



ROYAL CANADIAN MOUNTED POLICE

in the matter of
a conduct hearing held pursuant to the
Royal Canadian Mounted Police Act, RSC, 1985, c R-10

Between:

Designated Conduct Authority for “H” Division

(Conduct Authority)

and

Corporal William Diaczenko
Regimental Number 65180

(Subject Member)

CONDUCT BOARD DECISION

John MacLaughlan and Jon Soltys

(Conduct Authority Representatives)

Nasha Nijhawan

(Subject Member Representative)

CONDUCT BOARD: Colin Miller
DATE: July 16, 2025

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SUMMARY

Corporal Diaczenko was served with a *Notice of Conduct Hearing*, which contains two allegations under section 8.1 of the RCMP Code of Conduct. He is alleged to have provided false or inaccurate information during an RCMP promotion process.

On June 26, 2025, the Conduct Board issued his oral decision, in which one allegation was found to be established.

On June 27, 2025, the Conduct Board provided his oral decision on conduct measures, in which he ordered an indefinite demotion to the rank of Constable, the ineligibility for promotion for a period of 1 year beginning at the time of his reinstatement and the forfeiture of 10 days' pay.

INTRODUCTION

[1] In March 2021, Corporal William Diaczenko was promoted into a Team Leader position in Northeast Traffic Services. Included in his application package for promotion, dated November 11, 2020, he provided two examples for the competency of “Ability to Prepare and Present Testimony”, in which he detailed the purported events of two impaired driving investigations on which he worked.

[2] As part of the promotion grievance process, another member who had applied for the same position, but was not chosen, requested and received disclosure of all of Corporal Diaczenko’s competency examples. In one competency example, Corporal Diaczenko provided an illustration of an impaired driving investigation resulting in an Approved Screening Device (ASD) refusal.

[3] Around that same time, *Downey*¹ was published. In that case, the court raised concerns about the way Corporal Diaczenko administered the ASD. Consequently, the accused was acquitted on all charges.

[4] The ASD refusal example used by Corporal Diaczenko showed similar circumstances to those in *Downey*; however, the competency example identified a significantly different outcome. The unsuccessful candidate raised concerns about these inaccuracies, which were subsequently brought to the attention of a conduct authority.

[5] On December 16, 2022, the Conduct Authority became aware of Corporal Diaczenko’s identity and his alleged misconduct.

[6] On January 9, 2023, the Conduct Authority mandated a Code of Conduct investigation into the allegation that Corporal Diaczenko provided false or inaccurate information in his Competency Resume. On May 31, 2022, the *Conduct Investigation Mandate Letter* outlining one alleged contravention of section 8.1 was served on Corporal Diaczenko.

[7] On June 22, 2023, the Conduct Authority signed the *Amended Conduct Investigation Mandate Letter* that included an additional allegation related to Corporal Diaczenko’s second

¹ *R. v Downey*, 2018 NSPC 24 [*Downey*].

competency example for “Ability to Prepare and Present Testimony”. The *Amended Conduct Investigation Mandate Letter* was served on Corporal Diaczenko on June 23, 2022.

[8] On December 11, 2023, the Designated Conduct Authority signed a *Notice to the Designated Officer*, requesting the initiation of a Conduct Hearing. On December 18, 2023, a conduct board was appointed pursuant to subsection 43(1) of the *Royal Canadian Mounted Police Act*, RSC, 1985, c R-10 [*RCMP Act*].

[9] The *Notice of Conduct Hearing* was signed by the Conduct Authority on April 25, 2024. It was subsequently served on Corporal Diaczenko on May 22, 2024, along with the investigation package.

[10] On July 18, 2024, Corporal Diaczenko provided his response to the *Notice of Conduct Hearing*, pursuant to subsection 15(3) of the *Commissioner’s Standing Orders (Conduct)*, SOR/2014-291. Although he admitted many of the particulars, Corporal Diaczenko denied both Allegations.

[11] On February 20, 2025, I was appointed as the Conduct Board due to the previous one being no longer available.

[12] On June 23, 2025, the Conduct Hearing began in Halifax, Nova Scotia.

