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**Restriction on publication:** Medical documents submitted by the Subject Member during the conduct hearing and medical documents contained in the record before the Conduct Board shall not be published in any document, or broadcast or transmitted in any way.



IN THE MATTER OF A CONDUCT HEARING PURSUANT TO  
*THE ROYAL CANADIAN MOUNTED POLICE ACT*

Between:

Commanding Officer, National Division

Conduct Authority

- and -

Constable Adam Wyant, Regimental Number 45541

Subject Member

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**Conduct Board Decision**

Inspector Bernard Tremblay, Conduct Board

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July 13, 2016

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Mr. Denys Morel, Conduct Authority Representative

Ms. Nicole Jedlinski, Member Representative

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**Summary**

The Subject Member admitted four allegations of discreditable conduct with respect to a domestic dispute and the purchase and importation of a small quantity of steroids for personal use. The Conduct Board accepted the representatives' joint proposal and imposed, as conduct measures, a financial penalty of 25 days, a forfeiture of 20 days of annual leave, a reprimand and a direction to attend counselling.

## **Reasons for Decision**

### **Introduction**

[1] The Subject Member's conduct hearing was held in Ottawa, Ontario, on June 8, 2016. These reasons are a more detailed version of my oral decision finding that four allegations of contravention of the Code of Conduct of the Royal Canadian Mounted Police (the Code of Conduct) are established and imposing conduct measures.

[2] At the request of the Member Representative (the MR) and pursuant to section 45.1(7) of the *RCMP Act*, I order that:

Medical documents submitted by the Subject Member during the conduct hearing and medical documents contained in the record before the Conduct Board shall not be published in any document, or broadcast or transmitted in any way.

### **Allegations**

[3] The Notice of Conduct Hearing dated June 17, 2015, listed nine allegations. The Subject Member admitted Allegations 3, 5, 6 and 7:

#### **Allegation 3**

On or about March 8<sup>th</sup>, 2014, at or near Gatineau in the province of Quebec, [the Subject Member] did engage in discreditable conduct 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*.

#### **Allegation 5**

Between June 1<sup>st</sup>, 2012 and March 11<sup>th</sup>, 2014, at or near Gatineau in the province of Quebec, [the Subject Member] did engage in discreditable conduct 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*.

#### **Allegation 6**

On or between January 1<sup>st</sup>, 2010 and December 31<sup>st</sup>, 2010, in or near Gatineau in the province of Quebec, [the Subject Member] did engage in discreditable conduct 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*.

**Allegation 7**

On or between September 28<sup>th</sup>, 2011 and December 31<sup>st</sup>, 2012, at or near Gatineau in the province of Quebec, [the Subject Member] did engage in discreditable conduct 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*.

[4] The CAR and the MR presented an Agreed Statement of Facts which replaced the particulars contained in the Notice of Conduct Hearing. The particulars as amended are:

[...]

2. At all material times [the Subject Member] was a member of the Royal Canadian Mounted Police (RCMP) posted to “National” Division.

**Allegation 3**

3. [The Subject Member] and Cst. A were in a long term common-law relationship and resided in Gatineau, Quebec, together from 2003 until on or about March 11, 2014. [The Subject Member] and Cst. A have two children together who were 6 and 9 years old at that time.

4. [The Subject Member] and Cst. A attended couples counselling numerous times during their relationship to address marital problems.

5. [The Subject Member] has been off duty sick (ODS) and has not worked full time since March 5, 2006. Since that date, [the Subject Member] participated in two unsuccessful periods of gradual return to work (GRW). At the time of his suspension from duty on March 14, 2014, he was ODS. He has since been approved for GRW on July 24, 2015.

6. On or about March 8, 2014, at approximately 2030 hours, while off duty, [the Subject Member] and Cst. A engaged in an argument in their house in Gatineau regarding their finances and their separation. The argument started in the bedroom. Both of their voices were raised and the parties moved to the laundry area on the other side of the house where the argument continued.

