

NEW YORK STATE  
DEPARTMENT OF ECONOMIC DEVELOPMENT  
633 THIRD AVENUE  
NEW YORK, NEW YORK 10017

In the Matter

-of-

the Application of

K&S Restoration Inc.

For recertification as a Minority and Woman-owned  
Business Enterprise pursuant to Executive Law Article 15-A.

NYS DED File ID NO.: 58966

**RECOMMENDED ORDER ON DEFAULT**



Keely D. Parr  
Chief Administrative Law Judge  
July 6, 2023

**STATE OF NEW YORK**  
**DEPARTMENT OF ECONOMIC DEVELOPMENT**

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In the Matter of the Appeal of:

K&S RESTORATION INC.

Appellant,

**RECOMMENDED  
ORDER  
ON  
DEFAULT**

- against -

NEW YORK STATE DEPARTMENT OF  
ECONOMIC DEVELOPMENT,

Respondent.

FILE ID: 58966

To review a determination denying an application for  
recertification as a Minority and Woman-owned Business  
Enterprise pursuant to Executive Law Article 15-A.

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**APPEARANCES**

Linda Keller, Administrative Law Judge, New York State Department of Economic Development,  
and Dennie Byam, Esq., for Respondent.

**WHEREAS:**

1. The above proceeding was commenced by the filing of an appeal, pursuant to New York Executive Law Article 15-A and Title 5 of the Official Compilation of Codes, Rules and Regulations of the State of New York Parts 140-144, by K&S Restoration Inc., to challenge the determination of the Division of Minority and Women’s Business Development (“Division”) that the applicant does not meet the eligibility requirements for certification as a Minority and Woman-owned Business Enterprise; and
2. The application for recertification was received on May 19, 2020. The application was denied by the Division by a letter dated August 7, 2020. The Appellant thereafter appealed the denial by a letter dated September 1, 2020; and
3. Upon notice to the parties sent via electronic mail and regular mail, dated May 2, 2023, a pre-hearing conference was scheduled for May 18, 2023. The notice advised the Appellant that they would be considered in default if they did not appear for the pre-hearing conference and failed to request a new date on or before the date of the pre-hearing conference; and

4. The video conference invitation was sent via electronic mail on May 8, 2023 and was not accepted by the Appellant; and
5. Appellant failed to appear at the pre-hearing conference, and did not contact either counsel for the Division or the Administrative Hearings Unit; and
6. On administrative appeal, the Appellant bears the burden of proving that the Division's denial of Appellant's Minority and Women's Business Enterprise certification is not supported by substantial evidence (5 NYCRR §145.2(b)); and
7. At the May 18, 2023 pre-hearing conference, the Division made a motion to dismiss the review of the application, based on the Appellant's failure to appear.

### **RECOMMENDATION**

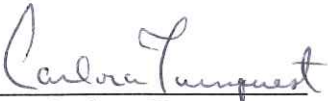
Based upon the Appellant's failure to appear at the pre-hearing conference, the Appellant should be deemed in default, the motion of the Division to dismiss the review of the application be granted and the application for review dismissed in accordance with State Administrative Procedure Act §301.5.

**PROOF OF SERVICE**

I hereby certify that on July 6, 2023, I caused to be served the foregoing document, the *New York State Department of Economic Development's Recommended Order on Default of the Appeal of K&S Restoration Inc.*, via Certified Mail with Return Receipt requested to the following:

Ms. Eva Washington  
K&S Restoration Inc.



  
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Carlora Turnquest