PFO, LLC,
Petitioner,

v.

New Jersey Department of Labor and Workforce Development,
Respondent.

STATE OF NEW JERSEY
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT

FINAL ADMINISTRATIVE ACTION
OF THE
COMMISSIONER

OAL DKT. NO LID 07823-17
AGENCY DKT. NO. DOL 17-008

Issued: January 25, 2018

The appeal of PFO, LLC (PFO or petitioner) concerning a determination by the New Jersey Department of Labor and Workforce Development (Department or respondent) that PFO is a successor in interest to Princeton Fuel Oil Company, Inc. (Princeton Fuel) and that, therefore, the employment experience of Princeton Fuel must be transferred to PFO, pursuant to N.J.S.A. 43:21-7(c)(7), for the purpose of calculating the amount of PFO's contributions to the unemployment compensation fund and the State disability benefits fund, was heard by Administrative Law Judge Tama B. Hughes (ALJ). In her initial decision, the ALJ found that PFO had acquired the organization, trade or business of Princeton Fuel, explaining, "[i]t is undisputed that without any break in service and in seamless continuity, PFO continued to offer the same products and services that had previously been provided by Princeton," adding, "PFO utilized the same business address, telephone number, marketing collateral, website content, and the same staff to operate the business." Furthermore, the ALJ found that PFO had acquired substantially all of Princeton Fuel's assets. Based on the foregoing, the ALJ concluded that the Department's transfer of Princeton Fuel's employment experience to PFO for the purpose of calculating PFO's contribution obligation had been appropriate. Consequently, the ALJ affirmed the Department's determination. No exceptions were filed.[1]

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[1] The Department did submit a letter within the time for filing exceptions, which simply stated that it agrees with the ALJ's initial decision and believes that it should be affirmed in its entirety, "as it was a well-reasoned, detailed evaluation of the facts presented."

CONCLUSION

An agency head need not defer to the findings of an ALJ. In re Kallen, 92 N.J. 14, 20 (1983). Indeed, he or she need not adopt any of the findings reached by an ALJ in his or her initial decision. Application of the County of Bergen, 268 N.J. Super. 403, 414 (App. Div. 1993). However, the agency head may not ignore an ALJ's abundantly supported conclusions. P.F. v. New Jersey Division of Disability, 139 N.J. 522, 530 (1995); Department of Health v. Tegnaxzian, 194 N.J. Super. 435, 450 (App. Div. 1984). Rather, where there is substantial evidence on all sides of the issues addressed, no findings made or conclusions reached that are based on that evidence and are otherwise within the ALJ's discretionary authority will be seen to be arbitrary, capricious or unreasonable. Application of the County of Bergen, supra, at 411; Application of N.J. Bell Telephone Co., 219 N.J. Super. 77, 89 (App. Div. 1996).

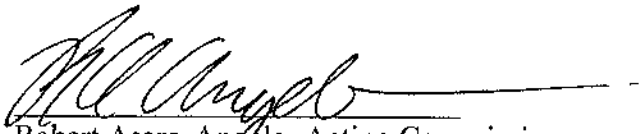
In the present case, the ALJ has produced a thorough and convincing decision wherein the credibility of each witness and the nature and quality of the evidence presented at the OAL hearing was carefully weighed. I will, therefore, accord to the ALJ the deference that she is due as the trier of fact and the person who directly observed the witnesses, their demeanor and deportment, as well as the quality of their individual testimony and evidence produced in support of their testimony. In addition, having considered the entire case record and the ALJ's initial decision, and having conducted an independent evaluation of the record, I have accepted and adopted the findings of fact, conclusion and recommendation of the ALJ.

ORDER

Therefore, the initial decision of the ALJ is affirmed and the petitioner's appeal is hereby dismissed.

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

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



Robert Asaro-Angelo, Acting Commissioner
Department of Labor and Workforce Development

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