



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

In the matter of the appeal of

S&M Tire Recycling, Inc.

FINAL ORDER 16-62

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 S&M Tire Recycling, Inc. ("S&M Tire") pursuant to section 144.4 of title 5 of the New York Codes, Rules and Regulations. Appellant, Ms. Mary Lou Mancuso, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated February 10, 2016, to deny S&M Tire certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge Molly T. McBride. Appellant submitted a written appeal regarding this matter on June 30, 2016. The Division, represented by Mr. Phillip Harmonick, Esq., submitted a response on July 25, 2016. The respective submissions of the parties are contained in the appeal record.

The issues on appeal were whether the Appellant: contributed money, property, equipment, or expertise to S&M Tire in proportion to her ownership interest therein; shared in the risks and profits of the business in proportion to her ownership interest therein; and made decisions pertaining to the operation of S&M Tire.

On December 01, 2016, the Division received from Administrative Law Judge McBride a Recommended Order that affirmed the Division's determination to deny the application by Appellant to certify S&M Tire as a WBE. The Recommended Order recommended that the denial should be affirmed on each of the grounds identified in the Division's February 10, 2016 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 February 10, 2016 is affirmed. Accordingly, S&M Tire will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

December 09, 2016



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