

APPEAL NUMBER: NOAC 23-03

IN THE MATTER OF APPEALS UNDER PARTS II & III OF O. REG 187/09 MADE UNDER
THE *SAFETY AND CONSUMER STATUTES ADMINISTRATION ACT, 1996*

BETWEEN:

STRAK HOLDINGS INC.

Appellant

- and -

DIRECTOR OF LICENSING, ELECTRICAL SAFETY AUTHORITY

Respondent

Decision of the Review Panel

Review Panel: Reena Goyal, Michael Mankulich

Hearing Dates: July 24-26, 2024

Appeal Number: NOAC 23-03

Decision Date: September 19, 2024

APPEARANCES

For the Appellant

Rahyl Hassan
(Principal and Vice-President,
Operations)

For the Respondent/Director

Mackenzie Campbell
David G. Cowling

Independent Legal Counsel

Justin Safayeni

I. DECISION

1. This is an appeal brought by Strak Holdings Ltd. (“**Strak**”) from the decision of the Electrical Safety Authority (“**ESA**”) Director of Reviews and Appeals (“**DORA**”) dated October 18, 2023. The DORA’s decision upheld the decision of the Director of Licensing dated April 19, 2023 to carry out a Notice of Proposal to Revoke Authorization (“**NOP**”) in respect of Strak’s electrical contractor licence.
2. For the reasons set out in this decision, this appeal is dismissed and the NOP is upheld.

II. BACKGROUND

A. Procedural and preliminary issues

3. This appeal was heard by the Review Panel (“**Panel**”) over the course of July 24-26, 2024, with only portions of each date being used. It proceeded by way of a virtual hearing, on agreement of the parties, pursuant to the ESA’s *Rules of Procedure for Reviews and Appeals* (“**Rules**”) and the ESA’s *Review Panel Remote Proceedings Guidelines*.
4. The Appellant was represented by its principal and Vice-President of Operations, Rahyl Hassan.
5. On three occasions, the Panel allowed previously undisclosed documents into evidence, as it has the discretion to do under rule 12.7 of the Rules. More specifically:
 - a. on July 24, 2024, the Appellant sought to introduce a package of medical documentation. The Respondent was given time to review the documents, advised that he did not object to them being marked, and this package was eventually marked as Exhibit 3;
 - b. on July 25, 2024, the Appellant advised that he wished to adduce a Ministry of Labour Claim Form filed by one of the ESA’s witnesses, Thomas Miguel. The Respondent objected, but the Panel allowed the document in, after affording the ESA a break overnight to review the document and discuss it with Mr. Miguel (who had yet to testify). The Claim Form was eventually marked as Exhibit 15;
 - c. on July 26, 2024, during Mr. Miguel’s testimony, reference was made to an Employment Agreement between Mr. Miguel and Strak, which the Respondent sought to introduce into evidence. The Appellant did not object and, in any event, would have had access to the document. The Employment Agreement was eventually marked as Exhibit 16.
6. Mr. Hassan was the Appellant’s sole witness. The Respondent called Ms. Shana Hole and Mr. Miguel, who appeared pursuant to a summons. Both parties presented oral arguments and the Panel reserved its decision.

