

Protected A

2022 CAD 03



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:

Designated Conduct Authority, “E” Division

Conduct Authority

and

Corporal Scott Falkingham
Regimental Number 47067

Subject Member

Conduct Board Decision

Kevin Harrison

January 19, 2022

Protected A

2022 CAD 03

Staff Sergeant Chantal Le Dû and Mr. Denys Morel, Conduct Authority Representatives

Ms. Cait Fleck, Subject Member Representative

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SUMMARY

The original *Notice of Conduct Hearing*, dated March 11, 2021, contained three allegations: two allegations under section 7.1 (discreditable conduct) and one allegation under section 4.4 (care of property, exhibits and other official material) of the Code of Conduct. The first allegation pertained to Corporal Falkingham’s failure to properly dispose of a quantity of methamphetamine that came into his possession in 2009. The second allegation related to the consumption of non-prescribed medication. The third allegation pertains to Corporal Falkingham’s failure to properly account for property that came into his possession in the performance of his duties on several specified files.

Prior to the conduct hearing, the parties submitted an amended *Notice of Conduct Hearing* and a joint proposal on conduct measures. The conduct hearing proceeded by video conference on

January 13, 2022. Corporal Falkingham admitted all three amended allegations. The Conduct Board found all three allegations established.

The Conduct Board accepted the parties' submissions and imposed the following conduct measures: (1) a financial penalty of 15 days (120 hours) to be deducted from his pay; (2) a demotion for a period of three years from the date of the Conduct Board written decision and demonstrated satisfactory performance during the three years for a return to the rank of Corporal; (3) ineligibility for promotion for a period of three years from the date of the Conduct Board written decision; (4) a direction to undergo medical treatment as specified by the Health Services Officer; and (5) a direction to work under close supervision for a period of one year.

INTRODUCTION

[1] On February 23, 2021, the Designated Conduct Authority for "E" Division (the Conduct Authority) signed a *Notice to the Designated Officer*, in which he requested the initiation of a conduct hearing in relation to this matter. On February 25, 2021, the Designated Officer appointed me as the Conduct Board, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[2] The Conduct Authority signed the *Notice of Conduct Hearing* on March 11, 2021. The original *Notice of Conduct Hearing* contained two allegations under section 7.1 of the Code of Conduct and one allegation under section 4.4 of the Code of Conduct. The first allegation pertained to Corporal Falkingham's failure to properly dispose of a quantity of methamphetamine that came into his possession in 2009 while he was off-duty. The second allegation related to the off-duty consumption of non-prescribed medication. The third allegation pertained to Corporal Falkingham's failure to properly account for property that came into his possession in the performance of his duties. The original *Notice of Conduct Hearing* identified six specific incidents.

[3] A conduct hearing was scheduled to begin on January 11, 2022. On December 17, 2021, the parties advised me that they had come to a resolution. On December 22, 2021, the parties

provided me with an amended *Notice of Conduct Hearing* and a joint proposal on conduct measures along with a detailed submission supporting their rationale for their decision.

[4] The conduct hearing proceeded by video conference on January 13, 2022. I found all three amended allegations established following Corporal Falkingham's admission to them. I also accepted the parties' joint proposal on conduct measures. This written decision incorporates and expands upon that oral decision.

ALLEGATIONS

[5] The original and the amended *Notice of Conduct Hearing* both contained two allegations under section 7.1 (discreditable conduct) and one allegation under section 4.4 (care of property, exhibits and other official material) of the Code of Conduct.

[6] The first allegation in the amended *Notice of Conduct Hearing* remained the same as the original and reads as follows:

Allegation 1

On or between May 1, 2009 and February 27, 2020, at or near Kelowna, in the Province of British Columbia, Corporal Scott Falkingham engaged in conduct contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted to Kelowna Detachment, "E" Division.
2. During the summer of 2009, you visited your sister, [Ms. K.F.], at her residence.
3. As she was planning the sale of her residence, you helped her clean the house, as well as the workshop.
4. While cleaning the workshop, you and your sister located drug pipes and drugs which she believed belonged to her husband at the time.
5. You took possession of the drug pipes and drugs, and kept them at your residence.
6. On February 27, 2020, your spouse at the time, Ms. [L.F.], turned over to the RCMP a bag containing, among other items, drug pipes and 24 grams of drugs.

