

APPEAL NUMBER: NOAA 24-08

IN THE MATTER OF AN APPEAL UNDER PART IV OF O. REG. 187/09 MADE UNDER
THE *SAFETY AND CONSUMER STATUTES ADMINISTRATION ACT, 1996*, S.O. 1996, C. 19

BETWEEN:

WEI (DAVID) ZHENG

Appellant

- and -

**ELECTRICAL SAFETY AUTHORITY,
DIRECTOR OF LICENSING**

Respondent

Decision of the Review Panel

Review Panel: Michael J. Mankulich

Hearing Dates: In writing

Appeal Number: NOAA 24-08

For the Appellant

Self-represented

For the Respondent

Maureen Salama

Independent Legal Counsel

Dan Goudge

I. INTRODUCTION

1. The Appellant brings this appeal seeking to overturn an Administrative Penalty Order (the “**APO**”) imposing two administrative penalties, each in the amount of \$3,000, pursuant to s. 113.18.1(1) of the *Electricity Act, 1998*, S.O. 1998 c. 15, Sch. A (the “**Act**”).
2. This appeal hearing was conducted by the Review Panel in writing, pursuant to rule 19.3 of the Electrical Safety Authority’s (“**ESA**”) *Rules of Procedure for Reviews and Appeals* (the “**Rules**”).

II. BACKGROUND FACTS

(a) Victory Renovation Posts Advertisements on Kijiji.ca and is Sent Notices of Violation

3. In August 2021, an entity know as “Victory Renovation” posted seven advertisements on the website Kijiji.ca (the “**August 2021 Advertisements**”). The August 2021 Advertisements indicated that an individual named “David” was a home renovation contractor who was capable of performing a whole house renovation, including electrical work.
4. Six of the seven August 2021 Advertisements listed as the contact phone number 647-885-3669. The last advertisement did not include a contact phone number.
5. The Respondent discovered the August 2021 Advertisements on August 31, 2021. That same day, the Respondent selected one of the August 2021 Advertisements and sent a Notice of Violation to the account holder via the Kijiji.ca instant messaging feature. The Notice of Violation advised that the advertisement constituted advertising or offering electrical services without an Electrical Contractors Licence, contrary to s. 113.2(1) of the *Act*.
6. On September 7, 2021, the Respondent confirmed that all seven of the August 2021 Advertisements were still active on Kijiji.ca. As a result, that day, the Respondent sent a second Notice of Violation with respect to the August 2021 Advertisements.
7. On September 20, 2021, the Respondent checked Kijiji.ca again and found that all of the August 2021 Advertisements remained active. Also on September 20, 2021, the Respondent requested that Kijiji.ca administratively remove six of the seven August 2021 Advertisements, with the respondent receiving confirmation that the advertisements had been removed later that day. The Respondent did not, however, send a further Notice of Violation to the account holder who posted the August 2021 Advertisements.
8. On September 24, 2021, the Respondent realized that it had inadvertently neglected to request that Kijiji.ca remove the seventh August 2021 Advertisement. The Respondent proceeded to do so that same day, and later received confirmation from Kijiji.ca that the advertisement had been removed.

(b) Victory Renovation Posts New Advertisements on Kijiji and is Sent Notices of Violation

9. After the August 2021 Advertisements were administratively removed from Kijiji.ca, the Respondent conducted regular checks of the site to see if Victory Renovation posted any further advertisements.
10. On January 19, 2022, the Respondent discovered that Victory Renovation had posted two new advertisements on Kijiji.ca (the “**January 2022 Advertisements**”). Similar to the August 2021 Advertisements, the January 2022 Advertisements indicated that “David” was a renovation contractor who was capable of performing a whole house renovation, including electrical work. One of the January 2022 Advertisements listed as the contact phone number 647-885-3669, while the other did not.
11. The Respondent did not deliver a Notice of Violation after it discovered that the January 2022 Advertisements had been posted. Instead, on January 19, 2022, the Respondent requested that Kijiji.ca administratively remove the advertisements from its site, which Kijiji.ca confirmed it had done that same day.
12. On March 7, 2022, the Respondent discovered two more advertisements that had been posted by Victory Renovation approximately a month before (the “**February 2022 Advertisements**”). The February 2022 Advertisements also indicated that “David” was a renovation contractor who was capable of performing a whole house renovation, including electrical work. One of the February 2022 Advertisements listed 647-885-3669 as the contact phone number, while the other did not. Again, the Respondent did not issue a Notice of Violation regarding these advertisements; instead, the Respondent again requested that the advertisements be administratively removed by Kijiji.ca, which Kijiji.ca confirmed it had done later on March 7, 2022.
13. Thereafter in March 2022, Victory Renovation posted three more advertisements on Kijiji.ca (the “**March 2022 Advertisements**”), again indicating that “David” was a renovation contractor who was capable of performing a whole house renovation, including electrical work. All three of these advertisements listed 647-885-3669 as the contact phone number.
14. The March 2022 Advertisements were discovered by the Respondent on March 22, 2022. No Notice of Violation was issued regarding these advertisements. Nor did the Respondent request that Kijiji.ca administratively remove the March 2022 Advertisements, as it had previously.