7. [The Subject Member] and Cst. A’s nine year old son came in the hallway and stood behind [the Subject Member]. He returned to his bedroom due to the ongoing argument. When Cst. A attempted to leave the laundry room to console her son, [the Subject Member] was in her way which resulted in a jostle. The jostle caused Cst. A to lose her balance and fall onto a nearby hockey bag. While trying to prevent her fall, Cst. A grabbed onto [the Subject Member’s] shirt sleeve causing it to rip.

8. [The Subject Member] admits that during this argument he was angry, raised his voice, stomped his foot and grabbed Cst. A’s hand while in a

confined space. Although it was not his intention to intimidate Cst. A, [the Subject Member] admits that his actions caused her to fear for her safety.

9. [The Subject Member's] behaviour caused Cst. A to get a phone and attempt to call 911. However, [the Subject Member] prevented her from doing so by grabbing the phone and taking possession and control of all the phones in the house.

10. Cst. A subsequently ran out of the house in a panic and asked one of the neighbours to call 911.

11. Gatineau Police Service (GPS) members subsequently attended the house and spoke with [the Subject Member] and Cst. A.

12. GPS members did not observe any signs of a struggle and did not observe any injuries on either party. The house was in order and there was no property damage other than [the Subject Member's] ripped shirt sleeve.

13. After GPS members attended, [the Subject Member] agreed to leave for the night and stay in a hotel.

14. [The Subject Member] was arrested and charged for assault and forcible confinement in connection with the March 8 incident on March 11, 2014.

15. On December 4, 2014, [the Subject Member] appeared before the Court of Quebec (Penal Division) and agreed to a 1 year recognizance to keep the peace and be of good behaviour in accordance with section 810 of the Criminal Code of Canada in relation to the incident of March 8, 2014. As a result, the Crown offered no evidence in support of the charges before the court and the presiding judge acquitted [the Subject Member].

### **Allegation 5**

16. Sometime in or around the summer of 2012, [the Subject Member] bought four (4) to six (6) vials of injectable testosterone from an individual known as "Johnny Cash" for \$400 after inquiring about obtaining steroids at the Nautilus gym in Aylmer, Quebec.

17. [The Subject Member] believed the products he obtained from "Johnny Cash" were steroids.

18. [The Subject Member] placed the products he bought from "Johnny Cash" and which he believed to be steroids in his locked cabinet in his residence.

19. On March 11, 2014, Cst. A and her neighbour Mr. B found six (6) vials of products labelled as Test 400 (Testosterone), Finabol 100 (Trenbolone), and Nandro 250 (Nandrolone). Testosterone, Trenbolone and Nandrolone are products listed in Schedule IV of the *Controlled Drugs and Substances Act* as anabolic steroids and their derivatives.

20. Kinetic International, the company that is represented on the products, describes these products as steroids.

21. [The Subject Member] attempted two injections with the product believed to be steroids.

22. [The Subject Member] knew that when he purchased the products, that steroids were substances listed under Schedule IV of the *Controlled Drugs and Substances Act*.

#### **Allegation 6**

23. Between January 1, 2010 and December 31, 2010, [the Subject Member] went online and ordered a “bundle” of what he believed to be testosterone for medical/health reasons.

24. [The Subject Member] imported the package into Canada and had it sent under a false name to a post office box in Gatineau.

25. When the package arrived, it contained three plastic bottles with pills inside. [The Subject Member] took possession of the bottles but later decided to throw them away.

26. [The Subject Member] purchased and imported what he believed was testosterone, a substance listed in Schedule IV of the *Controlled Drugs and Substances Act*.

#### **Allegation 7**

27. Between September 28, 2011 and December 31<sup>st</sup>, 2012, [the Subject Member] used the internet to purchase what he believed to be steroids from Europe.

28. [The Subject Member] imported the package into Canada and had the steroids delivered to a Canada Post office box at Jean Coutu, a store located in Gatineau, Quebec.

29. [The Subject Member] took possession of a package containing a toy airplane. The steroids [the Subject Member] purchased were hidden inside the toy airplane.

30. [The Subject Member] did not use the steroids.

31. [The Subject Member] imported what he believed were steroids, a substance listed in Schedule IV of the *Controlled Drugs and Substances Act*.

