



New York State
Department of Economic Development
Division of Minority and Women's
Business Development

In the matter of the appeal of

A. Ottavino Corp.

FINAL ORDER 19-20

From a denial of certification as a Women-owned Business Enterprise pursuant to Executive Law Article 15-A.

This order arises from an administrative appeal brought on behalf of A. Ottavino Corp. ("Ottavino Corp.") pursuant to section 144.2 of title 5 of the New York Codes, Rules and Regulations. Appellant seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated November 15, 2017, to deny Ottavino Corp. certification as a Woman-owned Business Enterprise ("WBE").

Appellant initiated this appeal and requested a hearing on December 14, 2017. On February 5, 2019, the Division acknowledged Appellant's request and subsequently scheduled a hearing for May 8, 2019 for this matter to be heard. The hearing occurred as scheduled before Administrative Law Judge Maria E. Villa. Appellant was represented by Thomas Rossi, Esq. of Rossi, Crowley, Sancimino & Kilgallon, LLP. Ms. Kate Ottavino and Mr. Mohamed Elkordy testified on behalf of Appellant. Simon Wynn, Esq., represented the Division and Mr. Raymond Emanuel, Director of Certification Operations for the Division, testified on behalf of the Division. The hearing concluded on that date and after receipt of the recording of the hearing as well as the submission of the parties' post-hearing briefs on July 5, 2019, the record closed.

The issues on appeal were whether Ottavino Corp. sufficiently demonstrated that Mss. Kate and Margaret Ottavino and Ms. Sallie Elkordy, the woman owners relied upon for certification, share in the risks and profits in proportion to their ownership interests in the business enterprise, as required by 5 NYCRR § 144.2(c)(2); whether the corporate bylaws and other governing documents of the business permit the women owners to make decisions without restrictions, as required by 5 NYCRR § 144.2(b)(2); and whether the women owners demonstrate control of negotiations through the production of relevant documents as required by 5 NYCRR § 144.2(b)(3).

On September 24, 2019, the Division received a Recommended Order from Administrative Law Judge Villa that recommended affirmation of the Division's denial of the application to certify Ottavino Corp. as a WBE on the ground set forth in the Division's November 15, 2017 denial letter.

After considering the appeal record, I accept the recommendation of the Administrative Law Judge as it pertains to the facts of this case. Incorporation by reference is hereby made with respect to the findings and conclusions of the Recommended Order.

It is hereby **ORDERED** that the decision to deny certification, dated November 15, 2017, is affirmed. Accordingly, A. Ottavino Corp. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

October 7, 2019



Valerie White
Executive Director
Division of Minority and Women's Business
Development