

N.J.S.A. 55:16-19 provides that the provisions of law applicable to ordinary stock corporations shall, except in the case of conflict with the Limited-Dividend Housing Corporations Law, apply to corporations organized under the latter statute. N.J.S.A. 14:7-1 and 14:7-2 require that every corporation shall have at least three directors selected from its stockholders or from the stockholders of a corporation owning not less than 25% of its stock. The matter of directors not being dealt with in the Limited-Dividend Housing Corporations Law, this provision applies to corporations organized thereunder. Thus when a Title 14 corporation is the sole stockholder of a limited-dividend housing corporation, three directors of the latter corporation must be stockholders in the Title 14 corporation.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

By: DAVID M. SATZ, JR.  
*First Assistant Attorney General*

JUNE 20, 1961

HONORABLE FRANK A. VERGA  
*Deputy Attorney General*  
Chief, Bureau of Consumer Frauds  
1100 Raymond Boulevard  
Newark 2, New Jersey

FORMAL OPINION 1961—No. 10

DEAR MR. VERGA:

In your letter of May 4, 1961 you outlined a situation concerning which your office has received information and requested our advice. The situation is as follows:

Ice cream manufacturers often lend refrigeration equipment to retailers. These units have four to twelve wells or recesses wherein ten-gallon containers are placed. Ice cream is then scooped out of the open containers and placed on ice cream cones or hand packed in small cartons. The refrigeration unit bears the lending manufacturer's brand name. Some retailers are using these units to store and sell other brands of ice cream. Additionally, we are advised that retailers have used the borrowed units to store other frozen foods.

Such use other than to store ice cream of the brand name constitutes a violation of several statutes of this State. Ice cream manufacturers and dealers should be so advised.

Section 2 of the Laws of 1960, Chapter 39 (N.J.S.A. 56:8-2) states that:

"[t]he act, use or employment by any person of any . . . misrepresentation . . . in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice. . . ."

The customer who purchases ice cream which is scooped out of open ten-gallon containers located in the wells or recesses of the refrigeration unit, may see only the

brand or manufacturer's name affixed to the unit rather than any names which might appear on the ten-gallon containers. As a result, the customer may receive ice cream of a make or quality other than that which he believed he was buying. Under the circumstances misrepresentation undoubtedly is involved.

Chapter 355 of the Laws of 1933 (R.S. 56:3-14 to 34), also, is pertinent. Section 15 provides that:

"Any person . . . engaged in manufacturing . . . ice cream [or similar products] . . . or selling [ice cream] in . . . refrigerators . . . upon which his . . . name . . . or other marks [is] branded . . . may register his . . . name . . ."

and is thereafter

". . . deemed the proprietor of such name . . . and of every container upon which such name . . . may be branded." R.S. 56:3-15.

Where there has been a proper registration of the brand name in compliance with sections 16 through 19:

"No person . . . other than the owner or proprietor, of [the] name . . . shall fill or cause to be filled with [ice cream] . . . or shall . . . use . . . any [refrigerator] . . . nor shall . . . remove or conceal any such name . . . without the written consent of the owner." R.S. 56:3-20.

Absent written permission to store other ice cream, a violation would exist. Persons violating Section 20 are subject to prosecution under Section 21 which provides for fines of \$5.00 per unit or imprisonment for a period of not less than 10 days nor more than one year or both. On subsequent violations, the penalty is a fine of \$10.00 or imprisonment for not less than 20 days nor more than one year or both.

Very truly yours,

DAVID D. FURMAN  
*Attorney General*

JUNE 29, 1961

HONORABLE HAROLD J. ASHBY  
*Chairman, State Parole Board*  
State Office Building  
Trenton, New Jersey

FORMAL OPINION 1961—No. 11

DEAR MR. ASHBY:

You have requested our opinion as to whether R.S. 19:4-1 disenfranchises a person convicted of "carnal abuse" as distinguished from a conviction had for "rape."

A preliminary determination must be made that R.S. 19:4-1 operates to deprive persons convicted of certain enumerated offenses of the right of suffrage and to this extent works a forfeiture upon such persons. In *Marter v. Repp*, 80 N.J.L. 530, 532 (Supreme Ct. 1910); *aff.* 82 N.J.L. 531 (E. & A. 1911), it was said that