

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

In the Matter

-of-

the Application of

UNI PROFESSIONAL I, INC.

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

NYS DED File ID NO.: 70284

RECOMMENDED ORDER ON DEFAULT



David A. Murad
Administrative Law Judge
July 31, 2024

STATE OF NEW YORK
DEPARTMENT OF ECONOMIC DEVELOPMENT

In the Matter of the Appeal of:

UNI PROFESSIONAL I, INC.

Appellant,

- against -

NEW YORK STATE DEPARTMENT OF
ECONOMIC DEVELOPMENT,

Respondent.

**RECOMMENDED
ORDER
ON
DEFAULT**

FILE ID: 70284

To review a determination denying an application for certification as a Woman-owned Business Enterprise pursuant to Executive Law Article 15-A.

APPEARANCES

David A. Murad, Administrative Law Judge, New York State Department of Economic Development, and Dennie Byam, Esq., for Respondent.

WHEREAS:

1. The above proceeding was commenced by the filing of an appeal, pursuant to New York Executive Law Article 15-A and Title 5 of the Official Compilation of Codes, Rules and Regulations of the State of New York Parts 140-144, by Uni Professional I, Inc. to challenge the determination of the Division of Minority and Women's Business Development ("Division") that the applicant does not meet the eligibility requirements for certification as a Woman-owned Business Enterprise; and
2. The application for certification was received on November 10, 2022. The application was denied by the Division by a letter dated August 15, 2023. The Appellant thereafter appealed the denial by a letter dated August 23, 2023; and
3. Upon notice to the parties sent via electronic mail and certified mail, dated March 20, 2024, a pre-hearing conference was scheduled for April 8, 2024. The notice advised the Appellant that Appellant would be considered in default if Appellant did not appear for the pre-hearing conference and failed to request a new date on or before the date of the pre-hearing conference; and
4. Proof of delivery was received on April 8, 2024, by the signed certified mail Return Receipt from Appellant; and

5. Appellant sent an email to the Administrative Hearings Unit on the morning of the scheduled conference stating that Appellant would not be able to attend, but did not state whether Appellant was seeking an alternate date for the video conference; and
6. Several attempts were made to have Appellant confirm Appellant's availability for a rescheduled pre-hearing conference:
 - 4/25/24 – The Administrative Law Judge sent an email proposing July 11, 2024 as a new date and received no response from the Appellant.
 - 4/30/24 – The Administrative Law Judge sent a follow-up email and received no response from the Appellant.
 - 5/6/24 – The Administrative Law Judge sent a third email and received no response from the Appellant.
7. On May 13, 2024, the Administrative Law Judge sent an email to the Appellant and counsel for the Division informing both parties that the rescheduled pre-hearing conference would be held on July 11, 2024; and
8. Upon a second notice to the parties sent via electronic mail and certified mail, dated June 11, 2024, a pre-hearing conference was scheduled for July 11, 2024. The notice advised the Appellant that Appellant would be considered in default if they did not appear for the pre-hearing conference and failed to request a new date on or before the date of the pre-hearing conference; and
9. The video conference invitation was sent via electronic mail on June 11, 2024 and was not accepted by the Appellant; and
10. Proof of certified mail delivery was received on June 24, 2024, by the signed certified mail Return Receipt from Appellant, and
11. Appellant failed to appear at the pre-hearing conference, and did not contact either counsel for the Division or the Administrative Hearings Unit; and
12. On administrative appeal, the Appellant bears the burden of proving that the Division's denial of Appellant's Women's Business Enterprise certification is not supported by substantial evidence (5 NYCRR §145.2(b)); and
13. At the July 11, 2024 pre-hearing conference, the Division made a motion to dismiss the review of the application, based on the Appellant's failure to appear.

RECOMMENDATION

Based upon the Appellant's failure to appear at the pre-hearing conference, the Appellant should be deemed in default, the motion of the Division to dismiss the review of the application be granted and the application for review dismissed in accordance with State Administrative Procedure Act §301.5.

PROOF OF SERVICE

I hereby certify that on August 2, 2024, I caused to be served the foregoing document, the *New York State Department of Economic Development's Recommended Order on Default of the Appeal of Uni Professional I, Inc.* via Certified Mail with Return Receipt requested to the following:

Ms. Krystal Remo
Uni Professional I, Inc.
10 Main Street, Unit #194
East Rockaway, N.Y. 11518


Carlora Turnquest