

OCTOBER 31, 1957

HON. FLOYD R. HOFFMAN, *Director*
Office of Milk Industry
 1 West State Street
 Trenton, New Jersey

MEMORANDUM OPINION—P-33

DEAR DIRECTOR:

We have been asked whether a division of a corporation may be licensed as a milk dealer.

N.J.S.A. 4:12A-28 requires a milk dealer to be licensed. N.J.S.A. 4:12A-1 defines a milk dealer as "any person who sells or distributes milk * * *". R.S. 1:1-2 defines "person" to include corporations but makes no reference to divisions of a corporation. The divisions of a corporation are not separate entities within the statutory definition of "person".

The Milk Control Act, N.J.S.A. 4:12A-33, requiring an application for a license, contemplates that the applicant may be "a firm or association", both within the statutory definition of "person". Again, divisions of a corporation are not specifically listed and are not within the category intended to be covered by the statute.

N.J.S.A. 4:12A-39 imposes a fine on any person who violates the act and N.J.S.A. 4:12A-41 provides for collection of this fine by judicial proceeding. The General Corporation Act gives a corporation the power to be sued only in its own name. N.J.S.A. 14:3-1(b); *Markey v. Robert Hall Clothes of Paterson, Inc.*, 27 N. J. Super. 417, 420 (Co. Ct. 1953). It does not give divisions the power to be sued. R.R. 4:4-4 provides no method for service of process on a division of a corporation. Therefore, ordinary sanctions could not be brought to bear against divisions of corporations as such.

We hereby advise that the definition of "person" contained in N.J.S.A. 1:1-2 is to be applied in the definition of "milk dealer" in N.J.S.A. 4:12A-1 and 28. Licenses as "milk dealers" may not be issued to divisions of corporations.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: WILLIAM L. BOYAN
Legal Assistant

NOVEMBER 7, 1957

SOMERSET COUNTY BOARD OF ELECTIONS
 Administrative Building
 Somerville, New Jersey

MEMORANDUM OPINION—P-34

GENTLEMEN:

You have sought our advice as to whether the Somerst County Board of Elections has the power to establish salaries paid to its employees. According to the informa-