



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

**Optima Controls, Ltd.**

FINAL ORDER 23-07

From a denial of certification as a Woman-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 Optima Controls, Ltd. ("Optima Controls" 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 February 4, 2019 to deny Optima Controls' May 25, 2016 certification application as a Woman-owned Business Enterprise ("WBE").

Applicant submitted a written appeal, dated May 16, 2019. The Division submitted its response to the appeal, dated April 5, 2023. Administrative Law Judge ("ALJ") Adrienne R. Lotson presided over the appeal. The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) shares in the risks and profits in proportion to her ownership interest in the business enterprise, as required by 5 NYCRR 144.2(c)(2); and (2) makes decisions pertaining to the operation of the business enterprise, as required by 5 NYCRR § 144.2(b)(1).

On July 7, 2023, the Division received a Recommended Order from Judge Lotson that recommended affirmation of the Division's denial of the application to certify Appellant as an WBE on the ground set forth in the Division's February 4, 2019 denial letter.

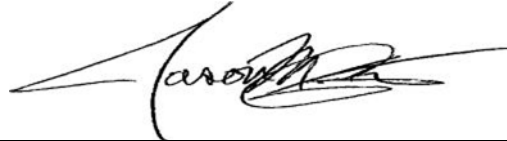
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<sup>1</sup> The Division's February 4, 2019 denial determination pre-dates the December 2, 2020 amendments made to 5 NYCRR Parts 140 et al. Accordingly, the eligibility criteria set forth under the former regulations are referenced throughout this final order.

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 February 4, 2019, is affirmed. Accordingly, Optima Controls, Ltd. will not be listed on the Division's directory for Minority and Women-owned Business Enterprises.

August 11, 2023

A handwritten signature in black ink, appearing to read "Jason Clark", written over a horizontal line.

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Jason Clark  
Executive Director and Executive Vice President  
Division of Minority and Women's Business Development