

**NEW YORK STATE**  
**DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**207 GENESEE STREET**  
**UTICA, NEW YORK 13501**

**In the Matter**


**- of -**

**the Application of Big Apple Sign Corp. DBA Big Apple Visual Group  
for Certification as a Minority and Woman-owned Business Enterprise  
pursuant to Executive Law Article 15-A.**

**NYS DED File ID No. 48116**

**RECOMMENDED ORDER**

**-by-**



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**David A. Murad**  
**Administrative Law Judge**  
**July 29, 2025**

This matter considers the appeal by Big Apple Sign Corp. (“Big Apple” or “applicant”) pursuant to New York State Executive Law Article 15-A and Title 5 of the Official Compilation of Codes, Rules and Regulations of the State of New York (5 NYCRR) parts 140-144, challenging the determination of the Division of Minority and Women’s Business Development (“Division”) of the New York State Department of Economic Development (“DED”) that the business enterprise does not meet the eligibility criteria for certification as a minority and woman-owned business enterprise (“MWBE”).

### **PROCEDURAL HISTORY**

1. On July 18, 2024, Mehul Dharia, as Administrator, applied on behalf of Big Apple for certification as a minority and woman-owned business enterprise (“MWBE”). (DED Exhibit 1)
2. On November 7, 2024, the Division denied the application on the following grounds (DED Exhibit 2; APP Exhibit 1):
  - (a) Minority group members or women relied upon for certification must possess adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required under 5 NYCRR §144.2(c)(1);
  - (b) Minority group members or women relied upon for certification must make 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); and
  - (c) Minority group members or women relied upon for certification must negotiate business contracts and represent themselves to clients as the principals of the business enterprise, as demonstrated by full executed business agreements, as required under 5 NYCRR §144.2(d)(2).

3. On November 27, 2024, Big Apple submitted a Request to Appeal via a Hearing. (DED Exhibit 3)
4. On February 10, 2025, a Notice of Hearing was sent to all parties. (DED Exhibit 4)
5. On March 26, 2025, an adjournment of the hearing was granted.
6. A hearing was held and concluded on July 10, 2025.

### **FINDINGS OF FACT**

7. Big Apple is engaged in the business of digital printing, offset printing, signboard installation, printing, visual displays and supply. (DED Exhibit 1)
8. Rumina Khalfan is the President and a 100% owner of Big Apple. (Hearing Testimony of Rumina Khalfan)
9. Rumina Khalfan is solely responsible for managing and signing payroll. She shares responsibility for marketing and sales with Ruchir Shah and Mehul Dharia. She shares responsibility for hiring and firing, and supervising field operations with Ruchir Shah. Ruchir Shah is solely responsible for financial decisions, negotiating bonding and insurance, and purchasing equipment/sales. Mehul Dharia is solely responsible for estimating, preparing bids, and negotiating contracts. Ruchir Shah shares responsibility as signatory for business accounts with Mehul Dharia. (DED Exhibit 1)
10. During the site interview, Ms. Khalfan stated that she does not do any estimating, saying “I don’t personally do the estimating part.” She also stated that she has never performed any sign manufacturing, saying “... physically making it myself. No.” (DED Exhibit 5)
11. Ms. Khalfan started with Big Apple as a payroll specialist in 2009. From 2010 to 2022, she was the secretary, where she performed secretarial duties, managed manpower resources, and was involved in strategic planning. In 2022, she became the President of Big Apple. (DED Exhibit 6) Ms. Khalfan learned the business from her husband, being on the factory

floor, learning about the machines, materials used, estimating, markups, shipping, and installation. She has 15 years of experience in the industry. Since 2022, she has been running the company, with input from Mr. Dharia and Mr. Shah. (Hearing Testimony of Rumina Khalfan)

12. Ms. Khalfan’s duties include “Overall planning for Big Apple Sign Corp.; Overlooking Human Resources; Meeting with New Clients; Planning and researching New Plant and machinery required; Resolving disputes if any; Resolving Legal Issues if any.” (DED Exhibit 9)

