



**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 for “H” Division**

Conduct Authority

and

**Constable Jason Thibodeau**

Regimental Number 53760

Subject Member

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**Conduct Board Decision**

Gina Lévesque

April 4, 2025

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Protected

202333835

2024 CAD 17

Jonathan Hart, Conduct Authority Representative

Gordon S. Campbell, Subject Member Representative

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**SUMMARY**

On November 30, 2023, Constable Jason Thibodeau was served a *Notice of Conduct Hearing*, dated November 10, 2023, which contained one alleged contravention of section 7.1 of the RCMP Code of Conduct for discreditable conduct and one alleged contravention of section 6.1 of the RCMP Code of Conduct for failing to avoid actual, apparent or potential conflicts of interest.

In his February 26, 2024, response to the allegations, submitted pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291, Constable Thibodeau admitted both allegations.

On July 22, 2024, the parties submitted an *Agreed Statement of Facts* based on a single allegation of discreditable conduct contrary to section 7.1 of the RCMP Code of Conduct, which combined the totality of the particulars of the two original allegations contained in the *Notice of Conduct Hearing*. As a result, the Conduct Authority signed a new *Notice of Conduct Hearing* on October 29, 2024, to reflect this amendment.

On September 5, 2024, the parties submitted a *Joint Agreement on Conduct Measures*, which was accepted by the Conduct Board.

The Conduct Board finds the amended allegation under section 7.1 to be established on a balance of probabilities. The following conduct measures are imposed: a financial penalty of 40 days' pay to be deducted from Constable Thibodeau's pay and a direction to work under close supervision for a period of 1 year.

## INTRODUCTION

[1] On August 14, 2023, the Conduct Authority signed the *Notice to the Designated Officer*, in which they requested the initiation of a conduct hearing in relation to this matter.

[2] On August 17, 2023, I was appointed as the Conduct Board, pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[3] On November 30, 2023, Constable Jason Thibodeau was served a *Notice of Conduct Hearing*, dated November 10, 2023, which contained one alleged contravention of section 7.1 of the RCMP Code of Conduct for discreditable conduct, and one alleged contravention of section 6.1 of the RCMP Code of Conduct for failing to avoid actual, apparent or potential conflicts of interest.

[4] On February 26, 2024, pursuant to subsection 15(3) of the *Commissioner's Standing Orders (Conduct)*, SOR/2014-291 [*CSO (Conduct)*], Constable Thibodeau provided his response to the allegations. He admitted both allegations and provided certain explanations.

[5] On June 14, 2024, I was informed by the parties that the Complainant no longer wished to participate in the conduct process. Under those circumstances, the Conduct Authority Representative advised that the Conduct Authority was no longer seeking Constable Thibodeau's dismissal and that the parties were engaged in resolution discussions.

[6] On July 5, 2024, during a pre-hearing conference, the parties advised that they had reached an agreement and that they intended to submit an agreed statement of facts and a joint proposal on conduct measures.

[7] On July 22, 2024, the parties submitted an *Agreed Statement of Facts* based on a single allegation of discreditable conduct contrary to section 7.1 of the RCMP Code of Conduct, which combined the totality of the particulars of the two original allegations contained in the November 10, 2023, *Notice of Conduct Hearing*.

[8] On August 30, 2024, the parties confirmed their intention of only providing a joint proposal on conduct measures with supporting documents.

[9] On the same day, I informed the parties that I would be exercising my authority, under subsections 23(1) and 24(1) of the *CSO (Conduct)*, to render a decision based solely on the Record, subject to any issues arising out of my review of the *Agreed Statement of Facts*, the joint proposal on conduct measures and the accompanying documentary evidence.

[10] On September 5, 2024, the parties submitted the *Joint Agreement on Conduct Measures*.

[11] On October 16, 2024, the Subject Member Representative submitted documentary evidence for consideration in support of the *Joint Agreement on Conduct Measures*. These documents included recommendation letters from three of Constable Thibodeau's former supervisors as well as his performance evaluations from 2006 to 2022 inclusively, with the exception of fiscal years 2012-2013 and 2013-2014.

[12] Following my review of the documentation, I requested on October 28, 2024 that the *Notice of Conduct Hearing* be amended to reflect the agreement to withdraw Allegation 2 and to combine all the particulars contained in the original *Notice of Conduct Hearing* under a single allegation of discreditable conduct contrary to section 7.1 of the RCMP Code of Conduct.

[13] On October 29, 2024, the Conduct Authority Representative forwarded the amended *Notice of Conduct Hearing*, signed by the Conduct Authority on that same date.

[14] On November 1, 2024, the Subject Member Representative accepted electronic service of the amended *Notice of Conduct Hearing* on behalf of Constable Thibodeau.

[15] Through the *Agreed Statement of Facts*, Constable Thibodeau admitted the single allegation of discreditable conduct contained in the amended *Notice of Conduct Hearing*. The following conduct measures were jointly proposed by the Parties: a) a financial penalty of 40 days'

pay, to be deducted from Constable Thibodeau's pay; and b) a direction to work under close supervision for a period of 1 year.

[16] For the reasons that follow, I find that Allegation 1 contained in the amended *Notice of Conduct Hearing* is established and I accept the *Joint Agreement on Conduct Measures*. The conduct measures, as proposed, are imposed.

