



**Division of Minority
and Women's
Business Development**

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

In the matter of the appeal of

West Branch, Inc.

FINAL ORDER 17-25

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 West Branch, Inc. ("West Branch") pursuant to section 144.4 of title 5 of the New York Codes, Rules and Regulations. Appellant, Ms. Lisa Tracy, seeks reversal of the decision of the Division of Minority and Women's Business Development (the "Division"), dated December 16, 2015, to deny West Branch certification as a Women-owned Business Enterprise ("WBE").

This appeal was assigned to Administrative Law Judge Maria E. Villa. Ms. Jennifer Harvey, Esq., counsel to Appellant, submitted a written appeal on July 29, 2016. Mr. Phillip Harmonick, Esq. submitted a response on behalf of the Division on January 23, 2017. Ms. Harvey submitted a reply to Mr. Harmonick's response on March 24, 2017. The respective submissions of the parties are contained in the appeal record.


The issues on appeal were whether Appellant: contributed money, property, equipment, or expertise to West Branch in proportion to her ownership interest therein; shared in the risks and profits of West Branch in proportion to her ownership interest therein; made decisions pertaining to the operation of West Branch; and possessed the experience or technical competence, working knowledge or ability needed to operate the enterprise.

On April 12, 2017, the Division received from Administrative Law Judge Villa a Recommended Order that recommended affirmation of the Division's December 16, 2015 denial on each of the denial grounds identified in the 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 December 16, 2015, is affirmed. Accordingly, West Branch will not be listed in the Division's directory of certified Minority and Women-owned Business Enterprises.

April 12, 2017



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