B. Facts and basic chronology

7. Despite strong disagreement between the parties on certain issues (canvassed further in the Analysis section below), the basic chronology of most relevant events is confirmed by documentation and is not the subject of any serious debate.
8. On May 17, 2019, the ESA issued a “Notification of Conditions on License” to Strak (Exhibit 3), which required Strak to comply with all requirements for maintaining an electrical contractor’s licence including filing the notifications required under Rule 2-004 of the *Ontario Electrical Safety Code* (“OESC”) and conducting electrical work in a safe manner. The conditions were determined to be necessary after Strak plead guilty and was convicted of three offences (no electrical contractor’s licence; failure to apply for inspection; unsafe electrical conditions) while being unlicensed.
9. On September 11, 2019, Strak and Thomas Miguel entered into a “Designated Master Electrician Agreement” (Exhibit 14).
10. On February 14, 2022, the ESA issued a “Notice of Proposal to Suspend an Authorization” to Strak (Exhibit 5), following Strak’s failure to file notifications for electrical work. The NOP contained conditions to be met for Strak’s licence to be reinstated, including:
 - a. To submit a corrective action plan outlining the steps to be taken by Strak to ensure notifications are filed in a timely manner and in accordance with the OESC;
 - b. Strak’s Designated Master Electrician (“DME”) Thomas Miguel was required to submit a corrective action plan outlining how their responsibilities as a DME would be fulfilled and how the DME plans to oversee Strak’s electrical contracting activities.
11. Strak’s licence was subsequently suspended and then reinstated, as it appears the ESA was satisfied that Strak met the necessary conditions. However, it should be noted that Mr. Miguel never submitted a “corrective action plan”. Instead, Mr. Hassan did so on behalf of Strak. While the ESA assumed that the plan was submitted on behalf of both Mr. Hassan and Mr. Miguel, Ms. Hole later explained that this was incorrect.
12. In late January 2023, after noticing that Mr. Miguel’s email address on file seemed tied to a business other than Strak, Shana Hole from the ESA’s licensing department reached out to Mr. Hassan and requested proof of Mr. Miguel’s employment with Strak (Exhibit 6). Strak did not provide it, and so Ms. Hole advised that she would follow up with Mr. Miguel directly.
13. Ms. Hole then sent Mr. Miguel a “Request for Licensing Information” requesting that he provide proof of employment and demonstrate how he fulfills his DME responsibilities.
14. On February 7, 2023, Mr. Miguel emailed Ms. Hole back a completed version of the form signed and dated February 7, 2023 (Exhibit 8), providing the following response:

I am not employed by Strak Holdings. I resigned in Oct/2021. I sent a notice of change on Oct 14, 2021 – see attached.

15. Mr. Miguel's email also attached a "Notice of Change to Information: Designated Master Electrician" form dated October 15, 2021 that indicated that he ceased being a DME for Strak on October 15, 2021 (Exhibit 9) ("**Miguel Change Form**").
16. When Ms. Hole received this information from Mr. Miguel on February 7, 2023, she took steps to remove Mr. Miguel as Strak's DME in the ESA's system.
17. On February 21, 2023, Mr. Hassan from Strak emailed Ms. Hole and stated as follows (Exhibit 10):

I spoke with our [DME], he was out of town coming back in this week back to work. I will ensure he send you the docs you need this week end of this week [sic].

18. On April 19, 2023, the Director of Licensing issued a Notice of Proposal to Revoke Authorization in respect of Strak ("**NOP**") (Exhibit 1). The Director of Licensing provided the following summary of the grounds relied upon for the NOP
 - a. "STRAK failed to advise that as of October 15, 2021, STRAK no longer employed an ME."
 - b. "STRAK does not presently employ a ME."
 - c. "Furthermore, since becoming licensed in April 2019, STRAK has demonstrated a repeated failure to meet obligations as a licence holder."
 - d. "STRAK and its principal, Vice President RAHYL HASSAN, has engaged in a conduct that is deceptive and misleading, which is behaviour lacking honesty and integrity."
19. Strak applied for a review of the NOP before the DORA.
20. On October 18, 2023, the DORA released her decision, concluding that the Director of Licensing "is entitled to carry out the Notice of Proposal to revoke [Strak's] licence". The DORA reasoned as follows:

[1] In conclusion, and for reasons that follow below, the Director of Licensing (DOL) is entitled to carry out the Notice of Proposal to revoke the Applicant's licence. The conclusion comes after a review of all evidence submitted. The Statutory Director of Reviews and Appeals (Director) is not persuaded that the proposal ESA has made is unreasonable. ESA has given the Applicant multiple chances to come into compliance, imposed conditions and also used suspension of the licence to show the severity of the Applicant's actions and non-actions to requests. The Applicant has shown repeated failure to meet their obligations as a licence holder, has contravened Rule 2-004 of the OESC (Ontario Electrical Safety Code) multiple times, but also the manner in which the Applicant has dealt with ESA appears to be deceptive and misleading. Finally, the Applicant has been unresponsive, failing to respond

puts the regulator at risk of addressing a public safety issue which could undermine public confidence.