13. Ruchir Shah’s duties include “Production planning and execution; Coordination with External accountants for Financial Review and Taxation; Liaison with bankers; Major Purchases; Quality Control; Finance and Payroll.” Mr. Shah “plays a crucial role in overseeing the production processes within the manufacturing unit” and his [p]rimary responsibilities revolve around ensuring that production operations run timely, smoothly, efficiently, and effectively. (DED Exhibit 9)

14. Mehul Dharia’s duties include “Government Sales – Both Federal and State Agencies; Labor and other Certifications; OSHA Compliance; Imports; Receivables for Federal and State Agency Contracts.” “[H]e is responsible for reviewing, negotiating, and managing project contracts, budgets, and schedules, ensuring projects are completed on time and within budget.” “His role is crucial in integrating various functions to support the company’s strategic objectives and operational excellence.” (DED Exhibit 9)

15. Applicant listed the following duties and responsibilities of each key employee for the following contracts:

(a) NYCHA:

“Rumina Khalfan: Overseeing Contract Compliance

Ruchir Shah: Overlooking Production and Finance

Mehul Dharia: Point of Contact and overall customer relationship and day to day coordination”

(b) Macy’s:

“Rumina Khalfan: Overall Client relationships

Ruchir Shah: Overlooking Production and Finance

Mehul Dharia: Managing Labor requirements and work force Management”

(c) Prada:

“Rumina Khalfan: Contract Negotiation and Client Relationship

Ruchir Shah: Contract Compliance, Production and Finance

Mehul Dharia: Labor coordination and any other issues”

(DED Exhibit 9)

16. The following contracts were provided with the application:

(a) Prada Purchase Order Agreement, signed by Ruchir Shah. (DED Exhibit 12)

(b) BLM Order dated 9/25/23, sent to the attention of Richi (Ruchir) Shah, and signed by Mehul Dharia. (DED Exhibit 13)

(c) Big Apple Invoice dated 2/16/24, listing “Richi” (Ruchir Shah) as the Representative of Big Apple. (DED Exhibit 14)

(d) BLM Solicitation sent to the attention of Richi Shah (DED Exhibit 15)

(e) Big Apple Invoice, listing “Richi” (Ruchir Shah) as the Representative of Big Apple. (DED Exhibit 16)

(f) BLM Order sent to the attention of Richi (Ruchir) Shah and signed by Mehul Dharia. (DED Exhibit 17)

(g) Big Apple Invoice dated 5/23/24, listing “Richi” (Ruchir Shah) as the Representative of Big Apple. (DED Exhibit 18)

### **APPLICABLE LAW**

5 NYCRR §144.2(c) states in relevant part as follows:

Operation. Minority group members and women relied upon for certification must make day-to-day decisions concerning the operation of the business enterprise for which certification is sought. The division shall evaluate whether minority group members or women operate a business enterprise for which certification is sought based upon the following criteria:

- (1) Competence in the industry. Minority group members and women relied upon for certification must possess adequate, industry-specific competence to make critical business decisions without relying upon other persons. This requirement cannot be satisfied by expertise or experience in office management or general business administration, among other things...
- (2) Operational decisions. Minority group members and women relied upon for certification must make operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise for which certification is sought. The critical functions of a business enterprise shall be determined by the division based upon the following factors, but is not limited to:
  - (i) The products or services the business enterprise provides to clients; and
  - (ii) The means by which the business enterprise obtains contracts or orders.

5 NYCRR §144.2(d) states in relevant part as follows:

Control. Minority group members and women relied upon for certification must have the power to control the business enterprise for which certification is sought. The division shall assess whether minority group members and women possess such control based upon the following criteria:

- (2) Control of business negotiations. Minority group members and women relied upon for certification must negotiate business contracts and represent themselves to clients as the principals of business entities for which certification is sought, as demonstrated by fully executed business agreements.

## **STANDARD OF REVIEW**

On this administrative appeal, applicant bears the burden of proof to establish that Division staff's determination to deny the application filed by Big Apple for certification as a MWBE is not supported by substantial evidence (*see* State Administrative Procedure Act § 306[1]). The substantial evidence standard "demands only that a given inference is reasonable and plausible, not necessarily the most probable," and applicant must demonstrate that Division staff's conclusions and factual determinations are not supported by "such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact." (*Matter of Ridge Rd. Fire Dist. v Schiano*, 16 NY3d 494, 499 [2011]).

