



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

In the matter of the appeal of

Night Watch Security, Inc.

FINAL ORDER 16-36

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 Night Watch Security, Inc. ("Night Watch") pursuant to 5 NYCRR Section 144.4. Appellant, Ms. Sharon Scalcione, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated October 20, 2015, to deny Night Watch certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge P. Nicholas Garlick. Appellant submitted a written appeal in this matter on December 28, 2015. The Division, represented by Julene Beckford, Esq., submitted a response on June 1, 2016. The submissions of the parties are contained in the appeal record.

On August 8, 2016, the Division received from Administrative Law Judge Garlick a Recommended Order that affirmed, on modified grounds, the Division's determination to deny the application by Appellant to certify Night Watch as a WBE.


The issues on appeal were whether Appellant: made a capital contribution in proportion to her ownership interest in the business enterprise, shared in the risks and profits of the business enterprise in proportion to her ownership interest therein, was empowered to control the business without restriction by the corporate bylaws of Night Watch and other relevant business agreements, and demonstrated real, substantial, and continuing ownership of the business enterprise. Administrative Law Judge Garlick recommended that the Division's determination to deny Night Watch certification as a WBE be upheld on each of the denial grounds identified by

the Division, except for the denial ground related to Appellant's real, substantial, and continuing ownership of Night Watch.

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; namely, that Night Watch does not meet the requirements for certification as set forth in Article 15-A of the Executive Law and the rules and regulations promulgated thereunder.

It is hereby **ORDERED** that the decision to deny certification, dated October 20, 2015, is affirmed. Accordingly, Night Watch will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

August 18, 2016



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