[13] On June 26 and 27, 2025, I delivered my oral decision on the allegations and on the conduct measures, respectively. This written decision incorporates and further explains those oral decisions.

MOTION

[14] On June 5, 2025, the Conduct Authority Representatives brought a motion to request the disclosure of the complete content of Corporal Diaczenko’s occupational health file or, alternatively, the content for the period of June 2020 to December 2020.

[15] Citing Justice L’Heureux-Dubé,² the Ontario Court of Justice sets out a two-part test for the admissibility of a witness’s medical records:

[35] [...] the court should consider whether the documents sought are (1) relevant to an issue at trial; and (2) have significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.³

[16] In applying this test, I found that the Conduct Authority has not established that the probative value of Corporal Diaczenko’s occupational health file to these proceedings outweighed the potential prejudice to him and to the administration of the conduct process generally. Consequently, the motion was dismissed.

[17] On June 19, 2025, I provided my written decision to the Representatives.

ALLEGATIONS

[18] The amended *Notice of Conduct Hearing* reads as follows:

Particulars common to all Allegations:

1. At all material times, [Corporal Diaczenko was] a member of the Royal Canadian Mounted Police [“RCMP”] posted to “J” Division, St. Stephen Detachment, New Brunswick, and held the rank of Constable.
2. [Corporal Diaczenko] joined the RCMP on October 31, 2018.
3. Prior to joining the RCMP, [Corporal Diaczenko was] a constable of the [Halifax Regional Police (HRP)]. While at HRP, [Corporal Diaczenko] worked the traffic unit from 2010 to 2018, with [Constable (Cst.) Peter Webber] from 2010 to 2016.
4. Around November 2020, [Corporal Diaczenko was] applying for a Corporal position, specifically the role of Team Leader of the Northeast Traffic Services in Antigonish, Nova Scotia, “H” Division.
5. As part of this application, [Corporal Diaczenko was] required to speak to certain competencies. This means listing two examples, and for each example, describing the situation [he] encountered, the role [he] played, the actions [he] took, and the results of those actions.

² *R. v Osolin*, [1993] 4 SCR 595, at pages 29 to 31.

³ *R. v. D. (K.A.)*, 1994 CarswellOnt 6025, at paragraph 35.

6. [Corporal Diaczenko] had an obligation to read and ensure that [he] understood all relevant information related to the promotion process.
7. [Corporal Diaczenko] had an obligation to tell the truth on [his] application and to accurately describe each behavior.
8. The job posting had a closing date of November 11, 2020.
9. November 11, 2020, was Remembrance Day, which is a holiday for federal public servant workers, including RCMP members.
10. As part of the competition for the Corporal position, [Corporal Diaczenko was] required to demonstrate how [he] met the competencies outlined in the job advertisement.
11. [Corporal Diaczenko] chose examples from [his] time with HRP as examples of meeting the requisite competencies.
12. [Corporal Diaczenko] completed [his] competencies and sent them for verification to [his] references.
13. One of [his] references at the HRP was Cst. Webber. [Corporal Diaczenko] emailed him [his] competencies for his verification. [Corporal Diaczenko] did not provide any further evidence on the competencies, such as a file name or accused's name.
14. Cst. Webber verified the truth of the contents of [Corporal Diaczenko's] competencies. Cst. Webber told [Corporal Diaczenko's] supervisor, [Corporal (Cpl.)] Jared Ryan, that the competencies were accurate. They did this by email on November 11, 2020.
15. Cpl. Ryan had brought [Corporal Diaczenko's] package to his line officer, [Inspector] Chantal Farrah, who gave her support to [Corporal Diaczenko's] package.
16. [Corporal Diaczenko was] successful in this competition.

Alleged contraventions of the Code of Conduct

Allegation 1:

On or about November 11, 2020, at or near St. Stephen, New Brunswick, Corporal William Diaczenko did provide a false or inaccurate report, contrary to section 8.1 of the Code of Conduct of the RCMP.

