

1983 WL 181867 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 29, 1983

\*1 Charles A. Shaw  
Director  
South Carolina Dairy Commission  
1026 Sumter Street  
Columbia, SC 29201

Dear Mr. Shaw:

In a letter to this Office you questioned whether the State Dairy Commission is obligated to pay a particular claim presented to the Commission. The claim is for expenses incurred by Mr. Eugene Veal, a Vice-President of Pet, Inc.—Dairy Division, who appeared before the Commission in response to a subpoena issued by the Commission. Such subpoena was issued in connection with an investigation into suspected violations by Pet, a licensed milk distributor in this State, of certain Orders issued by the Commission.

It is my understanding that the referenced subpoena was issued pursuant to [Section 39-33-70, Code of Laws of South Carolina](#), 1976, as amended. Such section provides in part that:

‘[i]n addition to hearings required in § 39-33-60, the commission may hold hearings to investigate any matters affecting the state dairy industry. The commission shall have the authority under this section to issue subpoenas, take depositions of witnesses . . .

Upon review, I am unaware of any provision which would require the State Dairy Commission to pay the claim referenced above. [Section 39-33-70](#), *supra*, makes no provision for payment of any expenses incurred in responding to a subpoena issued pursuant to such provision. Furthermore, I am unaware of any other provision which would mandate such a payment.

Generally,

‘[t]he right of a witness to compensation is purely statutory, since at common law no witness fees were paid.’ 81 Am.Jur.2d Witnesses, Section 23, p. 47 (1976).

Therefore, in the absence of any provision requiring payment, it appears that the Commission would not be required to make such payment.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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