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2019 RCAD 07



ROYAL CANADIAN MOUNTED POLICE

in the matter of a conduct hearing pursuant to the

Royal Canadian Mounted Police Act, RSC, 1985, c R-10

BETWEEN:

Commanding Officer, "K" Division

Conduct Authority

and

Constable Sean Taylor, Regimental Number 52565

Subject Member

Conduct Board Decision

John A. McKinlay

May 6, 2019

Mr. Brad Smallwood, for the Conduct Authority

Ms. Sabine Georges, for the Subject Member

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SUMMARY

[This summary is not part of the final decision.]

The Subject Member’s spouse was accused by school charity volunteers, in the presence of the Subject Member, of fraudulent activities. One of the accusations related to fraudulent payments being made by the charity on a vehicle being driven by the Subject Member.

The parties jointly requested the amendment of the *Notice of Conduct Hearing*. The Subject Member then admitted to two allegations of discreditable conduct for continuing to drive the vehicle and for failing to make further inquiries about his spouse’s fraudulent activities, notwithstanding the information conveyed by the charity volunteers in his presence. The Subject Member unreasonably accepted the explanations he was provided by his spouse.

A joint proposal on conduct measures was accepted. Globally, the Board imposed a loss of 10 days of pay and 20 days of annual leave, as well as a direction that the Subject Member continue his medical treatment in coordination with the applicable Health Services Office.

INTRODUCTION

[1] On April 13, 2018, the Conduct Authority requested the appointment of a conduct board in respect of two allegations against the Subject Member. On April 18, 2018, I was appointed Conduct Board for this matter.

[2] On May 17, 2018, the Conduct Authority signed a *Notice of Conduct Hearing* (NOCH), which contained two allegations against the Subject Member for discreditable conduct under section 7.1 of the RCMP Code of Conduct. One allegation pertained to the Subject Member's possession of a vehicle (fraudulently obtained by his spouse) despite reasonable grounds to believe it was obtained in an illegal manner. The second allegation concerned the Subject Member's failure to report his spouse's fraudulent activities in relation to the vehicle and the use of funds belonging to a school charity.

[3] On June 14, 2018, the Subject Member was served with the NOCH, together with the investigation materials package. I received the NOCH and package on June 26, 2018.

[4] On June 27, 2018, a filing extension was granted to the Subject Member for his responses under the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*] to August 17, 2018. The extension reflected the period already afforded the Subject Member to review the considerable volume of materials, the Member Representative's (MR) recent retainer and receipt of the materials, and the MR's planned leave in July 2018.

Pre-hearing process

[5] Pre-hearing conferences took place on July 27, 2018 (PHC 1), August 24, 2018 (PHC 2), October 19, 2018 (PHC 3), November 13, 2018 (PHC 4), December 17, 2018 (PHC 5), January 19, 2019 (PHC 6), and March 19, 2019 (PHC 7).

[6] At PHC 1, a number of items were considered, including: the MR seeking permission to only file written responses after the Subject Member's criminal trial was completed; the MR requesting further investigation and ordered production of information and documents; the nature of any MR contemplated motions and expert opinion evidence; the status of associated criminal

prosecutions; and the Conduct Authority Representative (CAR) seeking the formal position of the Crown on any testimony considered necessary in the present conduct hearing not taking place before a) the criminal matter for the Subject Member was completed; and b) the criminal matter for the Subject Member's spouse was completed. The Subject Member faced a single criminal charge associated with his possession of a vehicle fraudulently obtained by his spouse. While not documented in the package that accompanied the NOCH, the parties advised the Conduct Board that the Subject Member's spouse had entered guilty pleas to numerous fraud-related charges, and was scheduled to be sentenced in December 2018.

[7] On August 17, 2018, the MR filed the Subject Member's responses under subsection 15(3) of the *CSO (Conduct)*, denying both allegations as they were worded in the original NOCH issued on May 17, 2018.

[8] At that time, the MR also requested:

- that the Subject Member's responses be sealed until the completion of his criminal trial (a request that was denied); and
- an order for the production of a psychological assessment report for the Subject Member's spouse, arising from her independent criminal proceedings.

[9] The MR advised that she was seeking the Subject Member's RCMP medical file and other health-related documentation, and that she was contemplating obtaining an expert report concerning the Subject Member's mental health at the time of the events encompassed by the NOCH. The MR raised the issue of the degree of influence or control that the spouse had exercised over the Subject Member.