7. The drugs were analysed and identified as methamphetamine, an illegal drug and Schedule I controlled substance within the meaning of the *Controlled Drugs and Substances Act*.¹

8. You failed to properly dispose of the drugs that came into your possession.

9. Your conduct is discreditable.

[7] The second allegation with the amended particulars reads as follows:

Allegation 2

On or between July 14, 2015, and July 23, 2015, at or near Calgary, in the Province of Alberta, Corporal Scott Falkingham engaged in conduct contrary to section 7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted to Kelowna Detachment, “E” Division.

2. While off duty, you travelled to Calgary, Alberta, to visit and assist Mr. [C.T.] move his daughter into her new residence.

3. You stayed overnight at her new residence.

4. During your stay, you consumed alcohol with two un-prescribed benzodiazepine pills.

5. These sleeping pills were prescribed to your spouse at the time.

6. Mr. [C.T.] found you unconscious on the bathroom floor.

7. The next morning, Mr. [C.T.] confronted you about your drug use and you admitted to taking un-prescribed benzodiazepines.

8. He convinced you to see a psychologist and a doctor, as he was adamant that you needed help.

9. Benzodiazepine is a Schedule IV controlled substance within the meaning of the *Controlled Drugs and Substances Act*.

10. Your conduct was discreditable.

[8] The third allegation with the amended particulars reads as follows:

Allegation 3

¹ SC, 1996, c 19.

On or between January 1, 2015, and February 27, 2020, at or near Kelowna, in the Province of British Columbia, Corporal Scott Falkingham engaged in conduct contrary to section 4.4 of the *Code of Conduct of the Royal Canadian Mounted Police*.

Particulars

1. At all material times you were a member of the Royal Canadian Mounted Police (RCMP) posted to Kelowna Detachment, "E" Division.
2. In the course of your duties, you were involved in at least three PRIME files where discrepancies and/or lack of documentation were noted pertaining to drug seizures.
3. Kelowna file 2015-XXXX9
 - 1) On March 28, 2015, a call for service was received from BC Transit. The initial remarks entered by the call taker indicated: "C/TRANSIT SEC IS IN POSSESSION OF AN AIRWALK GRN JACKET & IN POCKET IS CRACK CASE WITH POSSIBLY SMALL AMOUNT OF CRACK & POSS MARIJUANA IN POCKETS. JACKET CAN BE PICKED UP AT THE HARDY."
 - 2) You were dispatched to this call; in your synopsis report, you indicated seizing, "about 2 grams of marijuana in one pocket and some old pipes in the other. Pipes destroyed locally in sharps. Marihuana seized as no case for destruction."
 - 3) On May 5, 2015, approximately 6 weeks after the seizure, you created a PRIME property report and entered two exhibits: "small baggie with 2 g weed" and jacket.
4. Kelowna file 2015-XXXX2:
 - 1) On May 5, 2015, a call for service was received from Kelowna Lake City Casino. The initial remarks entered by the call taker indicated: "DRUGS-SOC DROPPED A SMALL CLEAR BAG WITH LARGE CRYSTAL IN IT – COM THINKS ITS 85 – SECURITY STILL FOLLOWING SOC WHO IS IN THE CASINO NOW – NO DESC AT THIS TIME OF SOC – COM IS MGR."
 - 2) You attended the Kelowna Lake City Casino and seized what appeared to be crystal meth.
 - 3) On July 25, 2015, Staff Sergeant John Jordan requested that you update the file and indicated, "requires write-up and perhaps exhibit disposition. Seizure?"
 - 4) On July 25, 2015, you wrote in your synopsis report that you seized a "small baggie of what appeared to be crystal meth. Same locked in

drawer at office and file was lost in cyberland.” You further wrote, “Drugs entered into exhibits with significant time delay”.

5) On August 19, 2015, approximately 14 weeks after the seizure, you completed the exhibit continuity report and indicated seizing 0.10 gram of crystal meth.

5. Kelowna file 2018:XXXX3

1) On June 20, 2018, a call for service was received from the Accent Inn, a hotel in Kelowna. The initial remarks entered by the call taker indicated in part: “DRUGS – WALLET FULL OF DRUGS WAS FOUND IN THE ELEVATOR A/L – ELEVATOR ...”

2) You contacted OCC and asked to be dispatched to this call. You attended the Accent Inn.

3) You indicated in your synopsis report that: “the accent inn called to report that they had found a wallet with some white powder in a dime baggie. Same seized as suspected cocaine”

4) You also indicated in your synopsis report: “Drugs in for destruction and wallet disposed of. HCSC 3515 completed and forwarded” however, no exhibit or HCSC 3515 form was received or processed.