32. [The Subject Member] agrees that his actions as outlined in the above particulars amount to discreditable conduct contrary to s.7.1 of the *Code of Conduct of the Royal Canadian Mounted Police*.

[sic throughout]

[5] Since the Conduct Authority chose not to proceed with the remaining allegations, Allegations 1, 2, 4, 8 and 9 are dismissed.

[6] The Conduct Authority Representative (the CAR) submitted that the allegations contain three aspects which are incompatible with a person's status as a member of the RCMP: the intimidation of a spouse in a domestic dispute; the purchase of steroids, which facilitates the offence of trafficking; and the unlawful importation of steroids.

### **Decision on the Allegations**

[7] Section 7.1 of the Code of Conduct states, "Members behave in a manner that is not likely to discredit the Force." The test to be applied under this section is very similar to the one developed by the Royal Canadian Mounted Police External Review Committee in its recommendation found at (1991), 4 A.D. (2nd) 103, with respect to disgraceful conduct under section 39(1) of the *RCMP Regulations*, as they read before November 28, 2014.

[8] For a contravention of section 7.1 to be established on a balance of probabilities, the conduct authority must first prove the acts constituting the alleged behaviour, as well as the identity of the member who is alleged to have committed these acts.

[9] Then, the conduct board must conclude that the member's behaviour is likely to discredit the Force and that it is sufficiently related to the member's duties and functions to provide the Force with a legitimate interest in disciplining the member.

[10] Based on the Subject Member's admission and the Agreed Statement of Facts, I am satisfied that the member's identity and the acts constituting the alleged misconduct have been established for the four allegations.

[11] With respect to Allegation 3, the Subject Member caused his spouse to fear for her safety during an argument and he then prevented her from calling 911.

[12] As for Allegations 5, 6 and 7, he purchased, and in two cases imported, substances he believed to be steroids and which are listed in schedule IV of the *Controlled Drugs and*



*Substances Act* (the CDSA). The importation of a substance in schedule IV is an offence under the CDSA, but its possession is not. However, by joining the RCMP, the Subject Member agreed to abide by rules of conduct that are stricter than what applies to most people. This means that actions which are not against the law can still be contraventions of the Code of Conduct. Although it is legal to possess steroids, I agree with the CAR that by purchasing them, the Subject Member facilitated the offence of trafficking.

[13] Considering that members of the RCMP are called upon every day to respond to domestic disputes and are tasked with enforcing the CDSA, the Subject Member's conduct fell short of what is expected of an RCMP member.

[14] I find that a reasonable person aware of all the relevant circumstances, including the realities of policing in general as well as the realities of policing in the RCMP, would be of the opinion that the Subject Member's conduct in Allegations 3, 5, 6, and 7 was discreditable and that it is likely to discredit the RCMP.

[15] His conduct was so closely related to his duties and functions as a member of the RCMP that it justifies disciplinary action.

[16] I conclude that the four allegations are established.

### **Conduct Measures**

[17] The CAR and the MR jointly submitted that the conduct measures, for the four contraventions globally, should consist of:

- a financial penalty of 25 days;
- the forfeiture of 20 days of annual leave;
- a reprimand; and
- a direction to attend counselling.

[18] The CAR submitted that although there is no legislated limit on the financial penalty that can be imposed by a conduct board, a conduct measure totalling 45 days is akin to a forfeiture of 10 days' pay under the previous RCMP discipline regime, which was the harshest sanction available short of demotion and dismissal. He listed the aggravating factors and added that but for the mitigating factors present, dismissal would be within the acceptable range.

[19] The MR referred to a statement from the Subject Member, letters of reference, letters from medical professionals and the Subject Member's annual performance assessments.

[20] In support of their position, the CAR and MR referred to the RCMP Conduct Measures Guide and submitted the following RCMP Adjudication Board decisions:

- (2008), 3 A.D. (4th) 117;
- (2013), 13 A.D. (4th) 568, 578, 588;
- (2013), 13 A.D. (4th) 605;
- (2013), 14 A.D. (4th) 69; and
- (2014), 14 A.D. (4th) 218.