[10] At PHC 2, the CAR was directed to identify the specific places in the investigative materials where the Subject Member was present to hear utterances concerning his spouse's fraudulent activities. This would permit the MR to file a further submission concerning the exact factual admissions made by the Subject Member, even if the Subject Member continued to deny contravening the Code of Conduct. The Conduct Board was informed that the Crown took no

position on the timing of the adjudication of the conduct allegations faced by the Subject Member.

[11] On August 31, 2018, the MR filed a motion, seeking a Production Order for the psychological report prepared, or to be prepared, as part of the criminal trial process for the Subject Member's spouse.

[12] Later on August 31, 2018, the CAR filed the annotated NOCH as directed by the Conduct Board during PHC 2.

[13] At PHC 3, factors were identified that made a conduct hearing after the Subject Member's criminal matter appropriate, and the hearing was set for the week of February 25, 2019.

[14] On October 22, 2018, the CAR summarized his communications with the Crown attorney handling the criminal prosecution of the Subject Member's spouse. Any psychological report for the spouse would be a sentencing hearing exhibit and, thus, it would be publicly available. The Conduct Board observed that the MR's motion appeared moot; therefore, it was denied on the basis that the report being sought would be publicly available.

[15] The Subject Member's further responses to the allegations were received on October 30, 2018, in which he admitted to a number of particulars, but still denied both allegations. At this time, the gravamen of the misconduct for Allegation 2 concerned a failure by the Subject Member **to report** criminal conduct by his spouse, which he had reasonable grounds to believe had occurred. As detailed in the present decision, this allegation would later be amended to address the Subject Member making no reasonable efforts **to ascertain the truth** of his spouse's alleged fraudulent acts, despite information that suggested his spouse had likely committed multiple frauds.

[16] At PHC 5, the filing of a report from the Subject Member's treating psychologist was considered. The parties were reminded of post-*Mohan* judicial authorities concerning expert independence, and the expectation that reports comply with the requirements set out in

subsection 19(2) of the *CSO (Conduct)*. While approval of any necessary witnesses was still to be made, the hearing would commence on February 25, 2019, with duration and location still to be determined.

[17] On January 11, 2019, the Conduct Board learned of the adjournment of the spouse's criminal sentencing hearing to February 26, 2019. It appeared the spouse's psychological report might not be available to the public until that date; therefore, the MR renewed her motion for the ordered production of the spouse's report. The Conduct Board responded to this development on January 14, 2019, by rescheduling the conduct hearing to April 29, 2019, after finding that exceptional circumstances existed to justify an adjournment longer than 30 days [*CSO (Conduct)*, section 21)].

[18] On January 15, 2019, the Conduct Board learned that the Subject Member's criminal trial had been rescheduled to October 2019, and that the spouse had committed a further fraud to delay her sentencing hearing. Importantly, the spouse had not yet had a psychological assessment; therefore, there was presently no report. The MR confirmed that her motion seeking production of the spouse's psychological report was moot as there was no report to be ordered produced.

[19] At PHC 6, the parties confirmed that they did not seek any delay in the conduct hearing pending the completion of the Subject Member's parallel criminal matter in October 2019, nor the completion of any criminal matter involving the spouse.

[20] On February 8, 2019, the psychological report and *curriculum vitae* from the registered psychologist, Dr. Joan Hillson, were filed with the Conduct Board, together with supporting medical documentation concerning the Subject Member. The CAR did not oppose the admission of any of the Subject Member's health-related materials.

[21] No request was made to the Conduct Board to qualify Dr. Hillson as an expert entitled to offer opinion evidence. In light of how this matter is ultimately resolved, the lack of formal qualification of health-care practitioners as experts (entitled to offer opinions in specific fields of expertise) did not preclude my consideration of their materials. Nevertheless, where the parties

are prepared to rely on the record, and no testimony from witnesses will take place, it is preferable to still address the qualifications of health-care practitioners as experts submitting reports.

[22] That being said, Dr. Hillson has been registered with the College of Alberta Psychologists continuously since 1997. The focus of her private practice has been the treatment of active and retired RCMP members, members of other law enforcement agencies, other first responders, and Canadian military veterans. I find that Dr. Hillson is qualified to give expert opinion evidence in the field of psychology, including psychological assessment, diagnosis, treatment and prognosis. While Dr. Hillson has served a therapy-oriented role with the Subject Member over numerous treatment sessions, I am prepared to accept her expert opinions and afford them significant weight. The reliability of her opinions is bolstered by her consideration of the documentation filed from a consulting psychiatrist and sleep disorder doctor. Each had conducted their own assessment of the Subject Member.