...

[21] On the issue of the Applicant not informing ESA that their DME was no longer employed, Ontario Regulation 570/05 Section 8(b) states that a requirement of being licenced is to be or have designated a Master Electrician who is responsible for planning/supervising electrical work carried out on behalf of the electrical contractor. Strak, initially had a DME in Thomas Miguel, but as per Mr. Miguel, he resigned from Strak on October 15, 2021. Strak has been operating without a DME since then and has filed 97 notifications subsequent to Thomas Miguel's departure. This is a clear violation of the requirements of being licenced. Furthermore, communications between ESA and the Applicant led ESA to believe that Strak had a DME and that DME was Thomas Miguel. Communication took place for months and the Applicant did not mention that Thomas Miguel resigned at any point in time.

[22] On the issue of repeated failure to file notifications of electrical work leading to contraventions of the OESC Rule 2-004, it is very clear the non-filing was brought up to the Applicant and then subsequently the notifications were filed. This is not operating with honesty and integrity, especially after being convicted prior to licencing for failing to file notifications. Relevant parts of the Section 113.2(2) of the Electricity Act states that a licence may be revoked if the Director has reason to believe that:

(a) the licence holder will not carry out the activities in accordance with the law;

(b) the applicant or authorization holder will not conduct himself or herself with honesty and integrity or in accordance with the principle of protecting consumers;

[23] Finally, these repeated incidences of failure to file notifications as per the OESC puts the public at risk of electrical harm.

21. By Notice of Appeal submitted November 3, 2023, Strak appealed the DORA's decision to the Review Panel.
22. On March 19, 2024, Mr. Miguel submitted a "Claim Form" to the Ministry of Labour, claiming \$19,000 in unpaid wages against Strak (Exhibit 15) ("**Miguel Claim Form**"). On the Miguel Claim Form, Mr. Miguel indicated that the end date of his employment with Strak was February 2, 2023.

III. LEGISLATIVE SCHEME

23. The NOP to revoke Strak's authorization was made pursuant to section 113.2 of the *Electricity Act, 1998*, S.O. 1998, c. 15, Sched. A ("**Act**"), which provides, in relevant part:

113.2 (1) Except 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 this Part and the regulations.

(2) A Director may refuse to grant an applicant an authorization for the carrying out of activities or may refuse to renew, may suspend or may revoke an authorization holder's authorization for the carrying out of activities, if the Director has reason to believe that,

(a) the applicant or authorization holder will not carry out the activities in accordance with the law;

...

(d) the applicant or authorization holder will not conduct himself or herself with honesty and integrity or in accordance with the principle of protecting consumers;

...

(f) the applicant or authorization holder failed to comply with or to meet a requirement of this Part, the regulations or an order of the Authority;

...

(g) the authorization holder failed to comply with a restriction, limitation or condition of the authorization.

24. The Respondent argues, among other things, that the Appellant has failed to comply with this legal obligations. In particular, the ESA relies on section 8(b) of Ontario Regulation 570/05 ("**Regulation**"), made pursuant to the Act, which specifies that:

A person who applies for an electrical contractor licence shall not be issued the licence unless the applicant... is a master electrician or, if the applicant is not a master electrician, the applicant employs at least one master electrician whom the applicant has designated as having the responsibilities set out in section 6 for the carrying out of electrical work on the applicant's behalf.