5) You seized the items but did not complete the evidence continuity report.

6) The property report was created on June 30, 2018, by [Ms. N.T.], the watch clerk, and indicated: “cocaine, 0.20 grams dime baggie with white powder.”

7) You failed to properly account for property that came into your possession in the performance of your duties. Specifically, you failed to log exhibits in a proper and timely manner and demonstrated poor record keeping contrary to “RCMP procedure and policy – Operational Manual – ch. 22.1 Processing in your drug exhibits handling practices” in Kelowna files 2015-XXXX9 (Particular 3); 2015-XXXX2 (Particular 4); 2018-XXXX3 (Particular 7).

[*Sic throughout*]

Decision on the allegations

Allegations 1 and 2 – Discreditable Conduct

[9] The test for “discreditable conduct” under section 7.1 of the Code of Conduct contains the following four elements that the Conduct Authority must establish on a balance of probabilities:

- a. the acts that constitute the alleged behaviour;
- b. the identity of the member who is alleged to have committed these acts;
- c. that the member's behaviour is likely to discredit the Force; and
- d. that the member's actions are sufficiently related to their duties and functions as to provide the Force with a legitimate interest in disciplining them.

[10] The particulars set out in the amended *Notice of Conduct Hearing* in respect of each allegation accurately represent the evidence contained in the investigation report and supporting material. The only significant evidence challenged by Corporal Falkingham was the drug he purportedly consumed in Allegation 2. The original *Notice of Conduct Hearing* alleged he consumed methamphetamine, a Schedule I drug under the *Controlled Drugs and Substances Act*. The amended *Notice of Conduct Hearing* alleges he consumed un-prescribed benzodiazepine, a Schedule IV drug under the *Controlled Drugs and Substances Act*. Corporal Falkingham admitted to the latter. Therefore, I find that the first element of the test is met for both allegations.

[11] The investigation report and supporting material clearly identify Corporal Falkingham as the member alleged to have committed the acts set out in the allegations. Corporal Falkingham admitted that he was a member of the Royal Canadian Mounted Police and accepted responsibility for the actions attributed to him in the amended *Notice of Conduct Hearing*. Therefore, I find that the second element of the test is met for both allegations.

[12] With respect to the third element, the RCMP External Review Committee (ERC) offers its analysis on the nature of conduct "likely to discredit the Force" in ERC recommendation C-2015-001 (C-008), dated February 22, 2016. Simply put, the test is that any reasonable person with the knowledge of the facts, including the realities of policing in general, and the RCMP in particular, would find the conduct discreditable or likely to discredit the Force.

[13] Members of the RCMP are charged with the enforcement of Canadian drug laws. Clearly, the unauthorized possession and/or consumption of drugs falling under the *Controlled Drugs and*

Substances Act by a member of the RCMP is discreditable conduct or likely to discredit the Force. Therefore, I find the third element of the test is met for both allegations.

[14] Although both Allegations 1 and 2 occurred while Corporal Falkingham was off-duty, the Code of Conduct applies to off-duty RCMP members provided their actions relate sufficiently to their duties and functions. The RCMP has a legitimate interest in disciplining members who fail to adhere to the laws they are duty-bound to uphold whether on- or off-duty. Therefore, the fourth element of the test is met for both allegations.

[15] Based on Corporal Falkingham's admissions to the amended allegations, the investigation report and supporting material filed by the conduct authority as well as the other information before me in the record, I find Allegations 1 and 2, as read to Corporal Falkingham, to be established.

Allegation 3 – Care of property, exhibits and other official material

[16] Per RCMP *Operational Manual* 54.3.5.1.1, it is expected that members will perform their duties in accordance with all applicable laws, policies and professional standards. Ensuring accurate continuity and accountability of exhibits and property is one such duty, which Chapter 22 of the RCMP *Operational Manual* governs extensively. The trust placed in members of the Force to carry out this duty is of the highest importance. The Force, the justice system and Canadians view any breach of this trust as reprehensible.²

[17] The original *Notice of Conduct Hearing* included six specific instances where Corporal Falkingham failed to follow RCMP policy and procedures for exhibit handling and thereby failed to properly account for property that came into his possession in the performance of his duties. The amended *Notice of Conduct Hearing* includes three of the six original instances.

² See RCMP *Code of Conduct – Annotated Version*, 2014, at page 17.

