



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

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In the matter of the appeal of

**Airflow Air Conditioning Refrigeration & Heating, Inc.**

FINAL ORDER 19-07

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

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This order arises from an administrative appeal brought on behalf of Airflow Air Conditioning Refrigeration & Heating, Inc. ("AACRH") 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 January 20, 2017, to deny AACRH certification as a Woman owned Business Enterprise ("WBE").

Appellant initiated this appeal on February 23, 2017 and opted to file such appeal in writing instead of a hearing. Appellant, *pro se*, filed such written appeal on July 28, 2017 and included Appeal Exhibits A-F.<sup>1</sup> Thomas Regan, Esq., represented the Division and filed a response on March 5, 2019 and included Exhibits 1-7. Upon receipt of appellant's submission, the Division's response, and all related attachments thereto, this matter was referred to Administrative Law Judge Helene Goldberger for review and drafting of a Recommended Order.

The issues on appeal were whether AACRH demonstrated that Ms. Candice Durkin made capital contributions in the form of money, property, equipment, or expertise, in proportion to her majority ownership interest in the business enterprise, as required by 5 NYCRR § 144.2(a)(1); whether Ms. Durkin makes decisions pertaining to the operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1); and whether she as the woman owner relied upon for

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<sup>1</sup> As noted in the Recommended Order, Appeal Exhibits A and B were not considered in the appeal because only documents that were submitted as part of the certification application, that were a part of the application at the time a denial determination was made, may be considered as part of the administrative appeal. Here, Ms. Durkin admitted that both Exhibits A and B were not included as part of the appellant's application submission to the Division of Minority and Women Business Development.

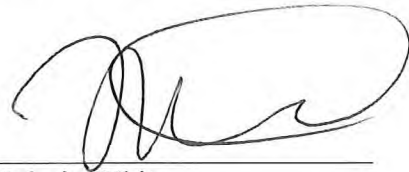
certification, demonstrated adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR § 144.2(b)(1)(i).

On March 26, 2019, the Division received a Recommended Order from Administrative Law Judge Goldberger, that recommended affirmation of the Division's denial of the application to certify AACRH as a WBE on the grounds set forth in the Division's January 20, 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 January 20, 2017, is affirmed. Accordingly, AACRH will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

April 15, 2019



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