25. The ESA also relies on section 4 of the Regulation, which requires an electrical contractor to "ensure that all electrical work carried out on the electrical contractor's behalf is carried out in accordance with all applicable laws, including the Electrical Safety Code...". The relevant provision of the Ontario Electrical Safety Code ("**OESC**") is rule 2-004(1), which provides:

A contractor shall file a notification with the Electrical Safety Authority of any work on an electrical installation:

- (a) Prior to the commencement of the work whether or not electrical power or energy has been previously supplied to the land, building or premises on which the work is performed; or
- (b) Within 48 hours after commencement of the work where compliance with Subrule (1)(a) is not practicable.

26. The authority of this Panel in respect of the DORA's decision is set out in section 14(11) of O. Reg. 187/09 (General) made under the *Safety and Consumer Statutes Administration Act, 1996*, S.O. 1996, c. 19. That provision states: "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."

IV. ISSUES TO BE DECIDED

27. The issue in this appeal is whether to uphold, vary or set aside the DORA's decision confirming the NOP authorizing the revocation of Strak's licence, based on one or more of the grounds set out in section 113.2(2) of the Act.
28. In assessing whether those grounds are established, this Panel was advised by its independent legal counsel to apply the balance of probabilities standard. Neither party disagreed with that advice.

V. EVIDENCE

29. The following is a brief summary of the highlights of the witness testimony in this proceeding. It is not designed to be a comprehensive recitation of the evidence, and instead focuses on the main issues pressed by the parties in their respective arguments.

A. Rahyl Hassan

30. Mr. Hassan was the sole witness put forward on behalf of Strak.
31. He stated that in early April 2023, Strak received a receipt for its licence from the ESA, and that nothing of note happened between that date and April 19, 2023, when the NOP was issued. Mr. Hassan questioned how there could therefore be any basis for any revocation.
32. Mr. Hassan also adduced a package of medical documentation (Exhibit 3) outlining surgeries and other procedures/appointments he had undergone between March 2023 and July 2, 2024. He testified that this documentation showed that he could not personally engage in any kind of electrical work, and was limited to tasks in the nature of "quoting jobs".
33. In cross-examination, Mr. Hassan was asked about the employment of Mr. Miguel as Strak's DME. Mr. Hassan stated that Mr. Miguel "chose to go off the licence" near the end of

October 2023 or the beginning of 2024. He stated that Mr. Miguel was “on and off” in terms of his relationship with Strak; there were billing disputes and when Strak would make a payment, Mr. Miguel would work, otherwise he would not. In Mr. Hassan’s own words, the arrangement with Mr. Miguel “was a little ambiguous... If I made payments, he would work, otherwise he wouldn’t.”

34. Mr. Hassan was specifically asked about his February 21, 2023 email to Ms. Hole of the ESA’s licensing department, where he stated: “I spoke with our [DME], he was out of town coming back in this week back to work. I will ensure he send you the docs you need this week end of this week [sic].” Mr. Hassan explained that he made this statement because Mr. Miguel had told Mr. Hassan’s father, who is President of Strak, that he would work with Strak “if we can amicably settle everything”. Essentially, Mr. Hassan’s evidence is that he understood Mr. Miguel was willing to work with Strak provided that payments Mr. Miguel believed to be owing to him were made.
35. In response to a question from a member of the Review Panel asking if Mr. Hassan accepted Mr. Miguel’s end date was the date on the Miguel Change Form (i.e. October 15, 2021), Mr. Hassan responded “I agree with what you are saying”, but then pointed to the fact that Mr. Miguel’s response for an employment date on the Miguel Claim Form was several years later.
36. Mr. Hassan’s evidence was that certain anonymous actors unknown to him have been completing electrical work over the past couple of years, using his business card and/or the Strak name, although they are not in fact employed or associated with Strak. While Mr. Hassan mentioned “emails from clients” confirming that Strak did not complete certain works, he did not adduce any such documents in evidence, or any other documents that would corroborate his claim.