[18] In light of Corporal Falkingham's admission to the amended allegation, the investigation report and supporting material filed by the conduct authority as well as the other information before me in the record, I find Allegation 3, as read to Corporal Falkingham, to be established.

CONDUCT MEASURES

[19] Having found the allegations established, I am obliged, by virtue of subsection 45(4) of the *RCMP Act*, to impose at least one of the conduct measures set out under that subsection. These conduct measures include dismissal, a direction to resign and "one or more of the conduct measures provided for in the rules". The conduct measures "provided for in the rules" are found in sections 3, 4 and 5 of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*].

[20] Pursuant to paragraph 36.2(e) of the *RCMP Act*, conduct measures must be "proportionate to the nature and circumstances of the contravention of the Code of Conduct, and where appropriate, that are educative and remedial rather than punitive".

Joint proposal on conduct measures

[21] The detailed written submission presented by the parties on December 22, 2021, included a joint proposal for the following global conduct measures:

- a. A financial penalty of 15 days (120 hours), to be deducted from Corporal Falkingham's pay pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*;
- b. A demotion for a period of three years from the date of my written decision, and demonstrated satisfactory performance during those three years for a return to the rank of Corporal, pursuant to paragraph 5(1)(e) of the *CSO (Conduct)*;
- c. Ineligibility for promotion for a period of three years from the date of my written decision, pursuant to paragraph 5(1)(b) of the *CSO (Conduct)*;
- d. A direction to undergo medical treatment as specified by the Health Services Officer, pursuant to paragraph 3(1)(d) of the *CSO (Conduct)*; and

- e. A direction to work under close supervision for a period of one year, pursuant to paragraph 3(1)(b) of the *CSO (Conduct)*.

[22] The joint proposal also presents the analysis undertaken by the parties in terms of the appropriate range of conduct measures as well as the aggravating and mitigating factors they considered in reaching their proposal. I will expand on this aspect of the joint submission after I have reviewed the common law relating to the treatment I must accord joint proposals.

The common law on joint proposals

[23] The Supreme Court of Canada, in *Anthony-Cook*,³ at paragraph 25, recognizes that joint submissions on criminal sanctions are not only an accepted and desirable practice, but they are “vitally important to the well-being of our criminal justice system, as well as our justice system at large”. The Court further notes that the majority of such agreements are “unexceptional” and readily approved by judges. However, judges are not obliged to follow these joint proposals for various reasons. These notions are equally applicable to conduct adjudicators in the RCMP conduct regime.⁴

[24] In *Anthony-Cook*, the Supreme Court declares that the test a judge must apply when considering a joint submission in a particular case is the “public interest” test. The question is whether the proposed sentence would bring the administration of justice into disrepute, or would otherwise be contrary to the public interest.

[25] In determining whether a joint submission will bring the administration of justice into disrepute or is contrary to the public interest, the Supreme Court notes that the following statements made by the Newfoundland and Labrador Court of Appeal, in two separate cases, capture the essence of the “public interest” test. The statements are as follows:

³ *R v Anthony-Cook*, 2016 SCC 43 [*Anthony-Cook*].

⁴ See *Rault v Law Society of Saskatchewan*, 2009 SKCA 81; and *Constable Coleman v Appropriate Officer, "F" Division*, (2018) 18 AD (4th) 270.

[...] despite the public interest considerations that support imposing it, it is so **‘markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a [breakdown] in the proper functioning of the criminal justice system’**. [...] ⁵[Emphasis added]

And:

[...] trial judges should **‘avoid rendering a decision that causes an informed and reasonable public to lose confidence in the institution of the courts’**. [...] ⁶[Emphasis added]

[26] In applying the direction from the Supreme Court to this decision, I must consider whether the joint proposal on conduct measures will bring the administration of justice or the RCMP conduct system into disrepute or whether it is contrary to the public interest. In doing so, I must consider whether the proposal is so markedly out of line with the expectations of a reasonable person aware of the circumstances of the case that they would view it as a breakdown in the proper functioning of the RCMP conduct system.

Decision on conduct measures

[27] The ERC established an analysis framework under the old RCMP discipline system that remains relevant to conduct proceedings under the amended *RCMP Act*. Under this framework, I must ascertain the appropriate range of conduct measures and then examine the mitigating and aggravating factors in order to determine the appropriate conduct measures for the specific case. This approach is consistent with the provisions of *Administration Manual* XII.1.11.15. The parties’ joint submission followed this established analysis framework.