(c) The Respondent Commences an Investigation Into the Advertisements

15. On April 4, 2022, the Respondent appointed an investigator (the “**Investigator**”) to look into the advertisements that had been posted by Victory Renovation.
16. On April 7, 2022, the Investigator confirmed that the March 2022 Advertisements remained active on Kijiji.ca. Also on April 7, the Investigator contacted Bell Canada Corporate Security and learned that the phone number listed on the advertisements, 647-885-3669, was assigned to a Fido Solutions customer.

17. On April 29, 2022, the Investigator applied for a search warrant for the subscriber information for 647-885-3669, which was granted on May 2, 2022. The Investigator then received the relevant subscriber information from Rogers Communications Canada (“**Rogers**”) on May 18, 2022. The information provided by Rogers indicated that the phone number was registered to Wei Zheng, but that the subscriber’s username was David Zheng. The Investigator was also informed that the billing address for the phone number was listed as 16 Forbes Crescent in Markham, Ontario.
18. On May 19, 2022, the Investigator obtained a Geowarehouse Property Report for 16 Forbes Crescent, Markham, Ontario, which indicated that title to the property was registered to Juan He. However, Wei Zheng had been listed on title from December 23, 2014 to July 20, 2020.
19. The Investigator attended at 16 Forbes Crescent on May 26, 2022. The Investigator spoke to a person who advised that they were tenant at the property, and that it was owned by “David” and his wife. This individual also advised that 647-885-3669 was “David’s” phone number and that he believed that “David” was a contractor.
20. At approximately 5:00 p.m. on May 26, 2022, the Investigator called 648-885-3669. A male who identified himself as “David” answered the phone. There is no evidence that this phone call was recorded or that the Investigator kept any contemporaneous notes of it. The Investigator’s unchallenged affidavit evidence, however, is that “David” admitted to posting the various advertisements on behalf of Victory Renovation, though “David” denied ever performing electrical work himself.
21. The Investigator then provided “David” with language for a general disclaimer to include in Victory Renovation’s advertisements, to ensure that the advertisements comply with the *Act*. “David” asked that the Investigator send this language for the disclaimer to his email address, 993661341@qq.com, which the Investigator then did the following day. “David” responded by thanking the Investigator for the information and advised that he would change his advertisements right away.
22. Later on May 27, 2022, the Investigator confirmed that the advertisements posted by Victory Renovation on Kijiji.ca had been changed to remove all references to performing electrical work.

(d) The Appellant Offers to Perform Electrical Work

23. On June 28, 2022, another Investigator from the Respondent called 647-885-3669 and spoke with “David”, posing as a customer inquiring about a home renovation that included electrical wiring. The Investigator and “David” agreed to meet the following evening to discuss the potential project.
24. Both Investigators met with “David” on June 29, 2022. At the outset of the meeting, “David” provided the Investigators with a business card that listed his name as David Zheng, and provided a contact phone number of 647-885-3669. However, the business card was not for Victory Renovation, but another entity, Ahava Maayan. It also included a different email address than the address that “David” had previously provided.

25. During the meeting, the Investigators asked if a permit was required to conduct electrical work. Mr. Zheng responded that a notice had to be obtained from the ESA. Mr. Zheng then stated that usually he takes care of all of the electrical work, but if a client wants to obtain a permit for the work, he would hire a licensed electrician as a sub-contractor. Mr. Zheng added that obtaining a permit for the electrical work will increase the overall cost of the project, and that if the client chose not to obtain a permit for the electrical work, he would do it himself.
26. After this exchange, the Investigators identified themselves and informed Mr. Zheng that they had reason to believe he was performing electrical work without a licence. Mr. Zheng then denied that he had ever performed electrical work, and subsequently denied that the business card he provided to the Investigators was his. Mr. Zheng then refused to answer any further questions from the Investigators and left the scene.
27. There is no evidence of any investigative steps taken by the Respondent subsequent to June 29, 2022.