B. Shana Hole

37. Ms. Hole was licensing manager at the ESA up until March 2024 (when she moved to a new role within the ESA). She began working in the licensing department in 2011.
38. Ms. Hole explained that the requirement for electrical contractors to have at least one DME is critical. DMEs are licensed specifically to ensure work is done safely and in accordance with the OESC. They are also responsible for personal planning and personal supervision of electrical work, and making sure electrical work is done by people with the proper qualifications. It was important to have proper contact information on file for a license holder’s DME, in order to help ensure that there is somebody who is fulfilling that role.
39. With respect to notifications (or “permits” as they are known more colloquially), Ms. Hole explained that the OESC requires the ESA to be notified whenever electrical work is done. Notifications are then assessed as to whether an inspection is a requirement. The purpose of the notification requirement is to ensure that if the work needs to be inspected, then it can be, and that it is safe.
40. Ms. Hole testified that Strak continued to engage in electrical work between October 15, 2021 (when Miguel ceased being employed as Strak’s DME, according to the Miguel Change Form) and April 19, 2023 (when the NOP was issued). Ms. Hole based this

testimony on the fact that her search of the ESA's records showed a number of open permits indicating that Strak was continuing to perform electrical work during this period.

41. Ms. Hole provided evidence in the form of a chart regarding further defects that were compiled by inspectors prior to April 2023 (Exhibit 11) ("**Strak Defects Chart**"). Many of these defects were for Strak's failure to file the required notifications for electrical work. Several of these entries post-dated the removal of Mr. Miguel as DME by Ms. Hole on or about February 7, 2023, with failure to notify defects listed in respect of at least seven different properties in March and April 2023.
42. Ms. Hole testified that Strak does not currently have a DME and did not have a DME when Mr. Hassan emailed her on February 21, 2023 regarding Mr. Miguel's purported status as a DME. Ms. Hole also confirmed that she did not receive Mr. Miguel's Change Form back in October 2021—and that she only received it when it was sent by Mr. Miguel via email on February 7, 2023.
43. In cross-examination, Ms. Hole was asked about the systems the ESA has in place to prevent "fraud". Ms. Hole explained that while the ESA accepts information from individuals regarding potential non-compliance — anonymous or otherwise — an ESA inspector then verifies that information prior to taking any further licensing or enforcement steps, including applying a "defect" label. Such verification could include a site visit, for example. As Ms. Hole put it, "we wouldn't act on an anonymous lead with no credibility".

C. Thomas Miguel

44. Mr. Miguel was called as a witness by the Respondent, pursuant to a summons. He has been an electrician for 36 years.
45. Mr. Miguel gave evidence about the "Designated Master Electrician Agreement" (Exhibit 14) between himself and Strak, which is dated September 11, 2019 ("**DME Agreement**"). The DME Agreement provides three different payment options, of which the parties selected the following: "Flat rate payment option. The contractor agrees to pay the ME a flat rate of \$1000.00 per month regardless of how many ESA permits are issued. Payments are due the 1st of the following month." The DME Agreement further provides: "Any revenue lost to the ME as a result of the contractor failing to live up to his/her part of this agreement will be billed personally to the owner/contractor."
46. Mr. Miguel explained that he never attended any properties or job sites for Strak, nor was he ever given any lists of job sites or permits issued by Strak. Given that most of his time with Strak unfolded during the COVID-19 pandemic, Mr. Miguel testified that he understood work was slow and was giving Strak some lenience with regard to late payments, but ultimately became uncomfortable since he was getting no work from Strak. Mr. Miguel's evidence was that he never received any proof of employment from Strak, including any T4 (tax) slips—only direct deposits from Strak on a "random" basis.
47. Mr. Miguel's evidence was that he submitted the Change Form to Strak—specifically, to Mr. Hassan's father, Khalid—on or about October 12, 2021. Mr. Miguel insisted that he

also scanned and sent a copy to the ESA on or around that date, but could not explain how the ESA failed to receive or maintain a copy of that record.

