



Jonathan Mintz
Commissioner

Staff Counsel

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April 7, 2010

RE: Going out Business Sale and Compliance with GBL

Dear Mr. [REDACTED]

I write in reply to your request for a letter of interpretation regarding two issues. Your first question asks whether your client will be in compliance with the New York State General Business Law ("GBL") regulations covering "going out of business sales" if the business attaches to its license application a list of items purchased in advance but not yet delivered to the store. Your second question is whether your client is in compliance with the GBL if it posts signs and advertisements noting that only specific departments within the store are involved in the "going out of business sale."

Regarding your first question, pursuant to Article 29-F § 595 of the GBL, "[t]his article shall apply only to any city, town or village having a population of less than one million." New York City has a population greater than one million; therefore Article 29-F does not apply to "going out of business sales."

However, your client **must** comply with the laws and rules of the New York City Department of Consumer Affairs ("the Department"). Section 20-309 of the New York City Administrative Code ("the Code") authorizes the Department to license and regulate "going out of business sales." Pursuant to Section 20-310 (b) (5)-(6) of the Code, an application for a "going out of business sale" license should include "an itemized list of the goods, wares and merchandise to be offered for sale" and "where and from whom such stock was purchased or acquired; and, if not purchased, the manner of such acquisition." The law does not mandate having possession of the goods at the time of the application. Accordingly, the goods your client purchased in advance and includes on the list attached to the license application will meet the Department's requirements provided that the list includes the required information about the source of the goods.

With respect to your second question, pursuant to Title 6 of the Rules of the City of New York ("the Rules") Section 2-151 (b), "[n]o licensee shall advertise by display or otherwise any merchandise he does not intend to sell at prices set forth in said advertisements." Your letter represents that two departments within the store will not be involved in the sale and that the operation of these departments is segregated



from the portion of the store conducting the “going out of business sale.” Your letter also indicates that that the two departments not involved with the sale will be specifically noted in advertisements and within the store. Your client’s proposal complies with section 2-151(b) of the Rules.

Sincerely,

A solid black rectangular box redacting the signature of the Staff Counsel.

Staff Counsel