## ALLEGATION

[17] Allegation 1, as set out in the amended *Notice of Conduct Hearing*, reads as follows:

### **Allegation 1**

On or between November 1, 2015, and August 16, 2022, at or near the [redacted], [redacted], in the Province of Nova Scotia, Constable Jason Thibodeau behaved 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.

1. At all material times you were a member of the Royal Canadian Mounted Police ["RCMP"] "H" Division, [redacted], Nova Scotia.
2. On the morning of September 6, 2015, while attending to [redacted], [redacted] on an unrelated matter, you heard cries for help coming from [Ms. I.]. [Ms. I.] informed you that her boyfriend, [Mr. L.], and her were involved in a verbal argument and that she wanted him gone for the remainder of the day. [Mr. L.] complied and left the shared apartment. Later that evening, [Ms. I.] again contacted police to report that she had been assaulted by [Mr. L.] and wished to provide a statement. You were assigned as the lead investigator for [redacted] Police General Occurrence Versadex file # [redacted]. You obtained statements from [Ms. I.] in which she outlined

several serious allegations of intimate partner violence, including physical injuries, caused to her by [Mr. L.] and witnessed by her then 3-year old child.

3. You lawfully arrested [Mr. L.] for assault and forcible confinement and were subsequently involved throughout the entire criminal investigation and court process for Versadex file #[redacted]. On June 8, 2018, you wrote the following on the file under the Narrative Court Comments-2 with respect to the criminal sentencing of [Mr. L.]:

“[Mr. L.] was given 6 months jail, with mandatory 90 days to serve, along with a 200.00 fine, and 2.5 years of probation.

The victim was notified on this date.

This file can be concluded in it’s entirety.

CH

J.A. THIBODEAU

W3/TA

[redacted] RCMP.”

4. In November 2015, you commenced an intimate personal relationship and later a sexual relationship with [Ms. I.] You and [Ms. I.] have three children together. On August 16, 2022, you disclosed your relationship with [Ms. I.] to Sergeant Craig Smith (“Sergeant Smith”).

5. Prior to your assuming the lead investigator role on Versadex file #[redacted] you were not familiar with [Ms. I.] Your intimate sexual relationship with [Ms. I.] occurred as a direct consequence of your professional duties and responsibilities as a member of the RCMP. Your



intimate sexual relationship with [Ms. I.], a complainant from an intimate partner violence investigation, is discreditable conduct.

6. When you informed Sergeant Smith of your relationship with [Ms. I.] you confirmed to him that you “knew it was the wrong thing to do” and that it was an inappropriate relationship. You abused your position and authority as a police officer to both pursue and later develop an intimate sexual relationship with [Ms. I.]. As a victim of intimate partner violence, [Ms. I.] was in a vulnerable position when you first met her as an RCMP officer. You took advantage of [Ms. I.] for your own personal sexual satisfaction purposes and your actions are discreditable.

7. [Ms. I.] became pregnant with your first child while the criminal matter for [Mr. L.] was still ongoing. You and [Ms. I.] have an additional two children together. You assisted [Ms. I.] financially with an apartment and have also lived common-law together with her. Your failure to fully disclose to RCMP management that you were in a common-law relationship with [Ms. I.] and that you had three children with her is discreditable conduct.

8. Following her complaint of intimate partner violence, [Ms. I.] and her child moved into [redacted] House from October 2015 up to and including October 2017. [Redacted] House is a safe and secure location (safe house) which is meant to physically protect and provide counselling services to the victims of intimate partner violence and their children. [Redacted] House is meant to be both covert and discreet so as to protect the occupants with a 24-hour alarm system. You inappropriately attended to [redacted] in furtherance of your pursuit of an intimate sexual relationship with [Ms. I.]. Your attendance to [redacted] to romantically pursue [Ms. I.], constitutes an

actual conflict of interest between your professional responsibilities and your personal or private interests.

9. Prior to the conclusion of [Mr. L.]’s criminal charges, the Nova Scotia Public Prosecution Service along with Senior Crown Attorney Susan MacKay, regularly corresponded directly with you in your capacity as the lead investigating officer on Versadex file #[redacted]. By way of example, you were notified that a subpoena was to be issued for your attendance to testify at the Preliminary Inquiry and anticipated criminal trial for [Mr. L.]. You failed to inform Senior Crown Attorney Susan MacKay or anyone else from the [Nova Scotia] Public Prosecution Service that you were in an intimate sexual relationship with [Ms. I.] while also acting as the lead investigator on [Mr. L.]’s criminal matter. Your decision to remain the lead investigator on Versadex file #[redacted] while in an intimate sexual relationship with [Ms. I.], constitutes an actual conflict of interest between your professional policing responsibilities and your personal or private interests. You owed a professional responsibility to both the RCMP and also the administration of justice, to fully disclose your intimate sexual relationship with [Ms. I.] and assist with the orderly transition of yourself off of Versadex file #[redacted].

[*Sic throughout*]

### **Findings of fact**

[18] As previously mentioned, on July 22, 2024, I received the *Agreed Statement of Facts*, signed by Constable Thibodeau on July 18, 2024. This document represents his admissions to those facts, which read as follows:

At all material times, [Constable] Thibodeau was a member of the Royal Canadian Mounted Police (“RCMP”) posted to “H” Division, [redacted], Nova Scotia.