48. Mr. Miguel's cross-examination focused mainly on the Miguel Claim Form, where Mr. Miguel indicated an employment end date of February 14, 2023. Mr. Miguel was pressed on the discrepancy between this date and the date on his Change Form, where he indicated he ceased employment as Strak's DME on October 15, 2021. Mr. Miguel explained that he put February 14, 2023 as the date because he did not get a new job until after that date, and based on the language in the DME Agreement, he believed it was appropriate for Strak to be liable for his wages until that date.
49. On the Miguel Claim Form, Mr. Miguel is seeking \$19,000 in compensation from Strak. Mr. Miguel testified that both Mr. Hassan and his father had, on multiple occasions, confirmed in writing that he was owed \$19,000. He also produced documentation (Exhibit 16) showing that Strak had previously paid him six different \$1,000 payments between February and July 2022.

VI. ANALYSIS

50. The grounds for the NOP can essentially be broken down into three categories: (i) Strak operating without a DME; (ii) Strak's repeated failures to operate without filing the required notifications; and (iii) Strak's failure to operate with honesty and integrity. The Panel finds that it need not conclude that all of these grounds are made out; instead, the question is whether whatever grounds are established are sufficient to justify the issuance of the NOP.
51. At the hearing, independent legal counsel advised that the Panel should adopt a correctness standard of review. Neither party disagreed with this advice. Applying a correctness standard means that this Panel must assess whether the DORA's decision to uphold the NOP was correct, rather than deferring to the DORA's views or analysis (or, by extension, the Director of Licensing's views or analysis). That is approach Review Panels have taken in previous cases, including in NOAL-15-01 (*Edison Electric Inc. v. Director, Contractor Licensing and Powerline*) and in NOA 21-01L (*Moradali A. Bandzar v. Director of Licensing*). The Panel agrees that the appropriate standard of review is correctness.
52. We now turn to consider each of the three grounds put forward for the NOP.

A. Operating without a DME

i. The parties' positions

53. The Appellant does not expressly deny that it engaged in electrical work without a DME, although Mr. Hassan's evidence as to when Mr. Miguel ceased operating as a DME is unclear. As outlined above, Mr. Hassan himself characterizes the arrangement with Mr. Miguel as "a little ambiguous". Mr. Hassan also repeatedly stated that he sent several emails to the ESA's Reviews and Appeals Office earlier this year with information for Strak's new DMEs, but was repeatedly advised that these were being sent to the wrong address. The Panel notes that none of these emails were produced.

54. The Respondent argued that even if February 7, 2023 (rather than October 2021) is taken as the date when Mr. Miguel ceased being Strak's DME, the record remains clear that work continued on at least seven different sites between that date and the issuance of the NOP. The Respondent submits that is enough to establish Strak was operating without a DME.

ii. Decision and analysis

55. The Panel considers February 7, 2023 to be the key date when assessing this ground. Even assuming it was reasonable for Strak to operate on the basis that Mr. Miguel was acting as its DME in the period following October 2021, it is clear that Mr. Miguel ceased his role as DME as of February 7, 2023. By this point, Mr. Miguel had submitted the Change Form to ESA confirming his removal as DME.
56. Based on the Strak Defects Chart and the testimony of Ms. Hole, from the period for February 7, 2023 onward, we find on a balance of probabilities that Strak engaged in electrical work without a DME.
57. Accordingly, the Panel concludes that Strak did breach the requirement to employ a DME while engaging in electrical work, contrary to section 8(b) of the Regulation and subsection 113.2(g) of the Act.