[21] The Subject Member addressed the Conduct Board. He recognized his misconduct and apologized for bringing disrepute on the RCMP. He said he is a proud member of the Force and that he is anxious to return to work.

[22] Considering the circumstances described in the Agreed Statement of Facts, the cases submitted by the parties and the Conduct Measures Guide, I find the range of acceptable conduct measures for the domestic violence incident in Allegation 3 is a financial penalty of one to two days. As for the purchase and importation of steroids in Allegations 5, 6 and 7, the range includes serious measures extending to dismissal from the RCMP.

[23] The involvement of a partner police agency and the use of a false name in the importation of steroids are aggravating factors in this case.

[24] On the other hand, there are also several mitigating factors to consider. The Subject Member was cooperative throughout the investigation and he accepted responsibility for his actions, avoiding the need for a contested hearing, which I expect would have been difficult for some of the witnesses.

[25] His unfortunate health predicament which includes post-traumatic stress disorder and a mental illness misdiagnosis which was accompanied by prescriptions for strong and unnecessary medication. The substances involved are steroids as opposed to street drugs. The Subject Member purchased and used these steroids for medical reasons as opposed to a desire to obtain an unfair physical advantage over colleagues. He bought them for himself and there is no evidence that he had any intent to traffic. He used the steroids only twice and discarded the imported substances.

[26] The Subject Member has significant rehabilitative potential. He completed an eleven week residential treatment program and he continues to see a psychologist. He is now receiving testosterone supplementation therapy from a medical doctor who describes him as an exemplary patient. He also respected the terms of his recognizance with the provincial court with respect to Allegation 3.

[27] Reference letters from friends and from previous RCMP superiors in general duty policing, bike patrol and the emergency response team are very positive. Although quite dated, his performance assessments from 1996 to 2000 show that he was a strong performer while posted in British Columbia. In his 2005 assessment he is described by his emergency response team supervisor as being “consistently a solid, high performer who can be counted upon”.

[28] I find the combination of difficult circumstances in the Subject Member’s life, which include traumatic experiences in the RCMP, health issues and family issues, were significant factors in his misconduct. He has been off-duty sick for most of the past ten years, but he now appears to have weathered the storm and to be back on course. His health and family situation seem to be under control and he has been declared medically fit for a gradual return to work in the RCMP. He is eager to do so and I expect that if he continues in the direction he is now

heading, he will be able to return to being the excellent member described in his performance assessments.

[29] The conduct measures proposed by the parties are not necessarily what I would have preferred, but the reasons of the Saskatchewan Court of Appeal in *Rault v Law Society of Saskatchewan*, 2009 SKCA 81, at paragraph 13, apply to RCMP conduct hearings. When, as is the case here, a conduct board is presented with a joint proposal, it must:

[...] give serious consideration to a joint submission on sentencing agreed upon by counsel unless the sentence is unfit or unreasonable; or contrary to the public interest; and, it should not be departed from unless there are good or cogent reasons for doing so.

[30] Section 36.2(e) of the *RCMP Act* states that conduct measures should be proportionate to the nature and circumstances of contraventions of the Code of Conduct, and where appropriate, educative and remedial rather than punitive. While the proposed combined 45 day conduct measure is quite severe, it reflects the seriousness of the misconduct while still allowing the Subject Member to continue his career in the RCMP. It will serve as a deterrent for the Subject Member and any other member who might be tempted to behave in a similar fashion.

## **Conclusion**

[31] Having considered the record before me, the nature of the misconduct, the mitigating and aggravating factors, the cases submitted and the Conduct Measures Guide, I accept the joint submission and I impose globally, for all four allegations, conduct measures consisting of:

- a financial penalty of 25 days;
- the forfeiture of 20 days of annual leave;
- a reprimand; and
- a direction to attend counselling as recommended by RCMP health services.

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[32] This decision may be appealed to the Commissioner by filing a statement of appeal within fourteen days of the service of this decision on the Subject Member (section 45.11 of the *RCMP Act*; section 22 of the *Commissioner's Standing Orders (Grievances and Appeals)*).

July 13, 2016

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Bernard Tremblay, Inspector

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Date

Conduct Board