Paulsboro Refining Company, LLC,
Petitioner,

STATE OF NEW JERSEY
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT

v.

New Jersey Department of Labor and Workforce Development,
Respondent.

FINAL ADMINISTRATIVE ACTION
OF THE
COMMISSIONER

OAL DKT. NO LID 16027-14
AGENCY DKT. NO. DOL-14-009

Issued: April 7, 2017

On May 2, 2014, Paulsboro Refining Company, LLC (Paulsboro or petitioner) requested a refund from the New Jersey Department of Labor and Workforce Development (Department or respondent) of $1,094,000, which had been overpaid by Paulsboro to the Unemployment Compensation Fund (UCF). Specifically, in April of 2014, Paulsboro discovered through a review of its own records that during the first and second quarters of 2011 it had remitted contributions to the UCF at the incorrect rate of 9.0 %, rather than at the correct rate of 0.9%. This resulted in the above-referenced overpayment. The Department denied Paulsboro's request for refund on the basis that the request had been submitted to the Department beyond the two-year statute of limitations (SOL) set forth at N.J.S.A. 43:21-14(f).[1] Following the Department's denial of the

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[1] N.J.S.A. 43:21-14(f) states the following: "If, not later than two years after the calendar year in which any moneys were erroneously paid to or collected by the controller, whether such payments were voluntarily or involuntarily made or made under mistake of law or of fact, an employer, employing unit, or employee who has paid such moneys shall make application for an adjustment thereof, the said moneys shall, upon order of the controller, be either credited or refunded, without interest, from the appropriate fund. For

request for refund, Paulsboro requested a hearing, at which time the matter was transmitted to the Office of Administrative (OAL) for determination as a contested case. The matter was assigned to Administrative Law Judge (ALJ) Kimberly A. Moss.

Prior to a hearing, respondent filed a motion for summary decision and the ALJ granted respondent's motion, dismissing petitioner's appeal. The ALJ explained within the initial decision that all events relevant to petitioner's request for refund had occurred after the SOL had expired (on December 31, 2013); that is, Paulsboro first discovered the overpayment after the SOL had expired; the Department first became aware of Paulsboro's overpayment after the SOL had expired; and, Paulsboro first sought a refund from the Department after the SOL had expired. Consequently, the ALJ concluded that Paulsboro is not entitled to a refund. No exceptions to the ALJ's initial decision were filed.

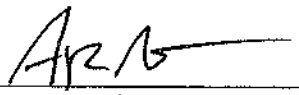
Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, I have accepted and adopted the findings of fact, conclusions and recommendations contained in the ALJ's initial decision.

ORDER

Therefore, it is ordered that petitioner's appeal be dismissed.

This is the final administrative decision in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY
THE COMMISSIONER, DEPARTMENT
OF LABOR AND WORKFORCE DEVELOPMENT



Aaron R. Fichtner, Ph.D, Acting Commissioner
Department of Labor and Workforce Development

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like cause and within the same period, credit or refund may be so made on the initiative of the controller."