[Constable] Thibodeau admits the following facts as part of an agreed upon singular allegation that replaces the two original separate allegations contained within the Notice of Conduct Hearing signed and dated by the Conduct Authority on November 10, 2023.

On the morning of September 6, 2015, while attending to [redacted] Court, [redacted] on an unrelated matter, [Constable] Thibodeau heard cries for help coming from [Ms. I.]. [Ms. I.] informed [Constable] Thibodeau that her boyfriend, [Mr. L.], and her were involved in a verbal argument and that she wanted him gone for the remainder of the day. [Constable] Thibodeau rendered assistance and [Mr. L.] voluntarily left the shared apartment. Later that evening, [Ms. I.] again contacted police to report that she had been assaulted by [Mr. L.] and now wished to provide a statement. [Constable] Thibodeau was assigned as the lead investigator for [redacted] Police General Occurrence Versadex file #[redacted]. [Constable] Thibodeau obtained statements from [Ms. I.] in which she outlined several serious allegations of intimate partner violence, including physical injuries, caused to her by [Mr. L.] and witnessed by her then 3-year old child.

[Constable] Thibodeau lawfully arrested [Mr. L.] for assault and forcible confinement and admits he was involved throughout the entire criminal investigation and court process for Versadex file #[redacted]. On June 8, 2018, [Constable] Thibodeau wrote the following on the file under the Narrative Court Comments -2 with respect to the criminal sentencing of [Mr. L.]:

“[Mr. L.] was given 6 months jail, with mandatory 90 days to serve, along with a 200.00 fine, and 2.5 years of probation.

The victim was notified on this date.

This file can be concluded in it’s entirety.

CH

J.A. THIBODEAU

W3/TA

[redacted] RCMP.”

In March 2017, [Constable] Thibodeau commenced an intimate personal relationship and later a sexual relationship with [Ms. I.]. [Constable] Thibodeau and [Ms. I.] have three children together. On August 16, 2022, [Constable] Thibodeau disclosed his relationship with [Ms. I.] to Sergeant Craig Smith (“Sergeant Smith”).

### **Allegation 1**

On or between March 1, 2017, and August 16, 2022, at or near the [redacted], in the Province of Nova Scotia, Constable Jason Thibodeau behaved 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.

[Constable] Thibodeau admits that his intimate sexual relationship with [Ms. I.] occurred as a direct consequence of his professional duties and responsibilities as a member of the RCMP. [Constable] Thibodeau admits that he entered into an intimate sexual relationship with [Ms. I.] fully aware that she was a complainant in an intimate partner violence statutory investigation - Versadex file #[redacted].

[Constable] Thibodeau admits that he informed Sergeant Smith that his relationship with [Ms. I.] was “the wrong thing to do” and acknowledges that the relationship was inappropriate. [Constable] Thibodeau admits he abused his position and authority as a police officer to both pursue and later develop an intimate sexual relationship with [Ms. I.]. [Constable] Thibodeau acknowledges that as a victim of intimate partner violence, [Ms. I.] was in a vulnerable position when he first met her as an RCMP officer. [Constable] Thibodeau admits that he took advantage of [Ms. I.] for his own personal sexual gratification purposes.

[Constable] Thibodeau agrees that [Ms. I.] became pregnant with his first child while the criminal matter for [Mr. L.] was still ongoing. [Constable] Thibodeau and [Ms. I.] have an additional two children together. [Constable] Thibodeau voluntarily assisted [Ms. I.] financially with an apartment and also lived common-law together with her. [Constable] Thibodeau admits that he failed to disclose to RCMP management that he was in a common-law relationship with [Ms. I.] and that they had three children together.

Following her complaint of intimate partner violence, [Ms. I.] and her child moved into [redacted] House from October 2015 up to and including October 2017. [Redacted] House is a safe and secure location (safe house) which is meant to physically protect and provide counselling services to the victims of intimate partner violence and their children. [Redacted] House is meant to be both covert and discreet so as to protect the occupants with a 24-hour alarm system. [Constable] Thibodeau admits that he inappropriately attended to [redacted] House in furtherance of his pursuit of an intimate sexual relationship with [Ms. I.]. [Constable] Thibodeau further admits that his attendance to [redacted] House in order to romantically pursue [Ms. I.]

amounts to him placing his personal or private interests before his professional responsibilities as an RCMP officer.

Prior to the conclusion of [Mr. L.] criminal charges, the Nova Scotia Public Prosecution Service along with Senior Crown Attorney Susan MacKay, regularly corresponded directly with [Constable] Thibodeau in his capacity as the lead investigating officer on Versadex file #[redacted]. [Constable] Thibodeau admits that he failed to inform Senior Crown Attorney Susan MacKay or anyone else from the [Nova Scotia] Public Prosecution Service that he was in an intimate sexual relationship with [Ms. I.] while also acting as the lead investigator on [Mr. L.]'s criminal matter. [Constable] Thibodeau admits that he owed a professional responsibility to both the RCMP and also the administration of justice, to fully disclose his intimate sexual relationship with [Ms. I.] and assist with the orderly transition of himself off of Versadex file #[redacted]. [Constable] Thibodeau further admits that by failing to disclose his relationship he placed his personal and private interests before his professional responsibilities as an RCMP officer.