Appropriate range of conduct measures

[28] The parties did not provide me with any prior conduct board decisions with circumstances similar to this case because the circumstances of this case are unique. Therefore, my sole resort is the guidance provided in the *Conduct Measures Guide* (November 2014).

⁵ *R v Druken*, 2006 NLCA 67, 261 Nfld & PEIR 271, at paragraph 29.

⁶ *R v B.O.2*, 2010 NLCA 19 (CanLII), at paragraph 56.

[29] Allegation 1 is under section 7.1 of the Code of Conduct and related to the possession of methamphetamine. Allegation 2 is also under section 7.1 of the Code of Conduct and relates to Corporal Falkingham's use of un-prescribed sleeping pills listed in Schedule IV of the *Controlled Drugs and Substances Act*. The *Conduct Measures Guide* specifically deals with drug use or possession.

[30] At page 53, the *Conduct Measures Guide* defines drug use or possession as "knowingly consuming, possessing or acquiring a substance whose possession is prohibited under the *Controlled Drugs and Substances Act* without medial ordinance".

[31] The mitigated range calls for a financial penalty of between 10 and 19 days. The factors considered in this range include infrequent use, a drug listed in Schedule VI of the *Controlled Drugs and Substances Act*, steroid use and addiction therapy. The normal range calls for a financial penalty of between 20 and 45 days. The aggravated range includes instances of prolonged use, a drug listed in Schedule I of the *Controlled Drugs and Substances Act*, theft of an exhibit and involvement in the sale or importation of drugs. The recommendation in the aggravated range is dismissal.

[32] In light of the foregoing, I find the appropriate conduct measures for a contravention of the Code of Conduct relating to drug use and/or possession to be from a financial penalty of between 20 and 45 days in the normal range up to dismissal in the aggravated range.

[33] The last remaining allegation is under section 4.4 of the Code of Conduct, which states that "Members properly account for, and do not alter, conceal or destroy, without lawful excuse, any property, money or documents coming into their possession in the performance of their duties".

[34] The *Conduct Measures Guide* directs me to look at the guidelines for section 4.2 when negligent investigation or poor recordkeeping results in improper accounting of seized property. Poor recordkeeping is the essence of Allegation 3. The most applicable section in the *Conduct Measures Guide* under this falls under the heading "failure to properly investigate a complaint".

[35] For an isolated incident, the *Conduct Measures Guide* recommends remedial measures in the mitigated range. A financial penalty of between 2 and 8 days is recommended in the normal range. Instances compromising court proceedings are included in the aggravated range where a financial penalty of between 9 and 30 days is recommended.

[36] In light of the foregoing, I find the appropriate range of conduct measures in this case to be a financial penalty of between 2 and 8 days in the normal range and a financial penalty of no less than 9 days in the aggravated range.

Mitigating and aggravating factors

[37] The parties' joint written submission included an extensive list of both aggravating and mitigating factors. The parties highlighted several of these in their oral submissions during the conduct hearing.

[38] The parties presented the following aggravating factors for my consideration:

- a. The possession of methamphetamine, an illegal drug listed in Schedule 1 of the *Controlled Drugs and Substances Act*, constitutes serious misconduct.
- b. Corporal Falkingham was a senior constable with over 10 years of service when he took possession of the drug; he also retained possession for a period of 10 years.
- c. The methamphetamine and drug paraphernalia were kept at the family residence, where Corporal Falkingham lived with his children.
- d. This overall incident is a breach of public expectations surrounding the handling of illegal drugs by police officers. Public knowledge of this kind of misconduct by an RCMP officer would negatively affect the public trust in the organization.
- e. The consumption of non-prescribed medication and alcohol took place at the residence of a friend's daughter and resulted in Corporal Falkingham losing consciousness.

- f. Allegation 1 and Allegation 3 show a lack of proper exhibit and drug handling. There is a long-standing, important institutional interest in proper exhibit and drug handling, even if the drug exhibit is a no case seizure.
- g. During the period covering all three allegations, Corporal Falkingham occupied either a senior constable or non-commissioned officer position, both of which have a supervisory role, and failed to lead by example.