Particulars for Allegation 1:

17. In [his] application dated November 11, 2020, [Corporal Diaczenko] wrote about an impaired driving investigation on which [he] worked. This was on form 5144e (2016-06) and the competency name was "Ability to Prepare and Present Testimony in Court" [(Competency Form 1)].
18. The Competency Form 1 form states:

I certify that the information provided herein is accurate and true to the best of my knowledge. I understand that misrepresentation of information provided may disqualify me from the Promotion Process. I also understand that the example must only be developed, prepared, written and completed by myself, and that proof of otherwise will result in my disqualification from the Promotion Process.

19. This form lists Cst. Webber as [his] reference for this competency.
20. [Corporal Diaczenko] signed Competency Form 1 on November 11, 2020.
21. The example [he] used in Competency Form 1 pertained to file GO-2014-178534.
22. The example [he] used in Competency Form 1 pertained to the case involving Timothy Downey ["Mr. Downey"] that has been indexed as [Downey].
23. [Downey] is publicly available on CanLII and has been since August 31, 2018.
24. In [his] Competency Form 1, [he] wrote:

Situation/Task: I was working at an impaired driving checkpoint in Halifax, Nova Scotia when I checked a vehicle in which I could detect an odor of an alcoholic beverage emitting from the driver's breath. The driver was detained and agreed to comply with the ASD Demand. I administered the ASD and after 5 attempts the suspect would not provide a suitable sample. I arrested the driver for failing to provide a sample and prepared all release documents and transported him to his residence.
25. This is not accurate. [Corporal Diaczenko] testified and the court found that you administered the breathalyzer four times, not five times.
26. In Competency Form 1, [Corporal Diaczenko] also wrote:

[...] During cross examination the defense attempted to discredit my recollection of the events by giving alternative reasoning on what could have caused the driver to show signs of impairment. [...] The defense attempted several times to have me indicate that if [sic] someone with a health condition such as asthma would not be able to provide a suitable sample. Despite intensive cross examination by the defense, I remained professional and composed while promptly delivering my testimony, which was accepted by the court.
27. This is not accurate. The defence did not put the health issue to [him] during cross examination, nor asked [his] medical opinion as to the viability of Mr. Downey's defence as it related to health issues.
28. In Competency Form 1, [Corporal Diaczenko] also wrote:

[...] During cross examination the defense attempted to discredit my recollection of the events by giving alternative reasoning on what could have caused the driver to show signs of impairment. The defense council [sic] also asked if I was positive that the driver was in deed [sic] the accused that I previously identified to the court.

29. This is not accurate. During [his] cross examination, [he was] not challenged on the identity of the accused.

30. In Competency Form 1, [Corporal Diaczenko] also wrote:

Result: The information that I provided at trial was accepted as evidence and I was later notified that the accused was found guilty.

31. This is not accurate. Mr. Downey was acquitted on the charges of impaired driving and failure to provide a breath sample under sections 253 and 254 of the Criminal Code.

32. In Competency Form 1, [Corporal Diaczenko] also wrote:

Result: [...]. The crown attorney later complemented the exceptional job of my testimony and that there weren't any concerns with the information or the manner that I provided it.

33. This is not accurate. The Crown attorney never complimented [him] on [his] testimony.

34. In part because of Competency Form 1, [Corporal Diaczenko] received the promotion to Corporal.

35. [Corporal Diaczenko] knowingly did not tell the truth on Competency Form 1 or [was] reckless as to whether [he was] telling the truth.

36. [Corporal Diaczenko's] conduct breached section 8.1 of the RCMP's Code of Conduct.

Allegation 2:

On or about November 11, 2020, at or near St. Stephen, New Brunswick, Corporal William Diaczenko did provide a false or inaccurate report, contrary to section 8.1 of the Code of Conduct of the RCMP.

Particulars for Allegation 2:

37. In [his] application dated November 11, 2020, [Corporal Diaczenko] wrote about an impaired investigation on which [he] worked. This was on form 5144e (2016-06) and the competency name was "Ability to Prepare and Present Testimony in Court" [(Competency Form 2)].

38. The Competency Form 2 form states:

I certify that the information provided herein is accurate and true to the best of my knowledge. I understand that misrepresentation of information provided may disqualify me from the Promotion Process. I also understand that the example must only be developed, prepared,

written and completed by myself, and that proof of otherwise will result in my disqualification from the Promotion Process.

