

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

_____)	
In the Matter of:)	
)	
ASMA, Inc.,)	License Number: 13080
t/a Mama Ilardo Pizzeria)	Case Number: 09-CC-00250
)	ORDER NUMBER: 2010-037
Holder of a Retailer's Class CR License)	
at premises)	
50 Massachusetts Avenue N.E.)	
Washington, D.C. 20002)	
_____)	

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

On July 13, 2009, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated July 1, 2009, on ASMA, Inc. t/a Mama Ilardo Pizzeria (Respondent), at premises 50 Massachusetts, N.E., Washington, D.C. 20002. The Show Cause Hearing in this matter was held on November 18, 2009.

On January 6, 2010, the Board found that the Respondent violated D.C. Code § 25-781(a)(1) and ordered the Respondent to pay a fine in the amount of \$1,500.00, payable no later than thirty (30) days from the date of the Order. Additionally, the Board ordered that the Respondent's license be suspended for a total of five days; one day of the suspension to be served on January 15, 2010 and four days to be stayed for one year, provided that the Respondent does not commit any violations.

On February 4, 2010, the Respondent filed a Motion for Reconsideration asking the Board to reconsider the \$1,500.00 fine. The Respondent argued that the cashier asked the minor for identification. Specifically, the Respondent points out that the Investigative Report indicates that the cashier asked the minor for identification, but Supervisory Investigator Jermaine Matthews testified that the cashier did not ask the minor for identification.

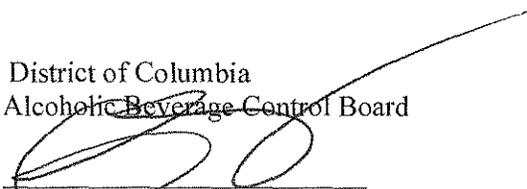
As indicated in Board Order 2010-002, the Board finds that the Government proved that the Respondent violated D.C. Code § 25-781(a)(1) by serving alcohol to minors. The Board credited the testimony of ABRA Supervisory Investigator Jermaine Matthews who observed the Respondent's cashier sell two beers to the Under Cover Minors without requesting to see their identification or ascertaining that they were of legal age. Additionally, the Board relied on

Investigator Matthews' testimony that the cashier stated to him that she did not request to see the Under Cover Minors' identification. Although the Respondent disagreed with Supervisory Investigator Matthew's testimony regarding whether the cashier checked the identification, the Respondent did admit that the cashier made a mistake by not ascertaining the Under Cover Minor's true ages.

ORDER

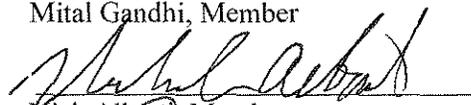
Upon consideration of the Respondent's Motion for Reconsideration and the entire record of this case, the Board, on this 24th day of February, 2010, hereby **DENIES** the Respondent's Motion for Reconsideration.

District of Columbia
Alcoholic Beverage Control Board



Charles Brodsky, Chairperson

Mital Gandhi, Member



Nick Albert, Member



Donald Brooks, Member

Herman Jones, Member

Pursuant to Section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001) and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington D.C. 20001.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (April 2004) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b).