[23] It appears that the Subject Member was subject to long-term verbal and emotional abuse by his spouse, came to be somewhat socially isolated, and was subject to a division of family roles in which he had no awareness of his spouse's day-to-day dealings with vehicle registration, insurance, and financing. Moreover, he suffered from insomnia and sleep apnea that may have contributed to his lack of "discernment" about his spouse's activities. Finally, by his spouse, he was led to believe that she was seriously ill and receiving cancer treatment, making him reluctant to challenge her explanations. While the Subject Member thrived as a computer forensic technician, he acknowledged that despite his police training, his previous effectiveness as a general duty investigator was affected by "seeing the good in people, believing their stories".

[24] The CAR and MR each confirmed that they were satisfied with the record, and did not seek to call any witnesses.

[25] On March 4, 2019, the CAR advised that the parties were engaged in discussions regarding joint submissions in this matter, with a filing anticipated by March 18, 2019.

[26] On March 18, 2019, the parties filed a “Joint Request to Amend the Notice of Conduct Hearing and Joint Proposal on Conduct Measures”. This filing also included a collection of positive performance assessment materials for the Subject Member.

[27] On March 25, 2019, the parties filed substantially the same joint proposal document, but with minor clerical corrections and clarifications. It is this revised filing that the Conduct Board considers the parties’ joint proposal.

[28] On April 4, 2019, the MR advised that the Subject Member’s criminal prosecution had been stayed. She filed correspondence from the Crown confirming a stay of proceedings against the Subject Member.

[29] On April 29, 2019, a hearing by video conference was conducted. There were three aspects to the parties’ joint submission to be addressed:

- the parties’ joint motion for the amendment of the NOCH, involving the amendment of certain particulars for Allegations 1 and 2, and the outright excising or deleting of certain particulars.
- the Subject Member’s admission, in writing, of the contraventions described in the amended Allegations 1 and 2; and
- the parties’ joint proposal with respect to conduct measures, to be imposed globally for the allegations.

[30] In providing oral decisions on these aspects on April 29, 2019, I relied on the caveat that my abbreviated oral decisions might be expanded upon. I also reserved the right to clarify and explain my reasons and findings in greater detail in this final written decision.

ALLEGATIONS

[31] After a review of the authorities filed by the parties, and other authorities involving conduct boards granting amendment of a notice of conduct hearing, I grant the proposed amendments.

[32] In the present case, the Subject Member agrees to the amendments. Therefore, I am not required to assess whether the amendments are prejudicial or procedurally unfair given that they take place after the filing of the Subject Member's initial responses under subsection 15(3) of the *CSO (Conduct)*. Moreover, I am satisfied that, absent prejudice to the Subject Member, the Conduct Authority here has the discretion to amend the NOCH, particularly where it appears to take into account information filed by the Subject Member in response to the originally worded NOCH.

[33] As amended, the NOCH now contains two allegations of contravention under section 7.1 of the Code of Conduct, here reproduced, together with the written admissions and explanations of the Subject Member (emphasis in the original):

Allegation 1

On or about February 14, 2016, at or near [C.], Alberta, [the Subject Member], did behave in a manner that is likely to discredit the Force contrary to Section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police Act*.

[The Subject Member] admits to Allegation 1.

Particulars of the contravention

1. At all material times [the Subject Member] was a member of the Royal Canadian Mounted Police (RCMP) posted to "K" Division, Internet Child Exploitation Unit in [C.], Alberta. – **Admits**
2. During the relevant time period [the Subject Member] was married to [spouse's name]. [The Subject Member] has been separated from [the spouse] since July 6, 2017 and has filed for divorce. – **Admits**
3. For several years (ending December 7, 2016), [the spouse] was the Secretary for a school charity. The charity raised money for school activities by operating a charity casino night and hosting other events such as BBQs. – **Admits**

4. On or about November 18, 2016, members of the Executive Board of the charity attended the residence of [the Subject Member] and [the spouse]. At this time, the board members accused [the spouse] of defrauding the charity (“the confrontation”). – **Admits**

5. [The Subject Member] was partly present during the confrontation. During the confrontation, it was communicated to [the Subject Member] by a board member, that they were accusing his wife of fraudulently using the charity’s funds for her own purposes. – **Admits**