39. This form lists Cst. Webber as [his] reference for this competency.
40. [Corporal Diaczenko] signed [his] Competency Form 2 on November 11, 2020.
41. In [his] Competency Form 2, [Corporal Diaczenko] relied upon an example, for which [he] gave an approximate date of Oct. 15, 2016; [he] wrote:

Role: Traffic Services Investigator. Situation/Task: I was working in a traffic unit assigned to target impaired drivers in response to Operation Impact. I observed a motor vehicle driving erratically and conducted a traffic stop I arrested the driver for impaired driving and after processing for over 80 as well. Action: To prepare for trial, I contacted the Crown's office and discussed the case. I am familiar with relevant case law for impaired driving investigations and I questioned the Crown on any issues that may arise or if there had been any recent precedents that were set that may affect this particular case. I asked if the Crown knew what the defense was contesting and the Crown advised that the defense was contesting the impaired driving charge and possibly the time line of the events, mainly the wait for a qualified breath technician. To prepare for trial [sic] I reviewed my police notes as well as the general occurrence I prepared. On the day of trial I attended the Crown's office to discuss my testimony and the details of the case. The crown informed me that the defense had discussed pleading guilty to the over 80 if the Crown would not proceed on the impaired driving charge. The Crown asked my thoughts and if I wished to proceed on both counts. I informed the Crown I wished to proceed on both charges. During my testimony in a clear, concise and chronological manner, I provided a detailed description of the driver's actions with emphasis on the variation of speed and the number of times the vehicle crossed the center line and struck the curb. During intensive and vigorous cross-examination, the defense council attempted to discredit my notes and recollection of the events. Despite continued efforts by the defense to find fault in my testimony, I remained calm and composed while delivering my evidence meticulously, which was accepted by the court. I testified for approximately 90 minutes while maintaining my poise and describing the entire event in detail. Upon completion of cross examination the Crown asked two questions on redirect and then I was excused from court.

Result: As a [sic] result of the evidence I presented in court the driver was found guilty of both counts. I later had an opportunity to speak with Crown council who commended me on the delivery of my testimony and the ability to maintain my composure.

42. [Corporal Diaczenko] never testified in court about a file with these facts.

43. [Corporal Diaczenko was] the reporting officer for four impaired driving files with HRP from 2010 to 2018. These four files were:

- a. HP 2010-17506;
- b. HP 2012-172744;
- c. HP 2014-178534; and
- d. HP 2016-2012.

44. Of these four files, [he] received summons to appear in court for trial for only two files: 2012-172744 and 2014-178534.

45. Neither of these two files had similar facts to [his] Competency Form 2.

46. File 2012-172744 pertained to a traffic stop for an amber light violation, with no mention of erratic driving. The facts of file 2012-172744 are not similar to the contents of the Competency Form 2.

47. File 2014-178534 pertained to [Downey], which involved a check stop. The facts of this case are not similar to the contents of Competency Form 2.

48. In part because of [his] Competency Form 2, [Corporal Diaczenko] received the promotion to Corporal.

49. [Corporal Diaczenko] knowingly did not tell the truth on [his] Competency Form 2 or [was] reckless as to whether [he was] telling the truth.

50. [Corporal Diaczenko's] behaviour breached section 8.1 of the RCMP's Code of Conduct.

[*Sic throughout*]

Standards of assessment

Standard of proof

[19] Subsection 45(1) of the *RCMP Act* requires that the “balance of probabilities” standard of proof be applied in adjudicating alleged contraventions of the Code of Conduct. This requires a determination on whether it is more likely than not that the alleged acts or omissions occurred.

[20] The Supreme Court of Canada provided guidance on the “balance of probabilities” standard of proof:

[46] Similarly, evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test. But again, there is no objective standard to measure sufficiency. [...] ⁴

Credibility and reliability

[21] I heard testimony from Sergeant Cindy Ward (retired), Sergeant Jared Ryan (previously Corporal Ryan), Dr. Mark Johnston, Ms. Patricia MacDonald and Corporal Diaczenko. Although I am guided by often cited authorities,⁵ I believe that the British Columbia Court of Appeal summarizes the principles effectively in how to assess credibility and reliability:

[...]

