

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-02038F (OVER)  
2013-02156 (OVER)  
2013-03059

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

"TIED-HOUSE" LAWS AND  
SPONSORSHIP RIGHTS

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:

Joseph Levey, Esq. and Keven Danow, Esq. appeared

Item carried over to 8/13/2013 at 1:00 p.m.

The Members of the Authority at their regular meeting held at the Zone I New York City Office on AUGUST 13, 2013 determined:

Item carried over to 11/21/2013

The Members of the Authority at their regular meeting held at the Zone I New York City Office on NOVEMBER 21, 2013 determined:

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF JULY 31, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-02038G (OVER)  
2013-02157 (OVER)  
2013-03060

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

"TIED-HOUSE" LAWS ON  
NAMING AGREEMENT

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on JULY 31, 2013 determined:

Keven Danow, Esq. appeared

Item carried over to 8/13/2013 at 1:00 p.m.

The Members of the Authority at their regular meeting held at the Zone I New York City Office on AUGUST 13, 2013 determined:

Item carried over to 11/21/2013

The Members of the Authority at their regular meeting held at the Zone I New York City Office on NOVEMBER 21, 2013 determined:

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF NOVEMBER 6, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-02965A (OVER)  
2013-03104

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

2013-14 YEAR-END RETAILER INVENTORY  
REPLENISHMENT

(PROPOSED ADVISORY)

The Members of the Authority at their regular meeting held at the Zone I New York City Office on NOVEMBER 6, 2013 determined:

Keven Danow, Esq. appeared

Charles Linn, Esq. appeared in opposition

Item carried over to 11/21/2013

The Members of the Authority at their regular meeting held at the Zone I New York City Office on NOVEMBER 21, 2013 determined:

November, 4 2013

Hon. Dennis Rosen, Chairman  
New York State Liquor Authority  
317 Lenox Avenue  
New York, NY 10027

Re: Proposed Year End Retailer Inventory Replenishment Advisory

Dear Chairman Rosen,

First and foremost, I feel very strongly that last year's extension of credit to retailers during the year end sales worked exceptionally well. Without extended credit, retailer's ability to purchase the goods we need will be diminished and our profits during a busy time of year will suffer.

Seasonal sales reign during the months of December and January. As the two largest wholesalers in New York, Empire Merchants and Southern Wine and Spirits represent the key suppliers of seasonal products. For example, seasonal products such as Moet, Dom Perignon, Veuve Clicquot and Perrier Jouet (represented by Pernod Ricard) are the top champagne's sold nationally and in New York. Similarly, scotches and bourbons such as Johnnie Walker and Jim Beam are big ticket items during the holiday seasons and are sold by either Empire Merchants or Southern Wine and Spirits. The suppliers market these products by giving favorable pricing at this time of year. Smaller wholesalers do not offer competing products at similar prices.

Furthermore, 98 of the top 100 wine and spirit brands are carried by Empire Merchants or Southern Wine and Spirits and smaller wholesalers do not offer comparable goods. These wholesalers deliver statewide to every type of account, including bowling alleys, night clubs, diners, restaurants and A-B-C and D liquor store accounts. They take in seasonal products and stock hundreds of gift sets and gift boxes during the holiday season adding to the number of sku's sold during this time of year. For example, Disarrono can go from 6 sku's to 18 skus during this time of year because of the box and gift set offerings.

Without an extended credit period it will be impossible for the largest wholesalers to take in merchandise and make deliveries to all retailers correctly as retailers will be forced to place orders at the last minute and wholesalers may run out of stock. Larger wholesalers are better able to accommodate the need for goods during the holiday season by keeping additional warehouse space available and picking up products at the piers and RDC's of their suppliers. However, they are still susceptible to issues such as lack of stock and not enough time to complete deliveries if retailers are forced to place all their end of year orders at the last minute. This will result in a lost opportunity for retailers to make end of year sales.

Conversely, smaller wholesalers do not sell to every account or take in as much seasonal merchandise. They do not carry popular gift sets such as Kris Pinot Grigio or La Vielle Ferme Red gift boxes. In fact, the motto of most small wholesalers is that they choose not to be like the larger wholesaler. Most don't even list their products in Beverage Media.

The extension of credit during end of year sales is incredibly important for retailers. It will allow order's to be placed in a timely manner and will result in more retailers getting the goods they need to have a lucrative holiday season. Furthermore, retailers are not asking for extended credit lines to stretch out delivery days similar to what is done in July, end of year sales are special circumstances and the extension of credit is good for the state, retailer, wholesaler and consumers.

Thank you for the time and consideration.

