



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

In the matter of the appeal of

Upstate Rebar, LLC

FINAL ORDER 17-56

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 Upstate Rebar, LLC ("Upstate Rebar") pursuant to section 144.4 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 February 14, 2017, to deny Upstate Rebar certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge Daniel P. O'Connell. Appellant appeared *pro se* at an appeal hearing concerning this matter on June 13, 2017. Mr. Phillip Harmonick, Esq. represented the Division. Following the conclusion of the hearing, Ms. Kristen L. Schaub, Esq., submitted a closing brief on behalf of Appellant and Mr. Harmonick submitted a closing brief on behalf of the Division. A recording of the proceedings and the closing briefs of the parties are contained in the appeal record.

The issues on appeal were whether the women owners of Upstate Rebar: made decisions pertaining to the operation of the business enterprise; and were permitted by the operating agreement of Upstate Rebar to make decisions without restrictions.

On September 27, 2017, the Division received from Administrative Law Judge O'Connell a Recommended Order that recommended affirmation of the Division's denial of the application to certify Upstate Rebar as a WBE on the grounds set forth in the Division's February 14, 2017 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 14, 2017, is affirmed. Accordingly, Upstate Rebar will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

September 28, 2017



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