6. During the confrontation, [the Subject Member] stated “I wish I could say that this was the first time”. – **Admits**

7. The accusations made during the confrontation included that a Nissan Pathfinder was purchased and financed through the charity by [the spouse], without knowledge of the Executive Board. – **Admits**

8. During the time that the Nissan Pathfinder was in their possession, [the Subject Member] drove it as a commuter vehicle to his place of work in [C.]. [The Subject Member] continued to drive the Nissan Pathfinder after the November 18, 2016 confrontation which provided a reasonable person reasons to believe that the vehicle was in fact obtained by crime. – **Admits**

[The Subject Member] admits to driving the Nissan Pathfinder as a commuter vehicle to work after the November 18, 2016 confrontation. However, [the Subject Member] denies having full knowledge that the Nissan Pathfinder was purchased fraudulently. [The Subject Member] admits to being negligent and that he had sufficient information for him to make reasonable efforts to ascertain the truth with respect to the vehicle.

Following the confrontation, [the spouse] explained to [the Subject Member] that the charity members were mad at her because she had mishandled a grant application. She further explained to him that even though the vehicle was purchased through her inheritance, the vehicle was also in the charity’s name for a brief period. At the time, [the Subject Member] was of the understanding that the Nissan Pathfinder was registered under his name. [The spouse] assured him that this was a big misunderstanding and that she would fix it. [The Subject Member] believed her.

During the confrontation, the charity’s members advised him that they were reporting this incident to the police. The fact that no RCMP or other police officer questioned him about the vehicle is another reason that lead him to believe [the spouse] over the board members. [The Subject Member] was of the opinion that if something fraudulent had happened and it was reported as such, then the police would have contacted him.

The above explains [the Subject Member]’s inaction in not seeking further information to confirm the board members’ allegations with respect to the vehicle. As mentioned above, [the Subject Member] takes responsibility for being negligent by solely relying on [the spouse]’s explanations.

9. On February 14, 2017, the Nissan Pathfinder was repossessed by a Civil Enforcement Bailiff while it was in the possession of [the Subject Member] at his place of work. – **Admits**

Allegation 2

On or between November 18, 2016 and February 14, 2017, at or near [C.], Alberta, [the Subject Member], did behave in a manner that is likely to discredit the Force contrary to Section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police Act*.

[The Subject Member] admits to Allegation 2.

Particulars of the contravention

1. At all material times [the Subject Member] was a member of the Royal Canadian Mounted Police (RCMP) posted to “K” Division, Internet Child Exploitation Unit in [C.], Alberta. – **Admits**
2. During the relevant time period [the Subject Member] was married to [spouse’s name]. [The Subject Member] has been separated from [the spouse] since July 6, 2017 and has filed for divorce. – **Admits**
3. For several years (ending December 7, 2016), [the spouse] was the Secretary for a school charity. The charity raised money for school activities by operating a charity casino night and hosting other events such as BBQs. – **Admits**
4. On or about November 18, 2016, members of the Executive Board of the charity attended the residence of [the Subject Member] and [the spouse]. At this time, the board members accused [the spouse] of defrauding the charity (“the confrontation”). – **Admits**
5. [The Subject Member] was present during most of the confrontation. During the confrontation, it was communicated to [the Subject Member] by a board member, that they were accusing his wife of fraudulently using the charity’s funds for her own purposes. – **Admits**
6. During the confrontation, [the Subject Member] stated “I wish I could say that this was the first time”. – **Admits**
7. The accusations made during the confrontation included that a Nissan Pathfinder was purchased and financed through the charity by [the spouse], without knowledge of the Executive Board. – **Admits**

8. During the confrontation, [the Subject Member] was given some information that [the spouse] had likely committed multiple frauds as Secretary of the charity. [The Subject Member] made no reasonable efforts to ascertain the truth of the alleged acts. – **Admits**

[The Subject Member] takes responsibility for being negligent, particularly for not making reasonable efforts to ascertain the truth with respect to the board members' allegations against [the spouse] and for solely relying on [the spouse]'s explanations.

[*Sic throughout*]

Admissions by the Subject Member

[34] At the oral hearing on April 29, 2019, after the amendment of the NOCH was granted, the Subject Member waived the reading of the allegations and confirmed that he admitted to Allegation 1 and 2, as now amended.

Findings on the Allegations

[35] Subsection 40(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*], requires the application of the balance of probabilities standard of proof when adjudicating contraventions of the RCMP Code of Conduct.

