

**United States Small Business Administration
Office of Hearings and Appeals**

IN THE MATTER OF:

The Patrick Wolffe Group, Inc.

Petitioner

SBA No. BDP-275

Decided: February 12, 2008

ORDER DISMISSING APPEAL

On January 29, 2008, The Patrick Wolffe Group, Inc. (Petitioner) appealed a December 18, 2007 decision issued by the Small Business Administration (SBA), denying Petitioner admission into the 8(a) Business Development (BD) Program. *See* 13 C.F.R. Parts 124 & 134.

On October 18, 2007, the SBA denied Petitioner's 8(a) application. SBA determined (1) Petitioner's owner was not economically disadvantaged; (2) Petitioner did not satisfy the 51% unconditional ownership requirement of 13 C.F.R. § 124.105(d); (3) Petitioner's owner did not devote full-time management to Petitioner; and (4) Petitioner did not qualify as a small business concern (Initial Determination)¹.

Petitioner then requested reconsideration of the Initial Determination. After reconsidering Petitioner's application, on December 18, 2007, the SBA determined (1) Petitioner's owner was not economically disadvantaged; and (2) Petitioner is not a small business (Reconsideration Determination).

An 8(a) applicant may only appeal a denial of its application if the denial was based solely on a negative finding of social disadvantage, economic disadvantage, ownership, control, or any combination of these four criteria. A denial that is based at least in part on any other criterion is not appealable and is the final SBA decision. 13 C.F.R. § 124.206(a).

The Administrative Law Judge selected to preside over an appeal must decline to accept jurisdiction over the appeal if an 8(a) application is denied in whole or in part on grounds other than a negative finding of social disadvantage, economic disadvantage, ownership or control. 13 C.F.R. § 134.405(a)(1); *see also, e.g., Matter of Woodsman Construction, Inc.*, SBA No. BDP-263 (2007); *Matter of Encore Solutions*, SBA No.

¹ The Initial Determination is not part of the Record. However, the Reconsideration Determination sets forth the Initial Determination's four reasons for denying Petitioner's application.

BDP-161 (2001) (dismissing appeal because SBA's eligibility determination was based on applicant's lack of potential for success).

Here, in addition to determining Petitioner's owner was not economically disadvantaged, the SBA also found Petitioner was not a small business².

Accordingly, because the SBA based its determination in part on Petitioner not being a small business, an eligibility criterion that is not appealable, there is no jurisdiction to hear this appeal and it must be dismissed.

Accordingly, I decline to accept jurisdiction over the appeal and Petitioner's appeal is DISMISSED.

Subject to 13 C.F.R. § 134.409(c), this is the final decision of the Small Business Administration. *See* Small Business Act, § 8(a)(9)(D), 15 U.S.C. § 637(a)(9)(D); 13 C.F.R. § 134.409(a).

RICHARD S. ARKOW
Administrative Law Judge

² The Record is unclear whether Petitioner availed itself of the procedures for an 8(a) applicant to contest an adverse size determination. 13 C.F.R. § 124.102(c).