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, **the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.** Only thus can a Court satisfactorily appraise the testimony of quick-minded, experienced and confident witnesses, and of those shrewd persons adept in the half-lie and of long and successful experience in combining skilful exaggeration with partial suppression of the truth. Again a witness may testify what he sincerely believes to be true, but he may be quite honestly mistaken. For a trial Judge to say “I believe him because I judge him to be telling the truth”, is to come to a conclusion on consideration of only half the problem. In truth it may easily be self-direction of a dangerous kind.

[...] [Bold added] ⁶

[22] When assessing the evidence on the balance of probabilities, the totality of the evidence must be considered and used to make findings on credibility.

⁴ *F.H. v McDougall*, 2008 SCC 53 [*McDougall*], at paragraph 46.

⁵ *R. v R.E.M.*, 2008 SCC 51, at paragraph 65, *McDougall*, at paragraph 58.

⁶ *Faryna v Chorny*, [1952] 2 DLR 354, at page 357.

Sergeant Ward

[23] With respect to Sergeant Ward, she testified as to how she was assigned as the investigator for the Code of Conduct investigation and the steps she took to complete the investigation. She spoke about reaching out to HRP for information and her attempts to obtain an interview with Corporal Diaczenko. She testified to the difficulties that she encountered in trying to verify some of the details in Corporal Diaczenko's examples, as well as her inability to locate a file that resembled his second example.

[24] I found her evidence to be credible. However, recognizing that she retired in November of 2024, there were some small lapses in her memory which impacted her reliability to a limited degree. Nevertheless, I accept her testimony in relation to the steps she took in the completion of the investigation.

Sergeant Ryan

[25] Sergeant Ryan testified to being Corporal Diaczenko's supervisor at the time that he was completing his promotion application. He stated that the district was short-staffed and spoke about the competing demands for his time. Sergeant Ryan testified that when Corporal Diaczenko expressed his interest in applying for the promotion, he advised him to get the documents together as soon as possible and not to wait for the last minute. He expressed his displeasure with having to complete the package on the day the competition closed.

[26] Sergeant Ryan testified that it is the applicant's responsibility to ensure the accuracy of their examples, and that if he had been aware that there were inaccuracies, it would raise questions as to whether Corporal Diaczenko could be supported.

[27] Sergeant Ryan provided his testimony in a forthright manner, and I found him to be credible. However, he repeatedly acknowledged his inability to recall certain aspects of his interactions with Corporal Diaczenko regarding the promotion application, given that it was five years ago. Expectedly, this did negatively impact his reliability.

Dr. Johnston and Ms. MacDonald

[28] Both Dr. Johnston, a psychiatrist, and Ms. MacDonald, a psychologist, spoke of their respective diagnoses and treatments of Corporal Diaczenko. They testified to the symptoms of his medical conditions and side effects of the treatment. Notably, neither had documented any reported issues with Corporal Diaczenko's memory until it was noted by Ms. MacDonald in June 2023.

[29] Dr. Johnston and Ms. MacDonald were called to provide factual evidence, as treating specialists, since neither had been presented nor qualified as an expert. They both testified in an honest and straightforward manner. Therefore, I found them to be credible and reliable.

Corporal Diaczenko

[30] Corporal Diaczenko testified to his background and experience as a police officer with the Canadian Armed Forces, HRP and the RCMP. He spoke about his personal circumstances at the time that he completed his application: the birth of his second child; being on parental leave; his wife's health issues; the onset of the COVID pandemic; and, most significantly, his lack of sleep.

[31] I found that he testified in a professional manner, answering the questions posed respectfully, and providing clarification or additional explanation as he thought necessary. I found that he provided his evidence in an organized and articulate manner. However, his testimony was not without its issues, as he seemingly had a better recollection of some details now than he did closer to when they occurred. I generally found him to be both credible and reliable.

Threshold issue

[32] Before diving into the specifics of the Allegations, at the insistence of the Subject Member Representative, I will address what she referred to as the "threshold issue". By this, she means whether this matter even belongs before a conduct board, given that it was precipitated by a complaint from a "disgruntled member". She questioned as to whether a conduct hearing was the correct forum and whether dismissal should be sought in incidents of this nature.