B. Failure to file notifications

i. The parties' positions

58. The Appellant does not deny or dispute that it did not file the necessary notifications in many cases, as the ESA's records appear to establish. Instead, the Appellant argues that these are mere "administrative" oversights or deficiencies. The Appellant also suggests that in at least some of these circumstances, the underlying electrical work was being done by some unknown or anonymous rogue posing as Mr. Hassan or Strak, without Mr. Hassan or Strak's actual authorization to do so. Again, no supporting documentation was provided that would support this assertion.
59. The Respondent relies on Ms. Hole's testimony and the documentary evidence showing a steady stream of defects by Strak for failure to file the necessary notifications.

ii. Decision and analysis

60. The evidence establishes that Strak failed to file notifications on numerous occasions (see, for example, the Strak Defects Chart). The Panel does not accept the characterization of Strak's repeated failures to meet the notification requirement as a mere "administrative" error or oversight. As Ms. Hole explained, the notification requirement serves an important consumer protection purpose and must be respected.
61. The Panel notes there was no documentary evidence filed in support of the Appellant's argument that "rogue"/anonymous persons were working under the guise of Strak representatives, including during the time Mr. Hassan was undergoing medical treatment.

62. Accordingly, we conclude that Strak did breach the requirement to file notifications, contrary to section 4 of the Regulation and OESC rule 2-004(1) and subsections 113.2(a) and (f) of the Act.

C. Lack of honesty and integrity

i. The parties' positions

63. The Respondent relies mainly on the February 21, 2023 email sent by Mr. Hassan to Ms. Hole, where he stated: "I spoke with our [DME], he was out of town coming back in this week back to work. I will ensure he send you the docs you need this week end of this week [sic]." The Respondent characterizes this email as a "blatant lie", given that Mr. Miguel had submitted paperwork ceasing to be Strak's DME in October 2021 (to Khalid at Strak) and on February 7, 2023 (to the ESA).
64. Mr. Hassan submits that at the time he sent the email to Ms. Hole, he had a good faith belief that Mr. Miguel would be returning to work at Strak, based on what Khalid had told him. More generally, Mr. Hassan presents Strak as a company that is striving to try and do the right thing, including having new DMEs in place that would help satisfy ESA requirements.
65. The Respondent relies on Ms. Hole's testimony and the documentary evidence showing a steady stream of defects by Strak for failure to file the necessary notifications.

ii. Decision and analysis

66. Based on the email exchange from February 21, 2023 (Exhibit 10), the Panel concludes that Mr. Hassan was misrepresenting his relationship with Mr. Miguel to the ESA. Even accepting Mr. Hassan's testimony as to his good faith belief that Mr. Miguel would return to work at Strak, the evidence supports the conclusion that: (i) Mr. Miguel was not Strak's registered DME at the time of the February 21, 2023 email; and (ii) Mr. Miguel did not meet the standards set out by ESA for the DME to be a full time employee of Strak.
67. Accordingly, the Panel concludes that Strak's conduct has exhibited a lack of honesty and integrity in its dealings with the ESA, contrary to subsection 113.2(d) of the Act.

D. Conclusion

68. Based on the foregoing, the Panel concludes there are grounds justifying the NOP, and that thus there is no reason to disturb the DORA's decision upholding the NOP.
69. In particular, the Panel conclude that there are grounds under section 113.2(2)(a), (d), (f) and (g) as set out above.

VII. ORDER

70. The Panel dismisses this appeal from the DORA's October 18, 2023 decision and confirms the Notice of Proposal to Revoke Authorization in respect of Strak dated April 19, 2023.
71. The parties may make brief written submissions as to costs, not to exceed two double-spaced pages, and bearing in mind rule 23 of the ESA's *Rules of Practice and Procedure*. The Respondent may file its submissions within 10 business days of the release of this decision, and the Appellant may file its submissions within 10 business days thereafter. Costs submissions should be sent to the opposing party and to the ESA's Reviews and Appeals Office.

Dated this 19th day of September 2024.



Reena Goyal, Presiding Member
Michael Mankulich