



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

---

In the matter of the appeal of

**S.C. Spencer Electric, Inc.**

FINAL ORDER 22-04

From a denial of re-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 S.C. Spencer Electric, Inc. ("SC Spencer" or "Appellant") pursuant to parts 140-145 of title 5 of the New York Codes, Rules and Regulations.<sup>1</sup> Appellant seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated March 29, 2017, to deny SC Spencer re-certification as a Woman-owned Business Enterprise ("WBE").

Appellant issued a request to appeal via written submission to the Division, dated April 13, 2017, and thereafter filed its written appeal submission, dated July 28, 2017. Counsel for the Division, Bella Satra, Esq., filed a written response to the submission and an accompanying affidavit by Certification Director, Raymond Emanuel, dated December 19, 2020. Administrative Law Judge ("ALJ") Molly T. McBride presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that (1) the woman owner relied upon for certification owns at least 51% of the business enterprise, as required by 5 NYCRR § 144.2(a)(5); (2) that the contribution of the woman owner is proportionate to her equity interest in the business enterprise, as demonstrated by, but not limited to, contributions of money, property, equipment or expertise, as required by 5 NYCRR § 144.2(a)(1); (3) that the woman owner shares in the risks and profits in proportion with her ownership interest in the business enterprise, as required by 5 NYCRR § 144.2(c)(2); (4) that the woman owner makes decisions

---

<sup>1</sup> The Division's March 29, 2017 denial determination and Appellant's April 13, 2017 appeal pre-date the December 2, 2020 amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under the former regulations are referenced throughout this final order.

pertaining to the operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1); (5) that the woman owner demonstrates adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR § 144.2(b)(1)(i); and (6) that documents governing the business enterprise (such as corporate by-laws) permit the woman owner to make decisions without restrictions, as required by 5 NYCRR § 144.2(b)(2).

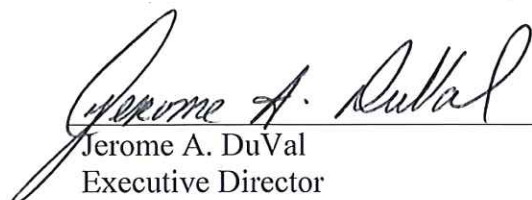
The Division received a Recommended Order from Administrative Law Judge Molly T. McBride, dated July 29, 2021, that recommended striking one of the denial grounds under 5 NYCRR 144.2(b)(1)(i) as a basis for denial and, as modified, affirming on the remaining grounds. Specifically, the ALJ stated in the order that, unlike Jolene Chrzanowski's experience, Scott Chrzanowski's training and experience did not demonstrate an ability to perform the core functions of the business.

After considering the appeal record, I decline to accept the recommendation to strike the operation ground under 5 NYCRR 144.2(b)(1)(i) as a basis for denial because the Appellant did not sufficiently demonstrate that Jolene Chrzanowski, the woman owner relied upon for certification, had adequate managerial experience or technical competence to operate the business enterprise. The Division determined that Scott Chrzanowski, the male owner not relied upon for certification, did demonstrate the training and credentials related to the core revenue generating functions of the business (i.e., electrical work) that Jolene Chrzanowski did not. Mr. Chrzanowski not only demonstrated trainings and certifications relevant to providing electrical contracting services but had experience estimating and supervising others in the field while Ms. Chrzanowski, although active in the business administratively, had not demonstrated such training, credentialing or other technical experience. Ms. Chrzanowski, as the owner relied upon for certification, depends on Mr. Chrzanowski and other workers who are not relied upon for certification to have the requisite expertise and experience to control the firm's field operations and essentially manage the firm's business. As such, I do not accept the ALJ's recommendation to strike this operation ground for denial.

Notwithstanding the foregoing, I do accept the ALJ's recommendation to affirm the denial determination on the basis that the Appellant failed to demonstrate that the denial grounds, with respect to 5 NYCRR 144.2(a)(1), (a)(5), (b)(1), (b)(2), and (c)(2), were supported by substantial evidence. Incorporation by reference is hereby made with respect to the findings and conclusions of the Recommended Order concerning 5 NYCRR 144.2(a)(1), (a)(5), (b)(1), (b)(2), and (c)(2).

It is hereby **ORDERED** that the decision to deny re-certification, dated March 29, 2017, is affirmed. Accordingly, S.C. Spencer Electric, Inc. will no longer be listed in the Division's directory for Minority and Women-owned Business Enterprises.

March 31, 2022

  
\_\_\_\_\_  
Jerome A. DuVal  
Executive Director  
Division of Minority and Women's Business Development