

# MAINE STATE LEGISLATURE

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Walter B. Steele, Jr., Executive  
Secretary  
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Maine Milk Commission  
Attorney General

**Legal Action Available to Maine Milk Commission Re Dealer's Alleged  
Alteration of Records**

**FACTS:**

Recently, an employee (auditor) of the Maine Milk Commission audited the records and accounts of a licensed Maine milk dealer. The examination revealed that the dealer had transported milk from an out-of-state source into Maine during March and April, 1965, and that the subject milk acquired a Class 1 utilization. Since the milk was designated as Class 1, it displaced a like volume of Class 1 sales creditable to local Maine producers, and had the effect of diluting the blended prices payable to those producers. When the Milk Commission auditor was apprised of these facts, he requested of the dealer that the latter offer corroborating evidence which would indicate that the volume of milk was in fact physically received in the dealer's Maine plants. (We are informed that the auditor was seeking independent information such as I.C.C. records regarding transportation, etc.) The dealer could offer no such independent proof. Employees of the Maine Milk Commission then enlisted the aid of the Excise Tax Division of the Maine Bureau of Taxation. The Excise Tax Division informed the Commission that its Use Fuel and Motor Carrier audit showed that the reference dealer made no trips from out-of-state sources into Maine during the subject period. Recently, the dealer submitted a new computation to the Commission stating that it is a corrected computation for that period which the Commission had challenged in its audit. The corrected computation admitted that the dealer owed his producers some \$3700. In his letter of computation, the dealer states he will pay the deficiencies as soon as he is able to do so.

**QUESTION:**

What legal action is available to the Maine Milk Commission regarding alleged falsification of the dealer's records and alleged failure of the dealer to timely pay his producers money admittedly due them?

**ANSWER:**

See REASON.

REASON:

Whenever it appears to the Maine Milk Commission that there has been a violation of either the provisions of the Maine Milk Commission Law, or the Commission's orders, rules or regulations, a proceeding may be instituted before the Administrative Hearing Commissioner pursuant to Title 5, Chapters 301 - 307, inclusive, 7 M.R.S.A. § 2955. Upon the presentation of proper evidence, the Commissioner may suspend or revoke the dealer's license. In the event that such license is suspended or revoked, the same shall not be reissued until the Maine Milk Commission determines, upon application and hearing, that the cause for such revocation or suspension no longer exists and that the dealer is otherwise qualified. 7 M.R.S.A. § 2955.

We are informed that the dealer has promised to make payment of monies to his producers for sums admittedly owing to them. If it can be shown by proper evidence that such payment was not made within the prescribed period set forth in the applicable statute, the same constitutes a violation of that provision of the Maine Milk Commission Law; and the dealer's license may be suspended or revoked for such violations. The case would likewise be presented to the Administrative Hearing Commissioner. 7 M.R.S.A. § 2954-A.

Continuing, if the Commission believes that the dealer is guilty of some crime, i.e., cheating by false pretenses, etc., it might well cause one of its agents to appear before the appropriate County Attorney concerning the prosecution of any such criminal offense.

Since the Commission has requested only to be advised regarding possible courses of action, it has not been necessary to make any statement herein regarding the competency of the Commission's evidence against the dealer.

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John W. Bancit  
Assistant Attorney General

JWB/eh