The review is limited to such information that was before the division at the time of the denial determination (5 NYCRR 145.2(b)(1)). Evidence that seeks to clarify and explain previously submitted materials will be considered, however new evidence will not be considered. (*See Scherzi Systems, LLC v. White*, 197 A.D.3d 1466 (3d Dept 2021))

## **DISCUSSION**

Mr. Henry Chan, Esq. of Wilson & Chan, LLP, appeared on behalf of Big Apple. The following witnesses testified on behalf of Big Apple: Ms. Rumina Khalfan, President; Mr. Ruchir Shah, Vice President; and Mr. Mehul Dharia, Administrator. Big Apple offered APP Exhibit 1, which was admitted into evidence.

Ms. Candace Williamson, Assistant Counsel, Department of Economic Development, appeared at the hearing on behalf of the Division. The following witness testified on behalf of the Division: Natia Simon, Senior Certification Analyst, Division of Minority and Women Business Development. The Division offered the following exhibits which were admitted into evidence: DED Exhibits 1 - 23.

I. Operation

5 NYCRR §144.2(c)(1) requires that the minority/woman-owner possess adequate, industry-specific competence to make critical business decisions without relying upon other persons, and that “this requirement cannot be satisfied by expertise or experience in office management or general business administration, among other things”. In *Upstate Electrical, LLC v. New York State Department. of Economic Development*, 2020 N.Y. Slip Op. 00340 (N.Y. App. Div. 2020), the Court affirmed the denial where the woman-owner had no training or experience in the industry to make her qualified to supervise the work of her employees.

Ms. Khalfan started with Big Apple as a payroll specialist in 2009. From 2010 to 2022, she was the secretary, where she performed secretarial duties, managed manpower resources, and was involved in strategic planning. In 2022, she became the President of Big Apple. (DED Exhibit 6)

Ms. Khalfan testified that she has been with Big Apple since 2009. She learned the business from her husband, being on the factory floor, learning about the machines, materials used, estimating, markups, shipping, and installation. She has 15 years of experience in the industry. Since 2022, she has been running the company, with input from Mr. Dharia and Mr. Shah. (Hearing Testimony of Rumina Khalfan)

Mehul Dharia testified that Ms. Khalfan worked for the business “from the ground up.” His work is “all under the guidance of Rumina.” He testified that “she is the final authority, and she makes the final decisions.” (Hearing Testimony of Mehul Dharia)

Ruchir Shah testified that he manages the operations of the business under the supervision of Rumina Khalfan. (Hearing Testimony of Ruchir Shah)

Natia Simon testified that Ms. Khalfan does not have the industry-specific competence to make business decisions without relying on others. She testified that there’s nothing in Ms. Khalfan’s resume to show that she has the training or experience to oversee the critical functions

of the business, which are digital printing, offset printing, signboard installation, printing, visual displays and supply. She testified that Ms. Khalfan's resume reflected her administrative duties, including payroll and secretarial. She testified that Ms. Khalfan stated in the site interview that (a) her responsibilities included accounts payable/receivable, (b) that she did not do estimating, (c) she relies on Mr. Shah and Mr. Dharia, and (d) Mr. Dharia was her husband's right-hand man. Therefore, she opined that Ms. Khalfan needs to rely on the key employees who have the necessary experience. (Hearing Testimony of Natia Simon) I concur.

Based on the foregoing, I find that the Division's determination to deny Big Apple's certification under 5 NYCRR §144.2(c)(1) is supported by substantial evidence.

NYCRR §144.2(c)(2) requires that the minority/woman-owner relied upon for certification must make operational decisions on a day-to-day basis with respect to the critical functions of the business enterprise for which certification is sought. "The critical functions of a business enterprise shall be determined by the division based upon the following factors but is not limited to: (i) the products or services the business enterprise provides to clients; and (ii) the means by which the business enterprise obtains contracts or orders." 5 NYCRR §144.2(c)(2)

The eligibility criteria for MWBE certification requires that the woman-owner "exercises the authority to control independently the day-to-day business decisions of the enterprise". See *In the Matter of Upstate Electrical, LLC v. New York State Department of Economic Development*, 179 AD 3d 1343 (3<sup>rd</sup> Dept. 2020). The woman-owner "must exercise independent operational control over the core functions of the business in order to establish the requisite control for WBE certification..." *J.C. Smith, Inc. v. New York State Department of Economic Development*, 163 AD 3d 1517 (4<sup>th</sup> Dept. 2018).