[Constable] Thibodeau admits that his conduct in Allegation 1 constitutes discreditable conduct, contrary to Section 7.1 of the Code of Conduct.

[*Sic throughout*]

[19] I have thoroughly reviewed the *Agreed Statement of Facts* and determined that it accurately reflects the relevant materials contained in the Record, except for paragraph 2, which contains information that is not part of the Allegation before me. Consequently, I adopt the *Agreed Statement of Facts*, except for paragraph 2, as my findings of facts.

### **Decision on Allegation**

[20] Section 7.1 of the Code of Conduct provides that “Members behave in a manner that is not likely to discredit the Force.”

[21] Under section 7.1 of the Code of Conduct, a conduct authority must establish the following elements on a balance of probabilities:

- a) the identity of the subject member;
- b) the act or acts constituting the alleged conduct.

[22] If a conduct authority discharges its onus in elements a) and b), then a conduct board must determine whether the subject member’s conduct **likely** brings the RCMP into disrepute. This involves determining:

- c) whether a reasonable person in society, who is aware of all the relevant circumstances, including the realities of policing in general and the RCMP in particular, would consider the conduct to be discreditable; and
- d) whether the conduct is sufficiently related to the subject member’s duties and functions as to provide the Force with a legitimate interest in disciplining them.

[23] Constable Thibodeau’s identity is uncontested. As such the first element of the test is satisfied.

[24] Constable Thibodeau admits that he entered into an intimate sexual relationship with Ms. I. while she was the complainant in a family violence statutory investigation for which Constable Thibodeau was the lead investigator. He also admits that, in order to pursue that relationship, he inappropriately attended a safe house where Ms. I. was residing at the time with her child. Constable Thibodeau admits that he failed to disclose to RCMP management and external

stakeholders that he was in an intimate relationship with Ms. I. while he was acting as the lead investigator in the statutory investigation involving Ms. I.

[25] Based on Constable Thibodeau's general admission of Allegation 1, his admissions to the various particulars contained in his response to the Allegation and in the *Agreed Statement of Facts*, I find that the second element of the test (the acts constituting the alleged conduct) is satisfied on a balance of probabilities.

[26] I must now determine whether the third and fourth elements of the test are established.

[27] The relationship with Ms. I. occurred as a direct result of Constable Thibodeau's professional duties and responsibilities as an RCMP member. As such, it was inappropriate. Constable Thibodeau acknowledges that he abused his position as a police officer.

[28] I find that a 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 Constable Thibodeau's actions as likely to bring discredit to the Force. Constable Thibodeau recognizes that Ms. I. was a vulnerable person at the time and that he took advantage of her for his own personal gratification. Police officers have a duty to protect vulnerable people. Constable Thibodeau failed to do that. Consequently, I find that the third element of the test is satisfied.

[29] Finally, it is well established that police officers are held to a higher standard of behaviour, both on and off duty. This is reflective of the authority, trust and responsibility that society places in police officers. Constable Thibodeau admits that he entered into an intimate sexual relationship with Ms. I., who was the complainant in a family violence statutory investigation for which he was the lead investigator. This type of behaviour could negatively impact the public's confidence in Constable Thibodeau's ability to impartially perform the duties of a member of the RCMP. I find that Constable Thibodeau's actions are sufficiently related to his duties and functions as to provide



the Force with a legitimate interest in disciplining him. As a result, the fourth element of the test is also satisfied.

[30] Consequently, I find that Constable Thibodeau behaved in a manner that is likely to discredit the Force. Therefore, Allegation 1 is established on a balance of probabilities.

## CONDUCT MEASURES

[31] Having found Allegation 1 to be established, I am now required, in accordance with paragraph 36.2(e) of the *RCMP Act*, to impose “conduct measures that are proportionate to the nature and circumstances of the contravention and, where appropriate, that are educative and remedial rather than punitive.”

[32] The parties have presented a *Joint Agreement on Conduct Measures* signed by both Constable Thibodeau and the Conduct Authority. This document included brief written submissions on how the five foundational principles set out in the *Phase 1 Final Report*<sup>1</sup> support the proposed conduct measures. The Subject Member Representative also submitted supporting documentary evidence. The parties propose the following conduct measures:

- a. a financial penalty of 40 days’ pay to be deducted from Constable Thibodeau’s pay;
- b. a direction to work under close supervision for a period of 1 year.

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<sup>1</sup> Ceyssens, Paul and Childs, Scott W., “*Phase 1*” *Final Report Concerning Conduct Measures, and the Application of Conduct Measures to Sex-Related Misconduct under Part IV of the Royal Canadian Mounted Police Act*, Report to the Royal Canadian Mounted Police (February 24, 2022) [*Phase 1 Final Report*].

**Applicable legal principles**

[33] When a conduct board is presented with a joint proposal on conduct measures, there are very narrow circumstances in which they may refuse to accept the proposed measures. The Supreme Court of Canada has recognized the value of settlement discussions and directed that “Under the public interest test, a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest.”<sup>2</sup>

[34] The public interest test is a stringent one. It has been adopted by other professional disciplinary bodies<sup>3</sup> and applied in several recent RCMP conduct decisions. Specifically, a conduct board has an obligation to give serious consideration to a joint proposal unless it is unfit, unreasonable or contrary to the public interest. In addition, when departing from a joint proposal, a conduct board must give good and cogent reasons as to why it is inappropriate.