(e) The APO Is Issued

28. On October 23, 2023, the Respondent issued a Notice of Intent to Issue a Penalty Order to the Appellant. The Notice was delivered personally to a person who identified themselves as the Appellant's sister.
29. On February 5, 2024, the Respondent issued the APO. The Respondent attempted to serve it personally on the Appellant, but he refused to accept service. The APO was subsequently left at the Appellant's residence, on the hood of a vehicle parked in the driveway.
30. The APO lists two contraventions:
 - a. That between August 31, 2021 and May 27, 2022, the Appellant contravened s. 113.2(1) of the *Act* by placing advertisements for electrical work on Kijiji.ca; and
 - b. That on June 29, 2022, the Appellant operated an electrical contracting business without being the holder of an electrical contractor license, contrary to s. 3 of the *Licensing of Electrical Contractors and Master Electricians Regulation*, O. Reg. 570/08 (the "**Licensing Regulation**").
31. For each contravention, a \$3,000 penalty was assessed.

(f) The Appellant Appeals the APO

32. On September 5, 2024, the Appellant filed a Request for Extension of Time – Appeal Administrative Penalty Order. On September 24, 2024, the Respondent advised that it did not object to the Request, which was subsequently granted by the Review Panel on December 4, 2024.
33. The Appellant filed a Notice of Appeal to Review Panel on September 24, 2024. The grounds for appeal assert that the Appellant never posted about electrical work on Kijiji.ca, that the

Appellant does not do electrical work but instead hires a licensed electrician to do that, and that the Appellant did not operate an electrical business on June 29, 2022.

34. A Notice of Review Panel Hearing was issued on June 18, 2025. On July 18, 2025, the Respondent delivered its written submissions and supporting evidence with respect to the appeal. The Appellant delivered its responding written submissions on August 7, 2025.

(g) The Review Panel Requests Additional Evidence and Submissions

35. On December 19, 2025, the Review Panel directed that the parties deliver additional submissions on the application of s. 113.18.1(10) of the *Act* to the APO under appeal, including whether either or both of the contraventions identified in the APO are out of time.
36. The Appellant delivered its submissions on this issue on January 8, 2026, and the Respondent delivered its submissions the following day, on January 9, 2026. Both parties delivered brief reply submissions on January 16, 2026.
37. On February 4, 2026, the Review Panel provided the parties with a memorandum setting out the legal advice it had received from Independent Legal Counsel on the application of s. 113.18.1(10) of the *Act* to the APO under appeal. At the same time, the Review Panel directed that the Respondent deliver additional evidence regarding the steps it took between August 31, 2021 and May 2, 2022 to discover the full name and address of the Appellant, as well as the date on which the Respondent became aware that the August 2021 Advertisements had been removed from Kijiji.ca.
38. The Respondent delivered additional evidence in response to the Review Panel's direction on February 25, 2026, along with additional submissions addressing that evidence.
39. The Appellant subsequently delivered responding submissions on March 5, 2026.

III. LEGISLATIVE SCHEME

40. Section 113.2(1) of the *Act* provides that, “[e]xcept as provided in the regulations, no person shall carry out or propose to carry out, or permit or employ another person to carry out, an activity referred to in the regulations as requiring an authorization without first obtaining an authorization in accordance with the Part and the regulations.”
41. Moreover, s. 3 of the Licensing Regulations states that “[n]o person shall operate an electrical contracting business without an electrical contractor licence issued under this Regulation.”
42. Section 113.18.1 of the *Act* grants the Respondent the authority to impose administrative penalties. The key provisions state:

113.18.1 (1) A Director may, by order, impose an administrative penalty against a person in accordance with this section and the regulations made by the Minister if the Director is satisfied that the person has contravened or is contravening,

- (a) a prescribed provision of this Part or the regulations;

- (b) a restriction, limitation or condition imposed by a Director in respect of a prescribed authorization; or
- (c) a prescribed order of the Authority.

...

(3) An administrative penalty may be imposed under this section for one or more of the following purposes:

1. To ensure compliance with this Part or the regulations.
2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of a contravention described in subsection (1).

...

(4) The amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed \$10,000.

43. However, s. 113.18.1(10) provides that the Respondent shall not make an administrative penalty order “more than two years after the day the Director became aware of the person’s contravention on which the order is based.”