The application evidences that Rumina Khalfan is solely responsible for managing and signing payroll. She shares responsibility for marketing and sales with Ruchir Shah and Mehul

Dharia. She shares responsibility for hiring and firing, and supervising field operations with Ruchir Shah. Ruchir Shah is solely responsible for financial decisions, negotiating bonding and insurance, and purchasing equipment/sales. Mehul Dharia is solely responsible for estimating, preparing bids, and negotiating contracts. Ruchir Shah shares responsibility as signatory for business accounts with Mehul Dharia. (DED Exhibit 1)

Ms. Khalfan testified that the operational decisions responsibilities listed in the application are not correct. She testified that she is responsible for all daily operations of the business, including estimating, preparing bids, supervising field operations, sales, negotiating contracts, financial decisions, procuring insurance, hiring/ firing, and purchasing equipment/sales. She testified that she ultimately has the final decision, after receiving input from Mr. Shah and Mr. Dharia. (Hearing Testimony of Rumina Khalfan)

During the site interview, Ms. Khalfan stated that she does not do any estimating, saying “I don’t personally do the estimating part.” She also stated that she has never performed any sign manufacturing, saying “... physically making it myself. No.” She also stated that she works out of the corporate office and does not visit the production facility. (DED Exhibit 5) Ms. Khalfan testified that this is not correct. She claims she does have final say on the estimating, she did make signage at the beginning of her employment with Big Apple, and she works out of the factory, walking the floor usually twice per day. (Hearing Testimony of Rumina Khalfan)

Ms. Khalfan’s duties include “Overall planning for Big Apple Sign Corp.; Overlooking Human Resources; Meeting with New Clients; Planning and researching New Plant and machinery required; Resolving disputes if any; Resolving Legal Issues if any.” (DED Exhibit 9)

Ruchir Shah’s duties include “Production planning and execution; Coordination with External accountants for Financial Review and Taxation; Liaison with bankers; Major Purchases; Quality Control; Finance and Payroll.” Mr. Shah “plays a crucial role in overseeing the production

processes within the manufacturing unit” and his [p]rimary responsibilities revolve around ensuring that production operations run timely, smoothly, efficiently, and effectively. (DED Exhibit 9)

Mehul Dharia’s duties include “Government Sales – Both Federal and State Agencies; Labor and other Certifications; OSHA Compliance; Imports; Receivables for Federal and State Agency Contracts.” “[H]e is responsible for reviewing, negotiating, and managing project contracts, budgets, and schedules, ensuring projects are completed on time and within budget “His role is crucial in integrating various functions to support the company’s strategic objectives and operational excellence.” (DED Exhibit 9)

Applicant listed the following duties and responsibilities of each key employee for the following contracts:

(d) NYCHA:

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Mehul Dharia: Labor coordination and any other issues”

(DED Exhibit 9)

Natia Simon testified that Ms. Khalfan stated in her site interview that she relies on Mr. Shah and Mr. Dharia. She referenced the application which listed (a) Ruchir Shah as solely responsible for financial decisions, negotiating bonding and insurance, and purchasing equipment/sales; (b) Mehul Dharia as solely responsible for estimating, preparing bids, and negotiating contracts; and (c) Ms. Khalfan as sharing responsibility for hiring and firing, and supervising field operations with Ruchir Shah. Ms. Simon testified that Ms. Khalfan stated in her interview that she works mostly at the corporate headquarters and does not really visit the Long Island location. She opined that Ms. Khalfan “does not have the foundational background to make [day-to-day] decisions on her own.” (Hearing Testimony of Natia Simon)

Ms. Khalfan’s testimony contradicted much of the information provided in the application and site interview regarding the managerial operational responsibilities. Her testimony that she must have misunderstood the various questions posed in the application and interview is not credible. (Hearing Testimony of Rumina Khalfan) This is new evidence which will not be considered. (*See Scherzi Systems, LLC v. White*, 197 A.D.3d 1466 (3d Dept 2021))

Based on the foregoing, I find that the Division’s determination to deny Big Apple’s certification under 5 NYCRR §144.2(c)(2) is supported by substantial evidence.

