



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

**CBA Contracting Corp., Inc.**

FINAL ORDER 23-07

From a denial of certification as a Woman-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 CBA Contracting Corp., Inc. (“CBA” or “Appellant”) pursuant to section 144.2 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 November 2, 2020, to deny CBA’s October 12, 2017, recertification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated December 23, 2020, to the Division, requesting to appeal the denial determination via written submission. On March 15, 2021, the Division sent a notice to proceed by written appeal to the Appellant. Ms. Bianca Cauchi thereafter submitted a written appeal on behalf of CBA received on May 12, 2021. The Division responded to the written appeal submission<sup>2</sup> with its Memorandum of Law dated April 7, 2023, and an Affidavit of Raymond Emanuel, Certification Director for the Division, with attached Exhibits. Administrative Law Judge (“ALJ”) David A. Murad presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) shares in the risks and profits in proportion to her ownership interest in the business enterprise, as required by 5 NYCRR §144.2(c)(2); and (2) makes decisions pertaining to the operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1).

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<sup>1</sup> The Division’s November 2, 2020, denial determination pre-dates 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.


<sup>2</sup> The counsel for the Division who submitted the brief was JaMone Turner, this fact was misstated in the Recommended Order.

On June 5, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify CBA, Inc. as a WBE on the grounds set forth in the Division's November 2, 2020, 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 recertification, dated November 2, 2020, is affirmed. Accordingly, CBA Contracting Corp., Inc. will be removed the Division's directory for Minority and Women-owned Business Enterprises.

July 10, 2023

A handwritten signature in black ink, appearing to read "Jason M. Clark", is written over a horizontal line.

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Jason M. Clark  
Executive Vice President and Executive Director  
Division of Minority and Women's Business Development