

(Series 1976)  
Divisional Order #719  
October 12, 1976

STATE OF NEW YORK  
LIQUOR AUTHORITY

TO: ZONE OFFICES AND LOCAL BOARDS  
SUBJECT: REMOVAL FROM DELINQUENT LIST

At the meeting held on October 6, 1976, the Members of the Authority considered the request of a retail licensee to be removed from the Delinquent List. The licensee submitted an order of the United States District Court confirming the Plan of Arrangement which provided that all unsecured creditors shall be paid 50% in full settlement of their respective claims, payable in quarterly installments over a five-year period. The installment payments are evidenced by licensee's certificate of indebtedness, one to each creditor.

The question presented for determination was whether the licensee should remain on the Delinquent List until the installments specified in the Plan of Arrangement are paid in full.

The Members of the Authority ruled:

1. Plans of Arrangement (Chapter 11 proceeding)

A Plan of Arrangement, confirmed by court order, is binding on all creditors, including alcoholic beverage creditors, regardless of whether they consent thereto. The pre-existing obligations arising from the debtor-licensee's purchases of alcoholic beverages may thereby be reduced and replaced by the licensee's certificate of indebtedness, and payment of installments of the certificate of indebtedness required on specific dates. So long as the debtor-licensee complies with the order of the court and makes the required payments, it is not delinquent to its creditors nor has any listed wholesaler any cause for immediate action.

Where a Plan of Arrangement, confirmed by order of the court, allows a debtor-licensee to pay stated installments over a period of time, the issuance of such order justifies the removal of the debtor-licensee's name from the delinquent list. Court orders should not be accepted unless certified by the court clerk.

2. Bankruptcy Discharge

The Authority will recognize an order of a court of competent jurisdiction discharging a debtor-retailer from the payment of the obligations incurred in connection with the purchase of alcoholic beverages. Upon presentation to the Liquor Authority of a certified copy of such order of the Federal Court, the name of the debtor-retailer will be removed from the delinquent list if the manufacturers and wholesalers who caused his name to be placed on such list, were scheduled as creditors in the Bankruptcy Court. In the absence of a court order discharging such retailer from the payment of his debts, the Liquor Authority will not remove his name from the delinquent list, except upon full payment of his indebtedness to manufacturers and wholesalers.

3. Compromise of Retailer's Indebtedness

A manufacturer or wholesaler may not accept a lesser sum than the amount due from a retailer in full payment of such indebtedness except under a confirmed Plan of Arrangement. Such acceptance of a lesser amount constitutes a violation of the provisions of Section 101-1(c) of the law.

STATE LIQUOR AUTHORITY



Michael Roth  
Chairman