44. Further detail on the administrative penalty regime is set out in the *Administrative Penalties* regulations, O. Reg. 12/23, which provides as follows:

6. For the purposes of subsection 113.18.1 (4) of the Act, a Director shall determine the amount of an administrative penalty for a contravention prescribed in section 1 of this Regulation in accordance with the following rules:

1. The Director shall determine whether, in the Director’s opinion, the contravention had a major, moderate or minor adverse effect, or the potential to have such an adverse effect, on electrical safety.
2. The range for the administrative penalty is set out in Column 2 of the Table to this section opposite the determination set out in Column 1 as described in paragraph 1.
3. The amount of the administrative penalty for the contravention is an amount selected by the Director from within the range described in paragraph 2 after considering the following criteria:
 - i. Whether the person who committed the contravention has previously been subject to enforcement actions under Part VIII of the Act or its regulations for contraventions of a similar nature.
 - ii. The extent of the harm, or of the degree of risk of harm, to others as a result of the contravention.

- iii. Whether the contravention was deliberate.
- iv. Whether the contravention was repeated or continuous.
- v. The length of time during which the contravention continued.
- vi. Whether the person who committed the contravention derived any economic benefit from the contravention.

TABLE
RANGE OF ADMINISTRATIVE PENALTIES

Column 1 Severity of adverse effect or potential adverse effect	Column 2 Range
Major	From \$5,001 to \$10,000
Moderate	From \$1,001 to \$5,000
Minor	From \$100 to \$1,000

IV. ISSUES TO BE DECIDED

45. The issues to be decided on this appeal are:

- (i) whether the APO was issued more than two years after Respondent first became aware of the Appellant's contraventions on which the APO was based, and is therefore time barred;
- (ii) whether the evidence on which the Respondent relies is inadmissible;
- (iii) whether the Respondent has proven on a balance of probabilities that the Appellant committed the contraventions listed in the APO; and
- (iv) if so, whether a penalty of \$3,000 for each of contravention should be confirmed or varied to be a different amount.

46. As was held in *Soheil Sobat v. Director Licensing, Electrical Safety Authority*,¹ in the context of another appeal from an Administrative Penalty Order, this appeal hearing before the Review Panel is, in effect, a *de novo* process. That means that this Review Panel must assess for itself the correct interpretation and application of the relevant statutory provisions, rather than deferring to the Respondent's views or analysis, both with respect to liability and with respect to penalty.

¹ *Soheil Sobat v. Director Licensing, Electrical Safety Authority*, NOAA-23-05 at paras. 12-14.

V. PRELIMINARY ISSUES

A. Is the APO Time-Barred?

a. *The Appellant's Position*

47. The Appellant submits that s. 113.18.1(1) of the *Act* imposes a mandatory statutory limitation period on the Respondent's authority to issue an APO. Where the contravention on which the APO is based is outside of the two year limitation period, the Appellant submits that the entire APO must be set aside for exceeding the Respondent's statutory powers.
48. The Appellant submits that the APO itself states that the first contravention listed took place between August 31, 2021 and May 27, 2022, yet the APO was not issued until February 5, 2024, more than two years after the contravention is said to have started.
49. The Appellant further submits that the Respondent has acknowledged that it became aware of the advertisements at issue in the first contravention on August 31, 2021. The Appellant submits that the Respondent's evidence demonstrates that it act diligently to determine who posted those advertisements, and that its reliance on "progressive enforcement" is not a justification for failing to exercise due diligence.
50. The Appellant submits that because the first contravention listed in the APO was identified by the Respondent more than two years before the APO was issued, the entire APO violates s. 113.18.1(1) of the *Act* and should therefore be set aside.
51. In the alternative, the Appellant argues that because the first contravention is out of time, it should be struck from the APO and no fine should be imposed for that alleged violation.

b. *The Respondent's Position*

52. The Respondent submits that while s. 113.18.1(1) of the *Act* imposes a two-year statutory limitation period, that limitation period is not engaged in this case because the Respondent did not become aware of the essential and material facts underlying the contraventions listed in the APO until less than two years before the APO was issued. Specifically, the Respondent submits that it did not become aware of the material facts regarding the first contravention until May 18, 2022, when it learned the identity of the person posting advertisements on Kijiji.ca on behalf of Victory Renovation. Likewise, the Respondent submits that it did not become aware of the material facts regarding the second contravention until June 29, 2022, when its Investigators met with the Appellant. As both of these dates occurred less than two years before the APO was issued on February 5, 2024, the statutory limitation period created by s. 113.18.1(1) of the *Act* is not engaged.
53. The Respondent further submits that it exercised due diligence in attempting to learn the essential and material facts that form the foundation of the two contraventions. In particular, the Respondent submits that while it first became aware of the advertisements Victory Renovation was posting on Kijiji.ca on August 31, 2021, the Respondent believed at that time that regulatory compliance could be achieved through issuing a Notice of Violation and then getting Kijiji.ca to administratively remove the offending advertisements. It was not until March 22, 2022, the Respondent submits, that it became clear that this enforcement

approach was not working. After that date, the Respondent submits that it worked quickly to determine the identity of the Victory Renovation account holder, which it learned on May 18, 2022, after it received information in response to a search warrant it obtained on May 2, 2022. The Respondent submits that this demonstrates that it exercised due diligence in attempting to ascertain the facts underpinning the APO, of which the identity of the party who has contravened the *Act* is an essential element.