[35] I also note the following observation made by an RCMP conduct board:

[103] The acceptance of a joint proposal by a conduct board cannot be viewed as its endorsement of the proposed measures as those that best serve the interests of the public. Rather, it reflects a compromise that does not offend the public interest. Consequently, while the previous conduct board decisions may provide an indication of an acceptable range of conduct measures for a category of misconduct, they are of little assistance to me in my analysis [...]<sup>4</sup>

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<sup>2</sup> *R. v Anthony-Cook*, 2016 SCC 43, at paragraph 32.

<sup>3</sup> *Rault v Law Society of Saskatchewan*, 2009 SKCA 81 (CanLII), at paragraph 19.

<sup>4</sup> *Commanding Officer for “K” Division and Constable Deroche*, 2022 CAD 13, at paragraph 103.

[36] Similarly, the conduct measures set out in the RCMP *Conduct Measures Guide* (November 2014) simply provide an indication of suitable measures, are not determinative and offer only limited assistance in evaluating the public interest sufficiency.

### **Range of conduct measures**

[37] The *Conduct Measures Guide*, while not prescriptive, is intended to promote parity of sanctions. It is a useful reference when determining the appropriate range of sanctions for a particular category of behaviour.

[38] The parties advance that the appropriate conduct measures in this case fall in the mitigated range and should “remain consistent at 20-30 days of pay for incidents involving abuse of authority for the purposes of a consensual sexual relationship”.<sup>5</sup> They nonetheless propose a financial penalty of 40 days’ pay along with a direction to work under close supervision for 1 year <sup>6</sup> as the appropriate conduct measures.

[39] I cannot agree with the range of conduct measures proposed by the Parties.

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<sup>5</sup> *Joint Agreement on Conduct Measures*, dated September 5, 2024, at paragraph 26.

<sup>6</sup> *Joint Agreement on Conduct Measures*, dated September 5, 2024, at paragraphs 38 to 40.

[40] I note that the proposed range is the one identified in the *Conduct Measures Guide* for interpersonal workplace relationships between persons in authority and subordinates.<sup>7</sup> However, the present case is not about this kind of behaviour.

[41] Constable Thibodeau developed a long-term relationship with a member of the public, who was the affected person in a family violence file for which he was the lead investigator. This behaviour is serious. I acknowledge that it does not fit squarely into any of the categories of behaviour provided for in the *Conduct Measures Guide* for a contravention of section 7.1 of the Code of Conduct. However, the section of the *Conduct Measures Guide* related to sexual misconduct<sup>8</sup> identifies several factors that add to the seriousness of the misconduct. Many of these factors are present in this case. They include:

- a. Ms. I. was a member of the public.
- b. Ms. I. was a vulnerable person as a victim of family violence.
- c. Constable Thibodeau came to know Ms. I. as a result of his duties. In particular, he was assigned as the lead investigator to Ms. I.'s complaint of family violence against her ex-partner.
- d. Constable Thibodeau was in a position of trust and authority vis-à-vis Ms. I. when he established a connection with her and, as a result, he had a duty to remain professional in his interactions with Ms. I.

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<sup>7</sup> *Conduct Measures Guide*, November 2014, at page 58.

<sup>8</sup> *Conduct Measures Guide*, November 2014, at pages 56 to 60.

[42] The parties acknowledge that Constable Thibodeau's actions were plainly reckless but submit that, ultimately, Ms. I. became a willing participant to the intimate relationship that began in 2017 and included having three children together.

[43] In their *Joint Agreement on Conduct Measures*, the parties submit that without the oral testimony of Ms. I., Constable Thibodeau's actions do not meet either the normal or aggravated range of conduct measures, which would include dismissal. I disagree with this assessment. The fact that Ms. I, at some point, decided not to participate in the conduct process does not mitigate Constable Thibodeau's behaviour.

[44] In terms of the appropriate range of conduct measures, having considered the aforementioned elements, I find that the appropriate conduct measures applicable to the circumstances of this case fall in the aggravated range, which entails measures between a forfeiture of 31 days of pay to dismissal.

### **Assessing fit conduct measures**

[45] In October 2021, the RCMP hired experienced labour lawyers to review the disciplinary measures that had been applied to members' misconduct. RCMP senior management adopted the recommendations stemming from that review, particularly the five foundational principles to crafting a fit conduct measure included in the *Phase 1 Final Report*. Conduct boards have since been applying these principles to determine the appropriate conduct measures to be imposed in a specific case.

[46] The *Phase 1 Final Report* summarized the five foundational principles, as follows:

[...]

1. A conduct measure must fully accord with the four purposes of the police complaint and conduct process:

- i. the public interest: ensuring a high standard of conduct in the [RCMP], and public confidence in the [RCMP]
  - ii. the [RCMP's] interests in its “dual capacity” as an employer seeking maintaining integrity and discipline in the police workplace, and as “a public body responsible for the security of the public”
  - iii. the interests of the [subject member] in being treated fairly
  - iv. in cases where other individuals are affected, to ensure that the interests of those individuals (such as public complainants or other RCMP employees) are addressed.
2. Corrective and remedial dispositions should prevail, where appropriate.
  3. A presumption that the least onerous disposition applies, which presumption would be displaced if the public interest or other specified considerations should prevail.
  4. Proportionality.
  5. A higher standard applies to police officers' conduct, compared to employees generally, principally because police hold a position of trust.

