



Division of Minority
and Women's
Business Development

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

In the matter of the appeal of

Battery Buyers, Inc.
d/b/a My Battery Recyclers

FINAL ORDER 18-43

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 Battery Buyers, Inc., d/b/a My Battery Recyclers ("Battery Buyers") 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 December 21, 2017, to deny Battery Buyers certification as a Women-owned Business Enterprise ("WBE").

Appellant initiated this appeal and requested a hearing on January 9, 2017. A hearing date was then set for September 11, 2018, for this matter to be heard. The hearing occurred as scheduled before Administrative Law Judge Molly T. McBride. Appellant appeared *pro se*, and Gretchen Robinson, Esq., represented the Division.

The issues on appeal were whether Battery Buyers demonstrated that Ms. Jessica Kessler, as the majority woman owner, made contributions in the form of money, property, equipment or expertise, proportionate to her equity interests in the business enterprise, as required by 5 NYCRR § 144.2(a)(1); whether she makes decisions pertaining to the operation of the business, as required by 5 NYCRR § 144.2(b)(1); and whether she devotes time on an ongoing basis to the daily operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1)(iii).

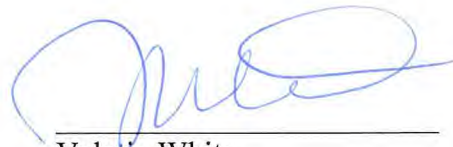
On August 24, 2018, the Division received a Recommended Order from Administrative Law Judge McBride that recommended vacatur of the Division's denial of the application to certify Battery Buyers as a WBE on the grounds set forth in the Division's December 21, 2017 denial

letter, and that the application be remanded to the Division staff for further review on the complete application.

After considering the appeal record, I hereby reject the recommendation of the Administrative Law Judge as it pertains to the facts of this case; and I hereby waive the two-year waiting period requirement after certification denial. As such, Battery Buyers may submit a new certification application to the Division. 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 December 21, 2017, is affirmed, and the two-year waiting period requirement is waived. Accordingly, Battery Buyers may submit a new certification application to the Division of Minority and Women's Business Development.

January 16, 2019



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