54. In the alternative, the Respondent submits that the first contravention included in the APO can be broken down into four distinct incidents, and that any incidents that are found to be statute barred can be severed from the others. Specifically, the Respondent submits that the August 2021 Advertisements, January 2022 Advertisements, February 2022 Advertisements, and March 2022 Advertisements all constitute separate contraventions of the *Act*, and while the August 2021 Advertisements and the January 2022 Advertisements were discovered more than two years before the APO was issued, the February 2022 Advertisements and the March 2022 Advertisements were discovered by the Respondent on March 7 and 22, 2022, respectively, less than two years before the APO was issued.
55. The Respondent further submits that if the February 2022 Advertisements and the March 2022 Advertisements are severed from the August 2021 Advertisements and the January 2022 Advertisements, those latter two incidents should still be considered by the Review Panel when assessing the appropriate penalty.

c. Decision

56. I find that the APO, as a whole, is not time-barred under s. 113.18.1(10) of the *Act*. While the Respondent became aware of the August 2021 Advertisements and the January 2022 Advertisements outside the statutory limitation period, all other elements of the APO were discovered within the limitation period. As a result, I find that the August 2021 Advertisements and the January 2022 Advertisements should be severed from the APO as statute barred, while the remainder of the APO may stand and be reviewed in this appeal.
57. As stated above, s. 113.18.1(10) of the *Act* states that the Respondent shall not issue an APO “more than two years after the day the Director became aware of the person’s contravention on which the order is based.”²
58. This limitation period begins to run when the Respondent first becomes aware of the facts that constitute the elements of the offence.³ However, it is not necessary for the Respondent to know all the facts that it “thinks is necessary” to bring a regulatory charge.⁴ Nor is it necessary for the Respondent to have “an appreciation of [the] potential legal implications” of the material facts necessary to make out the elements of the offence.⁵ In particular, the process of evidence gathering, verification, and analysis is to take place during the limitation

² *Electricity Act, 1998*, S.O. 1998, c. 15. Sch. A., at s. 113.18.1(10).

³ *Deposit Insurance Corporation of Ontario v. Vinski*, [2014 ONCJ 301](#), at para. 63, citing *Ontario (Securities Commission) v. International Containers Inc.*, [1989] O.J. No. 1007 (ON HC); *Real Estate Council of Ontario v. Virk*, [2016 ONCJ 451](#), at para. 180; *R. v. Fingold*, [1999] O.J. No. 369 (ON CJ), at para. 58.

⁴ *Deposit Insurance Corporation of Ontario v. Vinski*, [2014 ONCJ 301](#), at para. 63, citing *Ontario (Securities Commission) v. International Containers Inc.*, [1989] O.J. No. 1007 (ON HC).

⁵ *Deposit Insurance Corporation of Ontario v. Vinski*, [2014 ONCJ 301](#), at para. 65.

period, as “[i]t is not the prerogative of the [Respondent] to decide when the limitation period commenced by asserting a need to investigate or verify the original information.”⁶

59. The Respondent acknowledges that it became aware of the August 2021 Advertisements on August 31, 2021, and that it became aware of the January 2022 Advertisements on January 19, 2022. Both of these dates are presumptively outside of the statutory limitation period established by s. 113.18.1(1) of the *Act*. However, the Respondent submits that it did not know the essential facts that constitute the elements of the offence until May 22, 2022, when it learned that the Appellant was the account holder for Victory Renovation and was responsible for posting those advertisements.
60. I agree with the Respondent that the identity of the person who has contravened the *Act* is an essential element of the offence and a necessary pre-condition to issuing an APO. I also accept that the Respondent did not learn the identity of the person who had posted the August 2021 Advertisements and the January 2022 Advertisements (as well as the February 2022 Advertisements and the March 2022 Advertisements) until May 22, 2022.
61. However, because the limitation period under s. 113.18.1(1) only begins to run when the Respondent becomes aware of the facts that constitute the elements of the offence, s. 113.18.1(1) incorporates into its framework the principle of discoverability.⁷ This requires the Respondent to act with due diligence to discover the material facts of the claim.⁸
62. While the Respondent concedes that no formal due diligence efforts were made to determine the identity of the person responsible for posting the August 2021 Advertisements and the January 2022 Advertisements until April 4, 2022, when an Investigator was assigned to the matter, this is because the Respondent believed that further action was not required to achieve regulatory compliance, as Kijiji.ca had administratively removed the advertisements in question. The Respondent submits that it only became apparent that further enforcement action was required after the March 2022 Advertisements were discovered, as it had become clear to the Respondent by then that the Appellant was going to keep posting advertisements in violation of the *Act* unless further action was taken. Once the decision was made to assign an Investigator, the Respondent submits that it exercised due diligence in determining the identity of the person posting the advertisements at issue.
63. Although I have concerns about this approach to enforcing the *Act*, as it appears to allow for parties to contravene the *Act* once or twice before the Respondent takes steps toward issuing an APO, that approach is a policy choice that the Respondent is permitted to make. However, this progressive approach to enforcement cannot be relied on by the Respondent as a substitute for exercising due diligence. The Respondent’s obligation to exercise due diligence begins when it becomes aware of a potential contravention. From that point forward, the Respondent must work diligently to investigate the matter, determine whether a contravention has occurred, and, if so, uncover all of the essential elements of the offence.

