



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

**ERS Consultants, Inc.**

FINAL ORDER 23-09

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 ERS Consultants, Inc. ("ERS" 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 30, 2020, to deny ERS' August 3, 2018, certification application as a Women-owned Business Enterprise ("WBE").

Applicant submitted a written appeal, dated May 7, 2021. The Division submitted its response to the appeal, dated June 15, 2023, together with the affidavit of Kathleen Slatin, Senior Certification Analyst, dated June 14, 2023. Administrative Law Judge ("ALJ") David A. Murad presided over the appeal. The issues on appeal were whether the woman owner relied upon for certification (1) made a capital contribution to the business enterprise in proportion to their equity interest demonstrated by, but not limited to, contributions of money, property, equipment or expertise, as required by 5 NYCRR former § 144.2(a)(1); (2) shared in the risks and profits in proportion to their ownership interest in the business enterprise, as required by 5 NYCRR former § 144.2(c)(2); and (3) demonstrated adequate managerial experience or technical competence, and working knowledge and ability needed to operate the business enterprise, as required by 5 NYCRR former §§ 144.2(b)(1)(i) and 144.2(b)(1)(ii).

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<sup>1</sup> The Division's November 30, 2020, denial determination 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.

On September 19, 2023, the Division received a Recommended Order from Judge David A. Murad that recommended affirmation of the Division's denial of the application to certify Appellant as a WBE on the grounds set forth in the Division's November 30, 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 certification, dated November 30, 2020, is affirmed. Accordingly, ERS will not be listed on the Division's directory for Minority and Women-owned Business Enterprises.

October 13, 2023

A handwritten signature in black ink, appearing to read "Jason Clark", with a long horizontal flourish extending to the right.

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Jason Clark, EVP and Executive Director  
Division of Minority and Women's Business Development