUST 29, 1987

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV82-501

STATE OF MAINE, et al.,)
)
Plaintiffs)
)
v.)
)
ROBERT W. HALE and ROLAND)
W. HALE, personally and)
d/b/a HALE BROTHERS, INC.,)
)
Defendants)

TEMPORARY RESTRAINING ORDER

1. This matter came to be heard on the Plaintiff's Complaint and Verified Motion, with supporting Affidavit, seeking a Restraining Order pending herein in determination of the Plaintiff's prayer for Preliminary and Permanent Injunction prohibiting the Defendant from misrepresenting to consumer purchasers the amount of firewood actually delivered, and failing to give consumer purchasers the legally required delivery ticket.

2. It appears to the Court that immediate and irreparable injury, loss and damage will result to the consumers of this State before the adverse party or his attorney can be heard in opposition in that:

A. Firewood is a necessary means of heating during the winter months for many consumers in Maine and therefore necessary for their health and welfare.

- B. Because this year's heating season has begun this is the time of year that consumers are greatly concerned about the adequacy of their home heating firewood supplies, and therefore particularly susceptible to unfair or deceptive practices by firewood sellers.
- C. Consumers are now ordering firewood in amounts they have calculated sufficient to meet their heating needs for this season.
- D. Failure of the firewood seller to deliver the for amount paid for and misrepresentation of the amount delivered can result in consumers being deprived of sufficient fuel to heat themselves this winter, thereby endangering their health and welfare.
- E. As the heating season progresses and weather conditions worsen it will be increasingly difficult or impossible for consumers to supplement their firewood supplies with proper seasoned firewood or firewood at all, seasoned or not.

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F. Consumers lack expertise in the measurement of firewood or determination of its quality and therefore must rely on the accuracy of the wood seller's measurements and choice of woods.

G. Wood delivered now is often needed for the present heating season and consumers are at a significant disadvantage in attempting to challenge any suspected failure by the wood seller to comply with its contract.

3. Therefore, on Plaintiffs' Motion it is ordered that the Defendants and their officers, directors, agents, servants, employees, and attorneys and all persons in active concert or participation with it, are hereby restrained from committing the following unfair or deceptive sales practices:

A. In violation of 10 M.R.S.A. § 2621, delivering to a consumer purchaser less firewood than was contracted for and then misrepresenting the actual amount of firewood delivered; and

RECORDED AND FILED

NOV 14 1992

CLERK OF SUPERIOR COURT

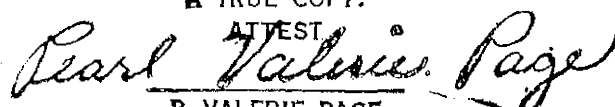
B. In violation of 10 M.R.S.A. § 2624,
failing to provide its firewood customers
with the legally required delivery tickets.

4. It is further ordered that the Plaintiff's prayer for
Preliminary Injunction be set down for hearing before this
Court at the ~~Kennebec~~^{Androscoggin} County Courthouse on *November 10, 1982*
at *1:30 P.M.*

This Temporary Restraint is ordered without bond as
required to be posted by Rule 65(c) of the Maine Rules of Court
due to the fact that the Plaintiff is an officer of the State
of Maine and is acting in his official capacity to protect
Maine citizens from unfair trade practices.

Issued at *1:27* o'clock, this ^{*P.M.*}*18th* day of ^{*October,*}*1982*.


JUSTICE, SUPERIOR COURT

▲ TRUE COPY:
ATTEST

P. VALERIE PAGE
CLERK OF COURT

NEWS RELEASE

10-18-82



James E. Tierney
Attorney General

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

Date: October 18, 1982
Contact: James A. McKenna
289-3717

EMERGENCY COURT ORDER AGAINST FIREWOOD SELLERS

Attorney General James E. Tierney announced this afternoon that Kennebec Superior Court Justice Louis Scolnik has just granted the State's request for an emergency order prohibiting Robert W. Hale of Windham, Maine and Roland W. Hale of Bridgton, Maine, from misrepresenting the amount of firewood they deliver to their customers. Between them, the Hale [✓]Brothers deliver a large percentage of the firewood sold in Southern Maine.

"My [✓]Consumer and Antitrust Division noticed several firewood complaints had been received against the Hale [✓]Brothers," said Tierney. "We investigated further and found that in 15 instances the State Bureau of Weights and Measures had concluded that the Hale [✓]Brothers were delivering significantly less firewood than their customers were paying for. This is the peak of the firewood season and we concluded an emergency injunction was necessary.

Judge Scolnik's order also prohibits Hale [✓]Brothers from failing to give their customers the legally required sale receipts. Under Maine law, all firewood dealers must provide their customers with a receipt that provides information on the quantity of wood delivered, its price, and the type of wood delivered.

NEWS RELEASE

"The sales receipt is a very important requirement," said Assistant Attorney General James A. McKenna. "It provides consumers with a firm basis for challenging improper firewood deliveries."

The Attorney General's next step will be to seek a permanent injunction against unfair trade practices by the Hales and money back for their customers who received less wood than they paid for.

If any consumers would like a brief guide on how to measure a delivery of firewood, they should send a self-addressed stamped envelope to the Consumer and Antitrust Division of the Attorney General, State House Station 6, Augusta, Maine 04333.

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