⁶ *Deposit Insurance Corporation of Ontario v. Vinski*, [2014 ONCJ 301](#), at para. 64, citing *R. v. Fingold*, [1999] O.J. No. 369 (ON CJ), at para. 61.

⁷ *R. v. Pickles* (2004), [237 D.L.R. \(4th\) 568 \(ON CA\)](#), at para. 16.

⁸ *Deposit Insurance Corporation of Ontario v. Vinski*, [2014 ONCJ 301](#), at para. 61; *Real Estate Council of Ontario v. Virk*, [2016 ONCJ 451](#), at paras. 180-181; *R. v. Boucha*, [2021 ONCJ 141](#), at para. 114.

64. I find that the Respondent did not exercise due diligence in uncovering all of the essential elements of the offence with respect to the August 2021 Advertisements and the January 2022 Advertisements. As it concedes, no steps were taken between August 31, 2021 and April 4, 2022, to determine the identity of the person posting advertisements under the Victory Renovation account. Instead, the Respondent was content with relying on Kijiji.ca to administratively remove the advertisements from its site. As stated above, this is a policy decision that is open to the Respondent to make. However, the Respondent must also live with the consequences of that policy choice. Here, the consequence is that the Respondent is statute-barred from including the August 2021 Advertisement and the January 2022 Advertisement in the APO it issued on February 5, 2024.
65. Moreover, it is unclear why the Respondent waited until February 5, 2024 to issue the APO. This is approximately 20 months after it submits it learned all of the essential elements of both of the contraventions included in the APO under appeal. The Respondent provided no evidence explaining what steps it was taking during this period or what due diligence it was undertaking. This further supports my conclusion that the Respondent failed to exercise due diligence in issuing an APO with respect to the August 2021 Advertisements and the January 2022 Advertisements, and that the Respondent is therefore statute-barred from including those incidents in the APO at issue in this appeal.
66. Having determined that any APO regarding the August 2021 Advertisements and the January 2022 Advertisements are statute barred, I must also determine whether they can be severed from the APO under appeal. I find that they can be severed from the APO before me.
67. Section 18(4) of the *General* regulation, O. Reg. 187/09, made under the *Safety and Consumer Statutes Administration Act, 1996*, S.O. 1996, c. 19, provides that on appeal, the Review Panel “may, by order, confirm, amend, or rescind the decision of the Director or make whatever other decision that the Review Panel deems appropriate.” This provision grants the Review Panel broad discretion to revise an APO that is before it, where the Review Panel considers it reasonable to do so.
68. In accordance with this provision, I exercise my discretion to amend the APO under appeal to remove the August 2021 Advertisements and the January 2022 Advertisements from its description of the contraventions. As a result, the first contravention shall now state: “That between March 7, 2022 and May 27, 2022, the Appellant contravened s. 113.2(1) of the *Act* by placing advertisements for electrical work on Kijiji.ca”.

B. Is the Evidence Relied on by the Respondent Inadmissible?

a. *The Appellant’s Position*

69. The Appellant submits that the evidence adduced by the Respondent in its Book of Documents, dated July 17, 2025, is inadmissible for two reasons.
70. First, the Appellant submits that the audio recording of his purported conversation with the Inspectors from the Respondent should be excluded because it was obtained through coercion, edited to remove context, and does not include any authentication or chain of custody.

