



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

**Right Brother Aviation, LLC DBA Right  
Brother Aviation**

FINAL ORDER 23-07

From a denial of certification as a Minority and 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 Right Brother Aviation, LLC (“Right Brother” 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 January 12, 2021, to deny Right Brother’s July 2, 2018, certification application as a Minority and Woman-owned Business Enterprise (“MWBE”).

Appellant initiated its appeal by sending a notice of appeal letter dated February 15, 2021, to the Division, requesting to appeal the denial determination via written submission. April 29, 2021, the Division sent a notice to proceed by written appeal to the Appellant. Thereafter, Ms. Jessica Ventura, submitted a written appeal on behalf of Right Brother dated May 14, 2021. The Division responded to the written appeal submission with its Memorandum of Law dated May 10, 2023, and an Affidavit of Matthew LeFebvre, Associate Certification Director for the Division, with attached Exhibits. 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) makes decisions pertaining to the operation of the business

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<sup>1</sup> The Division’s January 12, 2021, denial determination and Appellant’s February 15, 2021, request to appeal postdate the December 2, 2020, amendments made to 5 NYCRR Parts 140 et al. While the eligibility criteria set forth throughout this final order should be under the amended regulations, the former regulations are referenced throughout as it was mistakenly cited in the denial letter and likewise referred to in ALJ Lotson’s Recommended Order.

enterprise, as required by 5 NYCRR § 144.2(b)(1), (1) has adequate managerial experience or technical competence to operate the business enterprise, as required by 5 NYCRR §144.2(b)(1)(i), and (4) has the working knowledge and ability needed to operate the business enterprise, as required by 5 NYCRR § 144.2(b)(1)(ii).

On June 28, 2023, the Division received a Recommended Order from ALJ Lotson that recommended affirmation of the Division's denial of the application to certify Right Brother Aviation, LLC as a MWBE on the grounds set forth in the Division's January 12, 2021, 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 January 12, 2021, is affirmed. Accordingly, Right Brother Aviation, LLC DBA Right Brother Aviation will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

August 11, 2023



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