



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

In the matter of the appeal of

CUTLASS INDUSTRIES, LLC

FINAL ORDER 24-01

From a denial of certification as a Woman-owned Business Enterprise pursuant to Executive Law Article 15-A.

This order arises from an administrative appeal brought on behalf of Cutlass Industries, LLC (“Cutlass” 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 February 27, 2023, to deny Cutlass’s December 2, 2022, certification application as a Woman-owned Business Enterprise (“WBE”).

Appellant initiated its appeal by sending a Request to Appeal Form dated March 16, 2023, to the Division, requesting to appeal the denial determination via written submission. On March 17, 2023, the Division sent a notice to proceed by written appeal to the Appellant. Thereafter, attorney, Alan M. Pollack, submitted a written appeal on behalf of Cutlass dated March 28, 2023. The Division responded to the written appeal submission with its Memorandum of Law dated September 22, 2023, and an Affidavit of Amanda Brennan, Project Director for the Division, with attached Exhibits. Administrative Law Judge (“ALJ”) David A. Murad presided over the appeal.

The issues on appeal were whether Appellant sufficiently demonstrated that the woman owner relied upon for certification (1) made a capital contribution to the business enterprise proportionate to their equity interest therein, as demonstrated by, but not limited to, contributions of money, property, equipment or expertise, as required under 5 NYCRR § 144.2(b)(2); (2) possesses adequate, industry-specific competence to make critical business decisions without relying upon other persons, as required under 5 NYCRR §144.2(c)(1); and (3) makes 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 December 22, 2023, the Division received a Recommended Order from ALJ Murad that recommended affirmation of the Division's denial of the application to certify Cutlass Industrial, Inc. as a WBE on the grounds set forth in the Division's February 27, 2023, 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 27, 2023, is affirmed. Accordingly, Cutlass Industrial, Inc. will not be listed in the Division's directory for Minority and Women-owned Business Enterprises.

February 7, 2024

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

Jason M. Clark
Executive Vice President and Executive Director
Division of Minority and Women's Business Development