



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

In the matter of the appeal of

Red Hook Sign & Electric Corp

FINAL ORDER 18-45

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 Red Hook Sign & Electric Corp ("RHS&E") pursuant to section 144.2 of title 5 of the New York Codes, Rules and Regulations. Appellant seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated May 11, 2017, to deny RHS&E certification as a Minority and Women-owned Business Enterprise ("MWBE").

Appellant initiated this appeal and requested a hearing on June 5, 2017. On February 13, 2018, the Division acknowledged Appellant's request and scheduled a hearing for March 1, 2018, for this matter to be heard. The hearing occurred as scheduled before Administrative Law Judge Jeffrey M. Bernbach. Ms. Sandra Fernandez and Ms. Argentina Pena appeared, *pro se*, on behalf of Appellant; and Phillip Harmonick, Esq., represented the Division. The hearing concluded on that date and the record closed on or about March 8, 2018, upon receipt of the recording of the hearing.

The issues on appeal were whether RHS&E demonstrated that Ms. Sandra Fernandez, as the woman-and minority owner relied upon for certification, makes decisions as it pertains to the daily operation of the business enterprise as required by 5 NYCRR § 144.2(b)(1); whether the business enterprise has demonstrated that Ms. Fernandez has adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR § 144.2(b)(1)(i); and whether the business enterprise demonstrated that it is an independent business, as required by 5 NYCRR §§ 144.2(a)(2) and 144.2(c)(2).

On April 25, 2018, the Division received a Recommended Order from Administrative Law Judge Bernbach that recommended affirmation of the Division's denial of the application to certify RHS&E as a MWBE on the grounds set forth in the Division's May 11, 2017 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 certification, dated May 11, 2017, is affirmed. Accordingly, RHS&E will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

January 8, 2019



Valerie White
Executive Director
Division of Minority and Women's
Business Development