



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

In the matter of the appeal of

J.C. Smith, Inc.

FINAL ORDER 17-10

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 J.C. Smith, Inc. ("J.C. Smith") pursuant to section 144.4 of title 5 of the New York Codes, Rules and Regulations. Appellant, Ms. Joanne Reed, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated January 12, 2016, to deny J.C. Smith certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. The Division, represented by Mr. Phillip Harmonick, Esq., submitted an initial brief regarding this matter at the direction of Administrative Law Judge Garlick on September 30, 2016. Ms. Sarah E. Payne, Esq., counsel to Appellant, submitted an appeal on November 18, 2016. Mr. Harmonick submitted a response to Ms. Payne's appeal on December 05, 2016. Ms. Payne submitted a reply to the Division's response on December 19, 2016. The respective submissions of the parties are contained in the appeal record.

The issues on appeal were whether the women owners of J.C. Smith made decisions pertaining to the operation of the business enterprise and whether the corporate bylaws of J.C. Smith permitted the women owners of the business to make decisions without restriction.

On March 09, 2017, the Division received from Administrative Law Judge Garlick a Recommended Order that affirmed the Division's determination to deny the application by Appellant to certify J.C. Smith as a WBE. The Recommended Order recommended that the denial should be affirmed on the basis that the women owners of J.C. Smith did not make decisions pertaining to the operation of J.C. Smith, and declined to draw a conclusion with

respect to the Division's determination that the corporate bylaws of J.C. Smith did not permit the women owners of J.C. Smith to make decisions without restrictions.

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, including all grounds identified in the Division's January 12, 2016 is affirmed. Accordingly, J.C. Smith will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.



March 13, 2017

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