



**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

Bore Tech, LLC

FINAL ORDER 21-05

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 by Bore Tech, LLC (“Bore Tech” or “Appellant”) pursuant to section title 5 of the New York Codes, Rules and Regulations.¹ Appellant seeks reversal of the decision of the Division of Minority and Women’s Business Development (the “Division”), dated September 13, 2018, to deny Bore Tech certification as a Woman-owned Business Enterprise (“WBE”).

By letter dated September 20, 2018, Appellant filed a notice of appeal and requested a hearing. The Division issued a notice of appeal hearing dated January 11, 2021 which advised Appellant that a virtual hearing using the Webex videoconferencing platform had been scheduled for January 11, 2021. Upon Appellant’s request and with the consent of the Division, the hearing was adjourned to March 16, 2021.

The hearing took place as scheduled on March 16, 2021. Ms. Kathy Fenoff appeared and testified on behalf of Appellant. Fawziyyah Slavov, Esq., appeared on behalf of the Division and Matt C. LeFebvre, Senior Certification Analyst, testified for the Division. Administrative Law Judge Daniel P. O’Connell presided over the hearing.

The issues on appeal were whether Appellant sufficiently demonstrated that (1) the contribution of the woman owner is proportionate to her equity interest in the business enterprise,

¹ The Division’s September 13, 2018 denial determination and Appellant’s September 20, 2018 request to 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.

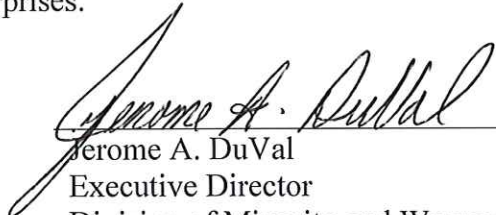
as required by 5 NYCRR § 144.2(a)(1)²; (2) the woman owner shares in the risks and profits in proportion to her equity interests, as required by 5 NYCRR § 144.2(c)(2); (3) the woman owner relied upon for certification makes decisions pertaining to the business enterprise, as required by 5 NYCRR § 144.2(b)(1); and (4) the woman owner has adequate managerial experience or technical competence to operate the business, as required by 5 NYCRR § 144.2(b)(1)(i).

On June 4, 2021, the Division received a Recommended Order from Judge O’Connell that recommended affirmation of the Division’s denial of the application to certify Bore Tech as a WBE on the grounds set forth in the Division’s September 13, 2018 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 September 13, 2018, is affirmed. Accordingly, Bore Tech, LLC will not be listed in the Division’s directory for Minority and Women-owned Business Enterprises.

February 7, 2022



Jerome A. DuVal
Executive Director
Division of Minority and Women’s Business
Development

² Although the MWBE regulations were amended on December 2, 2020, Appellant’s application for certification was evaluated under the prior regulations adopted in 2014 and thus, references to the regulations herein are to the prior regulations.