71. Second, the Appellant submits that the Respondent relies on hearsay evidence from unnamed individuals who he did not have an opportunity to cross-examine.

b. *The Respondent's Position*

72. The Respondent did not make submissions on the admissibility of the evidence contained in its Book of Documents

c. *Decision*

73. I find that the evidence contained in the Respondent's Book of Documents, dated July 17, 2025, is admissible.

74. In coming to this conclusion, I have considered rule 17.1 of the *Rules*, which states:

The Review Panel may allow and consider evidence that is relevant, even if the evidence may not be admissible in a court. This includes the evidence or testimony of a witness even if it may not be admissible in a court. This includes the evidence or testimony of a witness even if it is not given under affirmation or sworn oath. The Review Panel may not admit evidence that would be inadmissible because of any privilege recognized in a court (for example, solicitor-client privilege).

75. I am satisfied that the evidence contained in the Respondent's Book of Documents is relevant to the issues before the Review Panel and is therefore admissible under rule 17.1. With respect to the audio recording, I do not find any basis to conclude that the information contained in the recording was coerced. I further note that the recording was included as Exhibit Q to the affidavit of Indrek Esken, affirmed on July 16, 2025, and that at paragraph 23 of his affidavit, Mr. Esken states that the recording contains "the entirety of the conversation" between himself and the Appellant. I have no reason, on the evidence before me, to conclude that the recording was edited or that pertinent information was omitted.

76. I also place weight on the fact that the Appellant chose not to cross-examine on any of the affidavits relied upon by the Respondent, including those that the Appellant submits contain hearsay or information from unnamed sources. While the Appellant raises concerns regarding the reliability of certain evidence, the opportunity existed to challenge that evidence through cross-examination, which he chose not to exercise. In these circumstances, those concerns go more appropriately to the weight to be afforded the evidence rather than to its admissibility.

77. Finally, I have considered rule 12.1 of the *Rules*, which permits a party to seek an order requiring the other party to provide additional particulars, information, or documents beyond the initial disclosure. I note that the Appellant did not request, either formally or informally, further disclosure or particulars as part of this appeal. In the absence of such a request, I am not persuaded that any alleged insufficiency in disclosure provides a basis to exclude the Respondent's evidence.

VI. LIABILITY

A. The Appellant's Position

78. The Appellant submits that there is no evidence that he either posted the February 2022 Advertisements or the March 2022 Advertisements, or that he performed unauthorized electrical work.
79. Specifically, the Appellant submits that the Respondent has not adduced evidence that he authored the February 2022 Advertisements and the March 2022 Advertisements, on provided any other evidence, such as IP addresses, device data, or metadata, establishing that he was responsible for posting the advertisements.
80. The Appellant also submits that there is no evidence that he personally undertook or represented that he would undertake unauthorized electrical work. The Appellant submits that he has retained a licensed electrical contractor by the name of Wilson Cai to perform all electrical work on the projects he undertakes.
81. Finally, the Appellant submits that the meeting between him and the Respondent's Investigators on June 29, 2022, constitutes entrapment, and therefore infringes his rights under section 7 of the *Charter of Rights and Freedoms*.

B. The Respondent's Position

82. The Respondent submits that there is no dispute that the Appellant is not a licensed electrical contractor, noting that the Appellant himself submits that he hires a licensed electrical contractor when his projects include electrical work.
83. The Respondent also submits that the February 2022 Advertisements and the March 2022 Advertisements clearly include reference to performing electrical work, and that the evidence establishes that the Appellant posted those advertisements. Specifically, the Respondent states that the advertisements refer to the Appellant's first name, David, and they include a phone number that belongs to Wei Zheng with a username of David Zheng. Moreover, the Respondent submits that the Appellant admitted to posting the advertisements during a phone conversation with an Inspector on May 26, 2022, and that the reference to electrical work was subsequently removed from the advertisements posted by Victory Renovation after that discussion.
84. The Respondent further submits that the evidence also establishes that the Appellant held himself out as operating an electrical contracting business without a licence when he met with the Investigators on June 29, 2022. The Respondent notes that the Appellant is audio recorded as admitting that he performs electrical work himself, and that he sought to persuade the Investigators from forgoing the Respondent's permitting process in order to lower the costs of the project.

C. Decision

85. I accept the Respondent's position that the Appellant has committed the contraventions set out in the APO.

86. The Appellant has not denied posting the February 2022 or March 2022 advertisements. Instead, he argues that the respondent failed to provide sufficient evidence that he posted them. I am not persuaded by this submission. The evidence, as a whole, supports the Respondent's conclusion that the Appellant was responsible for the advertisements.