## II. Control

The Division also found that Ms. Khalfan does not negotiate business contracts and represent herself to clients as the principal of the business, as demonstrated by fully executed business agreements, as required under 5 NYCRR §144.2(d)(2). Signing contracts demonstrates that a minority-owner exercises appropriate control over a business enterprise with respect to business negotiations. See *Matter of Darr Construction Equipment Corp.*, Recommended Order dated August 30, 2022, Final Order 22-11 dated November 7, 2022.

The following contracts were provided with the application:

- (a) Prada Purchase Order Agreement, signed by Ruchir Shah. (DED Exhibit 12)
- (b) BLM Order dated 9/25/23, sent to the attention of Richi (Ruchir) Shah, and signed by Mehul Dharia. (DED Exhibit 13)
- (c) Big Apple Invoice dated 2/16/24, listing “Richi” (Ruchir Shah) as the Representative of Big Apple. (DED Exhibit 14)
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- (g) Big Apple Invoice dated 5/23/24, listing “Richi” as the Representative of Big Apple. (DED Exhibit 18)

Ms. Khalfan testified that she signs contracts unless she is away and authorizes Mr. Shah and Mr. Dharia to sign in her absence. (Hearing Testimony of Rumina Khalfan) However, Ms. Khalfan did not sign any of the contracts and was not listed as the contact person on any of the contracts submitted. (DED Exhibits 12 -18)

The Division’s determination to deny the application on the basis that Big Apple failed to demonstrate that Ms. Khalfan negotiates business contracts and represents herself to clients as the principal of the business, as demonstrated by fully executed business agreements, as required under 5 NYCRR §144.2(d)(2) is supported by substantial evidence.

### **CONCLUSION**

Big Apple did not meet its burden to demonstrate that the Division’s determination to deny its application for certification as a minority and woman-owned business enterprise with respect

to the eligibility criteria at 5 NYCRR §§144.2(c)(1), 144.2(c)(2) and 144.2(d)(2), was not based on substantial evidence.

**RECOMMENDATION**

For the reasons set forth above, I recommend that the Director affirm the Division's determination to deny Big Apple's application for certification as a minority and woman-owned business enterprise.

In the Matter of Big Apple Sign Corp.  
DED File ID No. 48116  
Exhibit Chart

Exhibit #:	Description of the Exhibits	Offered (Yes/No)	Admitted (Yes/No)
APP 1	Denial Letter	Y	Y
DED 1	Certification Application	Y	Y
DED 2	Denial Letter	Y	Y
DED 3	Request to Appeal	Y	Y
DED 4	Notice of Hearing	Y	Y
DED 5a-b	Site Interview Recording and Transcript	Y	Y
DED 6a-b	Resume of Rumina Khalfan and Detailed Document	Y	Y
DED 7a-b	Resume of Ruchir Shah and Detailed Document	Y	Y
DED 8a-b	Resume of Mehul Dharia and Detailed Document	Y	Y
DED 9a-b	Narrative Responses Re: Big Apple	Y	Y
DED 10	NYCHA Contract	Y	Y
DED 11	Macy's Purchase Order	Y	Y
DED 12	Prada Purchase Order	Y	Y
DED 13	BLM Call 7 Order	Y	Y
DED 14	BLM Call 7 Invoice	Y	Y
DED 15	BLM Call 8 Order	Y	Y
DED 16	BLM Call 8 Invoice	Y	Y
DED 17	BLM Call 9 Order	Y	Y

DED 18	BLM Call 9 Invoice	Y	Y
DED 19	2021 Business Tax Records	Y	Y
DED 20	2022 Business Tax Records	Y	Y
DED 21	2021 Personal Tax Records	Y	Y
DED 22	2022 Personal Tax Records	Y	Y
DED 23	Business Account Authorized Signers	Y	Y