



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

---

In the matter of the appeal of

**Battery Research & Testing, Inc.**

FINAL ORDER 16-44

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 Research & Testing, Inc. ("BRT") pursuant to section 144.4 of title 5 of the New York Codes, Rules and Regulations. Appellant, Ms. Patricia DeMar, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated February 25, 2016, to deny BRT certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. Appellant submitted a written appeal on May 20, 2016. The Division, represented by Mr. Phillip Harmonick, Esq., submitted a response on July 22, 2016. The respective submissions of the parties are contained in the appeal record.


On September 8, 2016, the Division received from Administrative Law Judge Garlick a Recommended Order that affirmed, on modified grounds, the Division's determination to deny the application by Appellant to certify BRT as a WBE.

The issues on appeal were whether Appellant: made a capital contribution to BRT in proportion to her ownership interest in the business enterprise, shared in the risks and profits of the business in proportion to her ownership interest therein, made decisions pertaining to the operation of the business enterprise, and demonstrated adequate technical expertise to operate the business enterprise. Administrative Law Judge Garlick recommended that the Division's determination to deny BRT certification as a WBE be upheld on each of the denial grounds identified by the Division, except for the denial ground related to the allocation of the risks and profits of the business.

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; namely, that BRT does not meet the requirements for certification as set forth in Article 15-A of the Executive Law and the rules and regulations promulgated thereunder.

It is hereby **ORDERED** that the decision to deny certification, dated February 25, 2016, is affirmed. Accordingly, BRT will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

September 14, 2016



---

Lourdes Zapata  
Executive Director  
Division of Minority and Women's  
Business Development