

STATE OF NEW YORK

LIQUOR AUTHORITY.

ALBANY

(Series 1938)
Bulletin # 27
February 18, 1938

TO: ZONE OFFICES AND LOCAL BOARDS

SUBJECT: SALE OF LIQUOR BY WIRE

In a decision rendered today, the Appellate Division, First Department, unanimously reversed the Order of the Supreme Court which directed the Authority to refrain from making, distributing or enforcing any rules or regulations restricting, limiting or interfering in any way with the business of and the services furnished by the corporation known as "Gifts By Wire, Inc." to any of its subscribers; or from taking any proceedings against any retail off-premises liquor and wine licensee because it is a subscriber of Gifts By Wire, Inc., or because the licensee uses the services furnished by it.

The plan of this corporation was to have retail off-premises liquor and wine licensees in this and other states subscribe as members to an organization so that orders for liquor or wine, taken on the premises of one member, could be delivered by any other member, whether such member was located within the state or outside the state. Both participating members and the office of the corporation shared in the proceeds of the particular sale.

Upon making inquiry of the Authority, this corporation and the individual licensees who were interested in the plan were advised that because of the sharing of the proceeds and other phases of the plan, it was the

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opinion of the Authority that the participation by licensees in such plan was contrary to and inconsistent with the provisions of the Law, and that such participation would not be authorized.

The corporation thereupon commenced a proceeding, attempting to enjoin the Authority from administering the provisions of the Law, and from instituting proceedings against any licensee who, in its opinion, was violating the Law by participating in this plan.

The Appellate Division, by upholding the Authority and reversing the Order of the Supreme Court, stated that the State Liquor Authority has jurisdiction under the Alcoholic Beverage Control Law to entertain proceedings against licensees, and that in a proper case when such step is taken, a licensee might seek relief by a certiorari proceeding to review the Authority's action, and that this corporation, Gifts By Wire, Inc., which is not a licensee, has no standing to maintain a proceeding enjoining action that might be taken against parties who are licensees.

This information is given to you so that licensees who inquire may be advised accordingly.

STATE LIQUOR AUTHORITY

By *Henry E. Bruckman*
HENRY E. BRUCKMAN,
Chairman