[...] <sup>9</sup>

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<sup>9</sup> *Phase I Final Report*, at page 22.

[47] I will apply these principles to the circumstances of this case to determine whether the conduct measures submitted by the parties are contrary to the public interest. I will start by examining proportionality.

*Proportionality*

[48] Conduct measures must be proportionate to the nature and circumstances of the contravention.<sup>10</sup> This requires conduct boards to identify the relevant proportionality considerations; assess whether they are mitigating, aggravating or neutral; and, finally, appropriately balance and weigh these considerations in light of the circumstances of the case.

[49] The *Phase I Final Report* identifies 15 proportionality factors that may constitute mitigating, aggravating or neutral considerations depending on the evidence of each case. I will assess the factors that I find relevant to the circumstances of this case.

*Aggravating factors*

[50] In the *Joint Agreement on Conduct Measures*, the parties identified four aggravating proportionality considerations:

- a. Ms. I. was in a vulnerable state at the time that Constable Thibodeau pursued her romantically.
- b. Constable Thibodeau pursued Ms. I. romantically while she was residing in a safe house for her and her child's safety and security.

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<sup>10</sup> *RCMP Act*, at paragraph 36.2(e); *CSO (Conduct)*, at subsection 24(2).

- c. Constable Thibodeau's actions potentially jeopardized not only a criminal investigation but also the relationship between the RCMP and an external partner.
- d. Constable Thibodeau's misconduct was not an isolated incident, rather it lasted for over five years before his self-disclosure.

[51] I note that Ms. I.'s vulnerable state and the fact that she was residing in a safe house at the time Constable Thibodeau pursued her romantically are elements found in the Allegation itself. Aggravating factors are those that exist above or beyond the essential constituent elements of the misconduct as described in the *Notice of Conduct Hearing* or, like in this case, included in the *Agreed Statement of Facts*. Thus, I cannot also accept these considerations as aggravating.

[52] I agree that the considerations identified under c) and d) represent aggravating factors. Additionally, I retain the seriousness of Constable Thibodeau's actions as an additional aggravating factor. Constable Thibodeau engaged in a romantic relationship with Ms. I., a vulnerable person he met in the course of his duties. Notwithstanding the fact that the relationship eventually evolved into a common-law relationship, Constable Thibodeau's actions were incompatible with the execution of his duties as well as the position of trust and authority that he had towards Ms. I.

### ***Mitigating factors***

[53] The parties refer to the following proportionality factors as having a mitigating effect on the determination of the appropriate measures:

- a. The fact that Constable Thibodeau fully cooperated with the entirety of the conduct hearing process and his admissions to the Allegation have avoided a contested hearing.
- b. Constable Thibodeau is remorseful.



- c. Constable Thibodeau was experiencing significant personal stressors at the time of the Allegation.
- d. Constable Thibodeau has no prior disciplinary history.
- e. Constable Thibodeau is an effective RCMP member with an excellent work history and a true asset to the RCMP.
- f. Constable Thibodeau has the full support of his former supervisor.
- g. Constable Thibodeau is actively involved in his community and willingly volunteers his time to the betterment of others.
- h. Constable Thibodeau has sought out and received psychological treatment and continues to seek out treatment on an ongoing basis.
- i. Constable Thibodeau's intentions in this matter were genuine in helping Ms. I. in her time of need and not guided by malice. Constable Thibodeau was guided by feelings of love and affection towards Ms. I. and their children.
- j. Constable Thibodeau has a healthy co-parenting partnership in place with Ms. I. where all their children's needs are being met.

[54] I find that the elements identified in paragraphs a) and b) both relate to Constable Thibodeau recognizing the seriousness of his actions. Constable Thibodeau has cooperated throughout the conduct process. From the onset, he admitted the Allegation, thereby avoiding a contested hearing. Constable Thibodeau accepted responsibility for his behaviour. In his response to the Allegation, he writes that “[in] retrospect, I recognize now that what I did was wrong [...] My behaviour is wrong and I fully take responsibility”. I accept these elements as a significant mitigating factor.

[55] Concerning the existence of personal stressors at the time of the Allegation, I was not provided with any evidence demonstrating that Constable Thibodeau was in fact experiencing difficult circumstances at the relevant time. Therefore, I cannot accept this as a mitigating factor.

[56] Constable Thibodeau presented three letters of reference from former supervisors and line officers along with several performance assessments completed throughout his career. These documents demonstrate that Constable Thibodeau is a valued member of the Force. In addition, at the time of the initiation of the present conduct process, Constable Thibodeau had almost 17 years of service and had no prior discipline. I find Constable Thibodeau's positive employment history to be a mitigating factor.

[57] The parties submit that Constable Thibodeau's community involvement is a mitigating factor. I note that one of the support letters refers to the fact that Constable Thibodeau always shows respect and compassion to everyone he encounters and that he was involved in his community in the past. However, I do not have any evidence before me to establish that Constable Thibodeau is actively involved in his community or is currently volunteering his time to the betterment of others. Therefore, I cannot assess whether this constitutes a mitigating factor in the circumstances.