[39] The parties presented the following mitigating factors for my consideration:

- a. Corporal Falkingham's admissions have avoided the need for a contested hearing and testimony from a witness.
- b. On March 2, 2020, when Corporal Falkingham was first advised about the investigation, which at the time only comprised of Allegation 1, he immediately told his supervisor what happened. He did not deny the allegation.
- c. Corporal Falkingham has expressed remorse and accepted responsibility for his actions.⁷
- d. Corporal Falkingham has been diagnosed with an Operational Stress Injury.⁸
- e. At the time of the misconduct, Corporal Falkingham was facing intense personal stressors, including his spouse at the time battling cancer and the more recent separation from his spouse in 2020, which has progressed to formal divorce proceedings.
- f. Corporal Falkingham is willing to engage with Health Services and participate in any necessary treatments.
- g. Corporal Falkingham's performance evaluations have been consistently positive from the time he joined the RCMP in 1999.

⁷ See Letter of Apology attached as Appendix C to the joint email submission of the parties.

⁸ See the letter from Doctor John Dorman, dated October 26, 2021, attached as Appendix D to the joint email submission of the parties.

h. Corporal Falkingham has no prior discipline.

[40] Corporal Falkingham also provided five letters of support from co-workers, peers and supervisors. All of his supporters speak quite highly of him. The general theme of the letters is that Corporal Falkingham is an exceptionally and knowledgeable road supervisor capable of dealing with high-risk and volatile situations. He has a strong work ethic and is well liked by his subordinates, peers and immediate supervisors. He ordinarily embodies the RCMP core values, particularly compassion for clients and co-workers.

Conclusion on conduct measures

[41] Allegation 1 involved the possession of methamphetamine, a Schedule 1 drug. Corporal Falkingham made a grave error in judgment in retaining possession of a harmful illegal substance in the family home for a decade. When he took possession of the drugs, as a senior constable, he should have clearly understood his obligations and been aware of the appropriate means of handing the drugs.

[42] Allegation 2 involved the off-duty consumption of un-prescribed medication, which resulted in his becoming unconscious in the private residence of a civilian. Regardless of the stressors existing in his life at the time, he should have availed himself of the health supports provided by the RCMP to ensure his physical and emotional well-being rather than resort to self-medicating.

[43] Allegations 1 and 3 deal with improper drug-handling practices, both on- or off-duty. Despite being “no case exhibits”, the frequency of the occurrences raises this from a performance issue to a conduct matter requiring sanction.

[44] Corporal Falkingham expressed remorse and accepted responsibility for his actions.

[45] Having considered the record before me, the nature of the misconduct, the mitigating and aggravating factors as well as the submissions from the parties, I do not find that the joint proposal on conduct measures would bring the administration of justice or the RCMP conduct system into disrepute or that the proposed measures are contrary to the public interest. A

financial penalty of 15 days of pay is significant. The demotion and ineligibility for promotion are also significant and entail financial consequences as well. The direction to undergo medical treatment directed by Health Services will ensure he receives the medical assistance he requires to facilitate future satisfactory performance. Close supervision will also assist with a smooth transition back into the workplace and his continuing contribution to the Force. Therefore, I accept the parties' joint proposal on conduct measures.

CONCLUSION

[46] Having found the allegations established and in accordance with the joint proposal presented by the parties, the following conduct measures are imposed:

- a. a financial penalty of 15 days (120 hours), to be deducted from Corporal Falkingham's pay pursuant to paragraph 5(1)(j) of the *CSO (Conduct)*;
- b. a demotion for a period of three years from the date of my written decision, and demonstrated satisfactory performance during those three years for a return to the rank of corporal, pursuant to paragraph 5(1)(e) of the *CSO (Conduct)*;
- c. ineligibility for promotion for a period of three years from the date of my written decision, pursuant to paragraph 5(1)(b) of the *CSO (Conduct)*;
- d. a direction to undergo medical treatment as specified by the Health Services Officer, pursuant to paragraph 3(1)(d) of the *CSO (Conduct)*; and
- e. a direction to work under close supervision for a period of one year, pursuant to paragraph 3(1)(b) of the *CSO (Conduct)*.

[47] My acceptance of the joint proposal provides Corporal Falkingham with an opportunity to continue his career with the RCMP. His supervisors and any appropriate conduct authority will seriously review any future contravention of the Code of Conduct, which could lead to his dismissal from the Force.

[48] Any interim measures in place should be resolved, in a timely fashion, in accordance with section 23 of the *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281.

[49] This decision constitutes my written decision. Subsection 25(3) of the *CSO (Conduct)* requires that it be served on the parties. The decision may be appealed to the Commissioner by filing a statement of appeal within 14 days of the service of the decision (section 45.11 of the *RCMP Act*; section 22 of the *Commissioner's Standing Orders (Grievances and Appeals)*, SOR/2014-289).



January 19, 2022

Kevin L. Harrison

Conduct Board