



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

In the matter of the appeal of

KPN Management Corporation

FINAL ORDER 23-11

From a denial of recertification as a Women-owned Business Enterprise pursuant to Executive Law Article 15-A.

This order arises from an administrative appeal brought on behalf of KPN Management Corporation (“KPN” or “Appellant”) pursuant to section 144.2 of 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 April 23, 2020, to deny KPN’s November 2, 2017, recertification application as a Women-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated May 21, 2020, to the Division, requesting to appeal the denial determination via hearing. On July 7, 2023, the Division sent a notice of hearing to the Appellant. The virtual hearing was held on August 3, 2023, Edward Crossmore, Esq., appeared on behalf of applicant and called two witnesses: President and owner, KPN Management, Kathryn Nivison and Vice President, Franchise Systems, Express Services, Inc, Harvey Homsey. William Chen, Esq., appeared on behalf of the Division with one witness, Senior Certification Analyst, Division of Minority and Women Business Development, Kimberly Motekew. Administrative Law Judge (“ALJ”) Richard A. Sherman presided over the appeal.

The issues on appeal were (1) whether the woman owner relied upon for recertification makes decisions without restrictions, as required by 5 NYCRR § 144.2(b)(2); and (2) whether it is an independent business enterprise, as required by 5 NYCRR §§ 144.2(a)(2) and 144.2(c)(2).

¹ The Division’s April 23, 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.

On October 20, 2023, the Division received a Recommended Order from ALJ Sherman that recommended affirmation of the Division's denial of the application to certify Appellant as a WBE on the ground set forth in the Division's April 23, 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 April 23, 2020, is affirmed. Accordingly, KPN Management Corporation will be removed from the Division's directory for Minority and Women-owned Business Enterprises.

November 27, 2023

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

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