[58] Similarly, the parties submit that Constable Thibodeau has sought out and received psychological treatment and that he continues to seek out treatment on an ongoing basis. Again, no evidence was provided to support this element. Consequently, I cannot consider this to be a mitigating consideration in this case.

[59] The parties advance that Constable Thibodeau was not guided by malice but rather that his intentions were guided by feelings of love and affection towards Ms. I. and her child. I cannot accept the absence of malicious intent as a mitigating factor. Indeed, the RCMP has sent a clear message that "Sexual misconduct involving a power imbalance or an abuse of professional trust has no place in [the RCMP]. This type of behaviour can significantly damage the public and

employee trust [...]”.<sup>11</sup> Members must always consider the potential impact of their actions in order to protect their credibility and maintain public trust.

[60] Additionally, I do not accept the fact that Constable Thibodeau currently has a healthy co-parenting partnership in place with Ms. I. should be considered as an additional mitigating circumstance in the present matter as I was not provided with any evidence of the existence of such a partnership.

[61] However, I find that the effect of conduct measures on Constable Thibodeau’s family should be considered as mitigating in the circumstances. While some uncertainty surrounds this proportionality consideration,<sup>12</sup> I note that Constable Thibodeau and Ms. I. have three children together. Constable Thibodeau also cares for the needs of another child that Ms. I. had from a previous union. Three of those children have long-term special medical needs. Conduct measures involving a financial penalty will impact Constable Thibodeau and his family as he is the primary financial earner for the four children. I find this element to be a mitigating factor.

### ***Balancing proportionality factors***

[62] I have found the seriousness of the misconduct, the potential compromising of a criminal investigation, the potential damaging of the RCMP relationship with an external partner and the fact that it was not an isolated incident to be aggravating in this case. I have found Constable

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<sup>11</sup> PRO broadcast, *Member dismissed – Improper sexual activity with a vulnerable person*, RCMP Infoweb, date modified: February 20, 2024, online: <<https://infoweb.rcmp-grc.gc.ca/prof/pro-arp/news-nouvelles/2024/dismissed-congedie-eng.htm>>

<sup>12</sup> *Phase I Final Report*, at page 42.

Thibodeau's recognition of the seriousness of his misconduct, his positive employment history and the effect of the conduct measures on Constable Thibodeau's family to be mitigating factors.

[63] I consider Constable Thibodeau's behaviour to fall in the most aggravated range of conduct measures. However, I find that on a balance the assessed factors are sufficiently mitigating to warrant a lesser sanction in order to meet the objectives of the conduct process.

[64] The *Conduct Measures Guide* states:

[...]

- A “hard” maximum financial penalty of 31-45 days for cases of serious contraventions where dismissal from the Force is a distinct possibility. This hard maximum is to be employed in situations where the conduct authority is “on the fence” about retaining or terminating a member but decides, in light of all the aggravating and mitigating factors, to continue to employ the member. [...]<sup>13</sup>

[65] I find that the proposed conduct measures of a financial penalty of 40 days' pay and a direction to work under close supervision for a period of 1 year reflect the unique circumstances of this case.

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<sup>13</sup> *Conduct Measures Guide*, November 2014, at page 7.

*Accordance with RCMP conduct process purposes*

[66] The first foundational principle identified in the *Phase I Final Report* provides that conduct measures must be in accordance with the purposes of the conduct process. Generally speaking, Part IV of the *RCMP Act* seeks to address four specific interests:

- a. the public interest;
- b. the RCMP's interests as both an employer and a public institution;
- c. the subject member's interest in being treated fairly; and
- d. the interests of affected individuals.

[67] Paragraph 36.2(b) of the *RCMP Act* "provide[s] for the establishment of a Code of Conduct that emphasizes the importance of maintaining the public trust and reinforces the high standard of conduct expected of members" and paragraph 36.2(c) of the *RCMP Act* states "that members are responsible and accountable for the promotion and maintenance of good conduct in the Force".

[68] The Supreme Court of Canada has also highlighted the importance of the public interest by stating: "The purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve the public confidence in the profession [...]"<sup>14</sup>

[69] The public has a strong interest in ensuring that Constable Thibodeau is held accountable for his actions, both on and off duty, in order to ensure the integrity of the RCMP conduct process and to protect the public. I consider that the public interest militates in favour of significant conduct

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<sup>14</sup> *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

measures in this case, given the nature of Constable Thibodeau's behaviour and its direct relationship with his law enforcement duties.

[70] The parties submit that the public expects accountability but not punitive sanctions. They believe that the proposed measures hold Constable Thibodeau completely accountable while also recognizing that Constable Thibodeau and Ms. I. entered into a long-term consensual intimate relationship together.

[71] I find that the public interest is served with the proposed conduct measures. Constable Thibodeau is being disciplined for his actions. He is receiving a significant financial penalty and will be required to work under close supervision for a period of one year. The decision in this case will be publicly available, demonstrating that the RCMP does not tolerate this type of behaviour and maintains public trust and accountability.