Respectfully,

Michael Correra

CC: Hon. Jeanique Greene, Commissioner  
Ms. Jacqueline Held, Secretary  
Jacqueline Flug, Esq.,  
Paul Karamanol, Esq.

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To: Ms. Jacqueline Held, Secretary  
Hon. Dennis Rosen, Chairman  
Hon Jeanique Green, Commissioner  
Jacqueline Flug, Esq.  
Paul Karamanol, Esq.

From: The New York Alliance of Fine Wine Wholesalers

November 8, 2013

Re: Proposed Extension of Credit Terms on Sales from 12/16/13 to 12/31/13

This memo represents the unanimous views of the 20 licensed New York wine & spirit wholesalers listed to the left. We are vehemently opposed to the request entered on behalf of Empire Merchants to extend credit terms for deliveries made between Monday, December 16<sup>th</sup> through (and including) Tuesday, December 31<sup>st</sup> for the following reasons:

- 1) Our understanding was that last year this was proposed, in part, to assist those retail licensees still suffering from temporary closures related to Sandy and loss of cash flow. It was not our understanding that this was to be an annually reoccurring deviation from the established and stated laws regarding COD.
- 2) The extension of credit terms forces unnecessary financial hardships on the vast majority of wholesalers who are NOT multi-billion dollar entities and do not have cash flows big enough to support this.
- 3) Empire's suggestion to offer this as "optional" is counterintuitive. Those who did not opt into it would be at a severe competitive disadvantage and lose business in favor of those who opted in, and those who opted in to not be put at a competitive disadvantage would face the same financial hardships as we all did last year.
- 4) The smaller wholesalers do not have the staff to comply with this deviation from the law and still remain in NYSLA compliance as was evidenced last year when all of us found ourselves with literally hundreds of customers needing to be placed on COD at 6PM that final reporting day. It would force additional financial hardships for us to have to hire temporary help to stay in compliance, or put us in legal jeopardy, as it did last year, when several of us took as many as three business days to complete putting so many customers on COD for that one final reporting day.
- 5) The extension of credit does not protect retailers. On the contrary, as was evidenced last year, it resulted in an amount of customers ten times greater than normal for that time period being put on COD. Many of whom overbought to such a degree, that they were unable to be taken off of COD until well into the summer.
- 6) All of us sell champagne, and/or other holiday related alcoholic beverages, and we argue that our sales of these types of items, as well as our annual sales occurring over this two week period, is proportionally identical for each of our businesses as it is for Empire Merchants. None of us are asking for this change in standard operating procedure or feel that we cannot conduct our business and make our necessary deliveries within the letter of the existing statutes and laws.

- 7) The number of days between Christmas and New Year's remains the same every year. Unless Christmas happens to fall on a Saturday or Sunday, there are always four delivery days between them. Only once in the next eight years will there actually be an extra fifth delivery day. So, neither last year nor this year are outside the norm, and no wholesaler other than Empire is claiming that the normal four day delivery window does not allow sufficient time to make all of their deliveries and keep retailers in stock during this period.
- 8) Extending the credit terms during the last two weeks of the year exposes all wholesalers to greater risks of customers declaring bankruptcy. It is well known that typically businesses on the brink of bankruptcy will "buy in" at the end of the year. Under this scenario, it encourages them to do more so.
- 9) Empire's request states earlier in the memo that this is in order to make sure retailers do not go out of stock. However, later, it states that this is so that Retailers may benefit from lower December prices to restock for the New Year. We contend that Empire may raise their prices on January 1<sup>st</sup>, but this is NOT necessarily the business model the rest of us follow. Thus, this argument that they are making is self-serving and the change in the COD policy would actual serve to promote the sales of their products during this period over the sales to those who do not systematically raise prices on January 1<sup>st</sup>.

The Empire memo itself states our feelings regarding this matter best, "Usually, it is the smallest and those least able to handle the financial burden who will suffer the most." Yes, we will. Please do not consider this proposal. If every other wholesaler can operate efficiently and effectively within the existing parameters of the existing regulations, then please do not change them to accommodate the delivery issues and promote the business /pricing model of one to the detriment of the rest.

Thank You,

The New York Alliance of Fine Wine Wholesalers  
David Waldenberg, President  
Maxime Touton, Vice President  
James Leskody, Treasurer  
Constance Oehmler, Secretary

NEW YORK STATE LIQUOR AUTHORITY  
FULL BOARD AGENDA  
MEETING OF NOVEMBER 21, 2013  
REFERRED FROM: COUNSEL'S OFFICE

2013-03114D

REASON FOR REFERRAL  
REQUEST FOR DIRECTION

DANDAMUDI v. TISCH

The Members of the Authority at their regular meeting held at the Zone I New York City Office on NOVEMBER 21, 2013 determined: