



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

**ABC & NY Construction, Inc.**

FINAL ORDER 23-12

From a denial of certification as a 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 ABC & NY Construction, Inc. (“ABC” or “Appellant”) 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 April 12, 2022, to deny ABC’s November 22, 2019, certification application as a Woman-owned Business Enterprise (“WBE”).

Applicant submitted a written appeal, dated December 13, 2022. The Division submitted its response to the appeal, dated September 21, 2023, together with the affidavit of Glenn Butler, Certification Director, dated September 21, 2023. Administrative Law Judge (“ALJ”) David A. Murad presided over the appeal. The issues on appeal were whether the woman owner relied upon for certification (1) made a capital contribution to the business enterprise proportionate to her equity interest, demonstrated by, but not limited to, contributions of money, property, equipment or expertise, as required by 5 NYCRR § 144.2(b)(2); (2) demonstrated adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required by 5 NYCRR § 144.2(c)(1); and (3) made operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise, as required under 5 NYCRR § 144.2(c)(2).

On November 30, 2023, the Division received a Recommended Order from Judge Murad that recommended affirmation of the Division’s denial of the application to certify Appellant as a WBE on the grounds set forth in the Division’s April 12, 2022, 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 April 12, 2022, is affirmed. Accordingly, ABC will not be listed on the Division's directory for Minority and Women-owned Business Enterprises.

January 8, 2024

A handwritten signature in black ink, appearing to read "Jason Clark", with a long horizontal flourish extending to the right.

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Jason Clark, EVP and Executive Director  
Division of Minority and Women's Business Development