[72] The RCMP's interest as an employer and a public institution is to ensure that RCMP members who contravene the Code of Conduct are dealt with appropriately to maintain the public confidence. The proposed conduct measures of a 40-day forfeiture of pay combined with a directive to work under close supervision for 1 year are sufficiently significant to address Constable Thibodeau's misconduct from that perspective and to hold him accountable for his actions. Furthermore, this sends a strong message of general deterrence within the Force that this type of behaviour is not tolerated and will result in severe repercussions.

[73] Constable Thibodeau's interest is essentially to be treated fairly. Constable Thibodeau has been afforded all the procedural fairness opportunities provided for in the RCMP conduct process. Moreover, his personal circumstances were considered in the joint proposal. He has been represented by counsel throughout these proceedings. The proposed measures were jointly agreed upon between the parties during settlement discussions. I have no reason to believe the settlement is unfair to Constable Thibodeau, who has signed the *Joint Agreement on Conduct Measures*.

[74] With respect to the interests of Ms. I., as an affected person, I note that at some point during the conduct process, she decided that she no longer wanted to testify at the hearing. She has also refused to provide a victim impact statement. The *Joint Agreement on Conduct Measures* indicates that Ms. I. is fully aware that a joint proposal on conduct measures was presented to the Conduct Board and that the proposed measures involve the seeking of a forfeiture of pay and not dismissal from the RCMP. Therefore, I am satisfied that her interests were considered.

[75] As a result, I find that the proposed conduct measures adequately address all four interests.

*Prevalence of corrective and remedial conduct measures*

[76] Paragraph 36.2(e) of the *RCMP Act* requires that conduct measures be “proportionate to the nature and circumstances of the contravention and, where appropriate, [be] educative and remedial rather than punitive”. However, this presumption will be displaced if the public interest or other considerations, such as the seriousness of the misconduct, prevail.

[77] Constable Thibodeau’s actions are serious breaches of the Code of Conduct. However, I do not find that the seriousness of his actions overrides the ordinary prevalence of corrective and remedial conduct measures when considering the specific circumstances of this case. A financial penalty of 40 days’ pay is a serious conduct measure,<sup>15</sup> just short of dismissal. I accept the parties’ submissions that it will serve “to educate and support Constable Thibodeau in pursuit of his future employment within the RCMP while also properly holding him fully accountable”.<sup>16</sup>

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<sup>15</sup> *CSO (Conduct)*, at section 5.

<sup>16</sup> *Joint Agreement on Conduct Measures*, dated September 5, 2024, at paragraph 30.

*Presumption of least onerous disposition*

[78] There is a presumption that the least onerous conduct measure should apply. However, the presumption can be displaced if the public interest or other considerations prevail.

[79] I find nothing in the circumstances of this case to displace the presumption. The parties submitted that dismissal is not warranted in the circumstances, and I agree. The proposed conduct measures are appropriate to address Constable Thibodeau's misconduct. I am satisfied that these measures are not trivial and meet the expectation of both specific and general deterrence, all while holding Constable Thibodeau accountable.

*Application of higher standards to police officers*

[80] The last foundational principle is that police officers are expected to adhere to a higher standard of conduct.<sup>17</sup>

[81] The courts and RCMP conduct boards<sup>18</sup> have long recognized that police officers are held to a higher standard of conduct than the general public. The public has a right to expect that RCMP members, whom they trust to uphold and enforce the law, will remain professional in their interactions with the public and not engage at a personal level with vulnerable individuals involved in investigations. Constable Thibodeau's behaviour breached that trust in significant ways. I am satisfied that the proposed conduct measures recognize that a higher standard applies to a police officer's conduct.

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<sup>17</sup> *Phase 1 Final Report*, at page 22.

<sup>18</sup> *Commanding Officer for "H" Division v Constable Whalen*, 2021 CAD 17, at paragraph 189.



**Decision on conduct measures**

[82] In light of the foregoing, and after applying the five foundational principles to the proposed conduct measures, I find that they are appropriate in the circumstances. Consequently, I do not find that the acceptance of the *Joint Agreement on Conduct Measures* goes against the public interest, nor that it would bring the administration of justice into disrepute. As such, I accept the proposed conduct measures and hereby impose the following:

- a. a financial penalty of 40 days' pay, to be deducted from Constable Thibodeau's pay;
- b. a direction to work under close supervision for a period of 1 year.

**CONCLUSION**

[83] Allegation 1 is established and the aforementioned conduct measures are imposed.

[84] My acceptance of the *Joint Agreement on Conduct Measures* provides Constable Thibodeau with the opportunity to continue his career with the RCMP. In doing so, I trust that he will uphold the standards set by the Code of Conduct and the RCMP core values. Any future contravention of the Code of Conduct will be seriously reviewed by the appropriate conduct authority and could lead to his dismissal from the Force.

[85] Any interim measures in place should be resolved, in a timely fashion, in accordance with paragraph 23(1)(b) of the *Royal Canadian Mounted Police Regulations, 2014*, SOR/2014-281.

[86] This constitutes my written decision, as required by subsection 45(3) of the *RCMP Act*. Either party may appeal this decision by filing a statement of appeal with the Commissioner within 14 days of the service of this decision on Constable Thibodeau as set out in section 45.11 of the

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*RCMP Act* and section 22 of the *Commissioner's Standing Order (Grievances and Appeals)*,  
SOR/2014-289.

April 4, 2025

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Gina Lévesque

Conduct Board

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Ottawa, Ontario