I have also considered the Appellant's statements during his June 29, 2022, conversation with the Investigators. When asked whether an ESA permit was required, the Appellant stated that obtaining a permit would increase the cost of the work, but that he would perform the electrical work if the customer chose not to obtain one. He further advised that, if the customer wanted a permit, he had a friend who was a licensed electrician who could perform the work. While these comments demonstrate an awareness of the permitting process, they do not detract from the Appellant's statement that he was prepared to complete the work without a permit if the customer elected not to obtain one.

Having considered all the evidence, I find that the Appellant's explanations do not undermine the Respondent's findings. The evidence supports the conclusion that the Appellant was prepared to undertake electrical work in circumstances where the required permit had not been obtained, and I therefore find no basis to interfere with the Respondent's decision on this issue.

87. With respect to the Appellant's submission regarding entrapment, the Supreme Court of Canada held in *R. v. Mack* held that the defence of entrapment will apply where (1) "the authorities provide an opportunity to commit an offence without reasonable suspicion or acting *mala fides*," or (2) "having reasonable suspicion or acting in the course of a *bona fide* inquiry, they go beyond providing an opportunity and induce the commission of an offence." In considering the second branch of entrapment, the Court or decision-maker is to consider whether the conduct of the authorities would have induced the average person in the position of the accused to commit the offence.
88. In considering the Appellants entrapment argument, I have assessed whether the Investigators went beyond testing compliance and instead provided an opportunity to commit an offence without reasonable suspicion or induce the appellant to do so. On the evidence, I am not satisfied that they did.

Rather, I find the Investigators provided an opportunity for the Appellant to commit the offence without pressure, coercion, or inducement. The Appellant chose to proceed in a manner that engaged the conduct at issue. The evidence supports that his actions arose from his own voluntary response to the opportunity presented, rather than any improper investigative conduct.

89. Based on my review of the materials submitted, and for the reasons stated above, I am satisfied the Appellant committed the contraventions, as alleged.

VII. PENALTY

A. The Appellant's Position

90. The Appellant submits that he has no prior history of violating the *Act*, and that all relevant advertisements have been removed. The Appellant submits that the contraventions listed in the APO reflect a first-time, non-malicious incident.
91. Also result, the Appellant submits that a total penalty of \$6,000 is grossly disproportionate, and that an appropriate penalty in the circumstances is \$500 for each contravention, for a total penalty of \$1,000.

B. The Respondent's Position

92. The Respondent submits that the penalties of \$3,000 for each contravention is reasonable and should be upheld.
93. The Respondent submits that the Appellant posted advertisements on Kijiji.ca representing that he performed electrical work from August 31, 2021 to May 27, 2022. The Respondent submits that the Appellant ignored the Notices of Violation that were sent to him via Kijiji.ca's messaging system, and that the Appellant re-posted the advertisements soon after Kijiji.ca administratively removed them. As a result, the Respondent submits that the Appellant's violation of the *Act* was deliberate and was done to solicit customers on behalf of his business.
94. The Respondent further submits that the recording of the Appellant's conversation with Investigators on June 29, 2022, demonstrates that the Appellant was aware of the requirement to obtain a permit before performing electrical work and that such work needed to be performed by a licenced electrician. Yet, the Appellant stated to the Investigators that they could save money by not obtaining a permit for the work.
95. Given these facts, the Respondent submits that a penalty of \$3,000 per contravention is reasonable and should be confirmed.

C. Decision

96. I accept the Respondent's position that the penalties of \$3,000 for each contravention found in the APO should be confirmed.
97. The evidence shows the Appellant posted advertisements on Kijiji.ca between March 22, 2022, and May 27, 2022, offering electrical work. Despite Notices of Violation issued through Kijiji.ca, the Appellant continued to repost the advertisements after removal, supporting a finding of deliberate conduct to solicit work.

I also relied on the Appellant's June 29, 2022, statements to the Investigators, which indicate awareness of permit requirements and licenced electrical work, yet a willingness to proceed without a permit to reduce cost. This supports the Respondent's position that the Appellant knowingly acted contrary to regulatory requirements.

In these circumstances, I agree that the penalties are appropriate. The conduct was persistent and deliberate and created a risk to public safety by promoting and facilitating unlicensed electrical work. The penalty is proportionate to the seriousness of the contraventions, and I find no basis to interfere with the Respondent's determination.

98. Based on my review of the materials submitted, and for the reasons stated above, I am satisfied the penalties imposed by the APO, in the amounts of \$3,000 for each of the contraventions committed by the Appellant should be confirmed.

VIII. ORDER

99. Subject to my determination regarding the application of s. 113.18.1(1) of the *Act* to the APO under appeal, the Panel confirms the APO in this matter.

Dated this 15th day of June, 2026.

Mike Mankulich

Michael J. Mankulich