[36] Both allegations involve discreditable conduct. In order to make such a finding, I must first find that it was the Subject Member who committed the conduct in question. Proof of the Subject Member's identity has never been an issue in this matter.

[37] The second stage involves a determination of whether the facts alleged in the particulars, and here admitted to by the Subject Member, are established on a balance of probabilities as per the Supreme Court of Canada's analysis in *F.H. v McDougall*, [2008] 3 SCR 41.

[38] I am satisfied that the particulars for Allegations 1 and 2 are established. The particulars fairly reflect the information contained in the statements obtained from those in attendance at the confrontation on November 18, 2016. Also, in a number of instances, the particulars are corroborated by the documentation later gathered by investigators, documentation that appears to chronicle the surreptitious, fraudulent and frequently brazen activities of the spouse. Also, the

Subject Member has admitted to the revised particulars, including, importantly, Particular 8 for each allegation.

[39] I must now determine if the established particulars support a finding of a contravention of section 7.1 of the Code of Conduct, which involves an assessment as to whether the Subject Member's established acts and omissions bring discredit on the RCMP.

[40] Discreditable behaviour is based on a test that considers how the reasonable person in society, with knowledge of all the relevant circumstances including the realities of policing in general, and the RCMP in particular, would view the behaviour. The threshold is met when that reasonable person would see the actions of the Subject Member as likely to bring discredit to the Force. (See RCMP External Review Committee, *ERC C-2015-001 (C-008)*, paragraphs 92 – 93.)

[41] I find that the Subject Member's conduct contravened section 7.1, and that Allegations 1 and 2 are established. These determinations were not arrived at easily, despite the Subject Member's admissions, and should be clearly understood as confined to the highly unique circumstances that are present.

[42] Whether on or off duty, whether dealing with a member of the public or a member of one's own family, a member of the RCMP has a duty to conduct themselves in accordance with the Code of Conduct. The difficult situation in which the Subject Member found himself, while personally distressing, was one of those rare situations where further inquiries by him were appropriate, and his acceptance of his spouse's explanations was not objectively reasonable. The Subject Member fully cooperated with the initial criminal investigation, which encompassed both the Subject Member and his spouse. In the course of the Subject Member providing a lengthy, cooperative *Charter*-warned statement to investigators, the Subject Member's personal anguish upon learning the scope of his spouse's fraudulent activities is palpable.

[43] It is not clear what the Subject Member intended when he told the charity members confronting his spouse: "I wish I could say that this was the first time." In his statement, he explained that his spouse had experienced a falling out with others in the past involving other financial matters, but his comment did not mean he was aware of previous fraudulent acts by his

spouse. From the frankness and cooperative attitude exhibited by the Subject Member throughout his statements to investigators, I am inclined to accept his clarification.

[44] Nevertheless, it is reasonable to conclude that the Subject Member continuing to drive the Nissan Pathfinder after the November 18, 2016, confrontation, which provided a reasonable person reasons to believe that the vehicle was in fact obtained by crime, is likely to bring discredit on the Force. It is also reasonable to conclude that the Subject Member receiving information that his spouse had likely committed multiple frauds, including irregularities in respect of the Nissan Pathfinder, and making no reasonable efforts to ascertain the truth about the alleged frauds, is likely to bring discredit on the Force.

CONDUCT MEASURES

[45] The parties jointly proposed the following global conduct measures:

- A financial penalty of 10 days of pay [*CSO (Conduct)*, paragraph 5(1)(j)]
- A reduction of 20 days of annual leave [*CSO (Conduct)*, paragraph 5(1)(i)]
- A direction that the Subject Member continue his medical treatment in coordination with Health Services of “K” Division [*CSO (Conduct)*, paragraphs 3(1)(d) and (e)]

[46] The parties identified, and I accept, the following as aggravating factors (with my limiting observations appearing in parentheses as appropriate):

- Seriousness of related criminal charge (which was in fact stayed by the Crown shortly after the parties’ joint proposal was filed with the Conduct Board)
- Possible *MacNeil* issue going forward. (While a possibility, this matter is in no way a situation where the Subject Member directly exhibited dishonesty. Instead, this is a situation in which the Subject Member’s actions in continuing to drive the Nissan vehicle, and inactions in failing to make further inquiries concerning his spouse’s alleged

fraudulent activities, were not reasonable, and in the circumstances were likely to bring discredit on the Force.); and

- This matter drew significant media attention. (Much of this online media attention was generated by the now-stayed criminal charge filed against the Subject Member.)

