

**NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."  
Although it is posted on the internet, this opinion is binding only on the  
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-4632-15T2

ANNUNZIATO MOLINARI,

Appellant,

v.

BOARD OF REVIEW and  
NUNZIO'S LANDSCAPING,

Respondents.

---

Argued December 18, 2017 – Decided January 18, 2018

Before Judges Accurso and O'Connor.

On appeal from the Board of Review,  
Department of Labor, Docket No. 058,576.

Anthony Scordo, III, argued the cause for  
appellant.

Emily M. Bisnauth, Deputy Attorney General,  
argued the cause for respondent Board of  
Review (Christopher S. Porrino, Attorney  
General, attorney; Melissa H. Raksa,  
Assistant Attorney General, of counsel;  
Emily M. Bisnauth, on the brief).

PER CURIAM

Annunziato Molinari appeals from eight final determinations  
of the Department of Labor's Board of Review, all rendered on

May 2, 2016, that he obtained unemployment compensation benefits over the course of several years on the basis of a false or fraudulent representation, making him liable for a refund of \$57,861 in improperly received benefits and \$14,465.25 in penalties. Molinari admitted incorporating his landscaping business, Nunzio's Landscaping, Inc., in 2002. He was the sole corporate officer, employed a lawyer and an accountant and signed and submitted quarterly business tax returns. Yet for eight years, 2003 and 2005 through 2011, he applied for unemployment benefits, answering "no" to questions by the Department as to whether he was self-employed, a corporate officer or related to the owner of his employer.

In 2013, the Department, acting on a tip, instituted an inquiry, which revealed the existence of the corporation. Provided the opportunity to clarify his status, Molinari certified that he was "a seasonal employee," and did not work "from November thru May depending on [the] weather." The Deputy Director subsequently disqualified Molinari from receiving unemployment compensation benefits, demanded a refund of all benefits improperly paid and imposed monetary penalties.

Molinari appealed. Following two separate hearings, the Appeal Tribunal issued eight decisions disqualifying Molinari from benefits pursuant to N.J.S.A. 43:21-16(d)(1) for having

withheld that he was a corporate officer of his employer. The Tribunal also imposed disqualification pursuant to N.J.S.A. 43:21-5(g)(1), and penalties under N.J.S.A. 43:21-16(a). The Tribunal quantified the improperly received benefits and penalties as follows:

2003-2004	
Improperly received benefits:	\$5850
Penalty:	\$1462.50
2005	
Improperly received benefits:	\$6000
Penalty:	\$1500
2006-2007	
Improperly received benefits:	\$6000
Penalty:	\$1500
2007	
Improperly received benefits:	\$7440
Penalty:	\$1860
2008-2009	
Improperly received benefits:	\$7371
Penalty:	\$1842.75
2009-2010	
Improperly received benefits:	\$6300
Penalty:	\$1575
2010-2011	
Improperly received benefits:	\$8820
Penalty:	\$2205
2011-2012	
Improperly received benefits:	\$10,080
Penalty:	\$2520

The Appeal Tribunal thus found the State was owed a refund of \$57,861 in improperly paid benefits and \$14,465.25 in

penalties. The Appeal Tribunal found Molinari's claims of confusion and not understanding what a corporate officer was to be unworthy of belief. The Board of Review affirmed.

Molinari appeals, claiming the Board's finding that he intentionally misrepresented his status lacks sufficient evidence in the record, there was no proof establishing that he knew what it meant to be a corporate officer in the years he applied for benefits, and that, if anything, his failure to identify himself as a corporate officer represented only a single offense and not multiple offenses. Our review of the record convinces us that none of these arguments is of sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(D) and (E).

Molinari also insists that he is entitled to seek a waiver of recovery based on his disability. See N.J.A.C. 12:17-14.2 (governing the Director's discretion to grant a waiver of recovery of an overpayment of benefits). Although the State disputes Molinari's entitlement to a waiver, it does not dispute that he may request one from the Director. As Molinari has yet to seek a waiver, the issue is not properly before us.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on  
file in my office.



CLERK OF THE APPELLATE DIVISION