[47] The parties submitted the following mitigating factors, which I accept as present (again, with my observations in parentheses):

- It is clear from the record that the spouse was manipulative and deceptive in the extreme. She has pled guilty to multiple frauds and has further pending charges on frauds committed subsequent to her pleading guilty. (While the findings of discreditable conduct are rooted in the Subject Member's unreasonable reactions to the information conveyed at the confrontation of November 18, 2016, I accept that he was provided with extensive explanations by the spouse which were, on their face, at least initially plausible.);
- The Conduct Authority is no longer seeking for the Subject Member's dismissal. (To my mind, this constitutes a significant mitigating factor as it confirms that the Subject Member retains the confidence of the Conduct Authority);
- The Subject Member is taking responsibility and has admitted to the allegations;
- The Subject Member has cooperated with all investigations, the current conduct hearing proceeding, and has demonstrated the desire to resolve this matter at the earliest opportunity. (As noted earlier, the Subject Member provided a full account of his actions to investigators at the outset. While the Subject Member's initial and further responses filed under subsection 15(3) included denials of both allegations, the Subject Member did make admissions, with written explanations, in response to the ultimate, amended NOCH.);
- The Subject Member has no prior discipline;
- The Subject Member has a track record of consistently good work performance;

- The Subject Member has suffered and continues to suffer from several medical challenges. At the time of the allegations, the Subject Member had many stressors in his personal life. For example, he was falsely led to believe by his spouse that she had cancer and was going through cancer treatment. (I accept that at the time of his spouse's confrontation by the charity members, and in the immediate aftermath where she provided a series of initially plausible explanations, the Subject Member's good judgment was to some degree compromised by the health-related matters identified in the expert documentation.);
- The Subject Member has sought treatment and continues counselling;
- There is a minimal risk of recidivism (with the Subject Member formally seeking a divorce from his spouse, her negative behaviours and influence have been severed);
- The Subject Member is a forensic analyst with the Integrated Child Exploitation unit which requires specific [skill sets]; and,
- The Subject Member did not behave with malicious intent.

[48] With some clear differences, the nature of the Subject Member's misconduct under Allegation 2 might be compared to that of an investigator who, from an objective perspective, exhibits a lack of reasonable diligence in the performance of an investigation. Of a much more serious nature, it is arguable that Allegation 1 in the present case is very distantly related to instances where a member fails to turn in found property that has real value. Nevertheless, the parties are certainly correct in stating that this case and its surrounding circumstances are unique in nature; neither the *Conduct Measures Guide* nor any previous board decision offers clear guidance for such misconduct.

[49] While the proposed conduct measures are offered as a global sanction, it is reasonable to view each individual contravention as normally attracting a non-dismissal penalty that, in the absence of serious aggravating factors, comprises the forfeiture of pay or leave, or both, as corrective, and specific deterrent, measures. The loss of 5 days of pay, 10 days of annual leave,

and appropriate counselling, for each allegation, are measures that fall along the continuum of reasonable outcomes, even if these significant measures might not be the exact measures that I would independently choose to impose.

[50] As noted in a number of previous conduct board decisions, many citing the Supreme Court of Canada's decision in *R v Anthony-Cook*, [2016] 2 SCR 204, a joint proposal on conduct measures is to be afforded significant deference, and should only be rejected if a board considers the proposal to be unreasonable or contrary to the public interest.

[51] Having considered the nature of the contraventions and surrounding circumstances, the range of proportionate conduct measures that might apply, the mitigating and aggravating factors cited by the parties, and giving appropriate deference to the joint proposal, I accept the joint proposal on conduct measures as reasonable and not contrary to the public interest.

CONCLUSION

[52] Therefore, as conduct measures, I impose, globally:

- A financial penalty of 10 days of pay [*CSO (Conduct)*, paragraph 5(1)(j)]
- A reduction of 20 days of annual leave [*CSO (Conduct)*, paragraph 5(1)(i)]
- A direction that the Subject Member continue his medical treatment in coordination with Health Services of "K" Division [*CSO (Conduct)*, paragraphs 3(1)(d) and (e)]

[53] The parties' joint proposal has been accepted. Nevertheless, I am obliged to point out that the parties may each seek to file an appeal of this decision to the Commissioner, as provided for under the *RCMP Act*.

May 6, 2019

John A. McKinlay

Date

Conduct Board