[33] The Subject Member Representative remarked that the Code of Conduct places positive obligations on members, as opposed to prohibitions. She stated that there are no other Conduct

Board decisions like this one, i.e., issues with the accuracy of competency examples in a promotion process, and posited that if it had not happened before, should it be happening now. Furthermore, she submitted that incidents of this nature are not set out in the *Annotated Code of Conduct* or the *Conduct Measures Guide* (November 28, 2014, version), suggesting that the documents focus on the operational duties of a police officer.

[34] Moreover, the Subject Member Representative argued that the absence of specific mention in either of those documents leaves members ignorant as to the repercussions of this type of behaviour, citing that the promotion forms indicate that misrepresentations may result in disqualification, not in conduct proceedings. She noted that this could result in every competency resume being subjected to scrutiny.

[35] The Conduct Authority Representatives submitted that any RCMP member who misrepresents themselves should expect to be disciplined, citing *Career Management Manual*, Chapter 4 “Promotion” (March 24, 2023, version), at section 1.7, which states:

1.7. A member who cheats on a promotional process will be removed from the applicable promotional opportunity and may be subject to a conduct process under *RCMP Act*, Part IV.

[36] The court has found that RCMP policy reflects the wishes of the Commissioner.⁷ Accordingly, the inclusion of this section in the *Career Management Manual* expresses the Commissioner’s intention that members are to be held accountable if they are found to have cheated as part of the promotion process.

[37] Such a policy is designed to deter members from fabricating or overembellishing their competency examples. In the absence of adherence to such policy, promotions may be awarded to whoever produced the most grandiose examples, despite their validity, which would do a disservice to all members who rightfully compete for promotions honestly.

⁷ *Beaulieu c Canada*, 2016 FCA 59, at paragraph 40.

[38] Moreover, there is no doubt that the promotion forms are official documents intended to be relied upon. The very fact that references are required and an attestation needs to be signed should relay to the member the importance of being truthful.

[39] As noted by the Conduct Authority Representatives and agreed to by Corporal Diaczenko during his testimony, honesty and integrity are essential to one's role as a police officer. Consequently, I find that issues that call into question the honesty and integrity of a police officer deserve the utmost attention and properly belong before a conduct board.

False, misleading and/or inaccurate statement test

[40] Per page 205 of the *Conduct Measures Guide* (November 14, 2024, version), to establish an allegation under section 8.1 of the Code of Conduct, the Conduct Authority must establish each of the following on a balance of probabilities:

- a) The identity of the member;
- b) The statement or account of actions on a file in question;
- c) That the statement or account provided was false, misleading or inaccurate;
- d) That the member:
 - i. Knew the statements were false, misleading or inaccurate; OR
 - ii. Was reckless or careless as to the validity of the statements.

[41] Corporal Diaczenko faces two Allegations. Both of which allege contraventions to section 8.1 of the RCMP Code of Conduct. This section states that members provide complete, accurate and timely accounts pertaining to the carrying out of their responsibilities, the performance of their duties, the conduct of investigations, the actions of other employees and the operation and administration of the Force.

[42] The onus of proving the Allegations on a balance of probabilities rests with the Conduct Authority. This means that I must find that it is more likely than not that the conduct attributed to Corporal Diaczenko occurred. Although the particulars are set out in the *Notice of Conduct Hearing*, the Conduct Authority is not obliged to prove each specific particular or every element of a particular. They are only required to prove enough of the salient particulars to establish a contravention.

[43] To aid in my analysis, the *Conduct Measures Guide* (November 14, 2024, version) states the following at page 206:

[...]

Conduct authorities should ask first whether the member intended to deceive. If the answer is no, then the next question is whether their error constituted negligence or an honest mistake.

When assessing whether misconduct occurred, the threshold issue concerning dishonesty or deceit involves determining the point beyond which an inaccurate statement becomes culpable, because the law is clear that inaccuracy alone is not sufficient to prove this category of deceit.

[...]

[44] Corporal Diaczenko's identity, as being the individual who drafted and submitted the examples, is not contested. Additionally, Corporal Diaczenko has admitted that there were inaccuracies in his examples. Considering the documentary evidence that I have reviewed, including Corporal Diaczenko's response to the Allegations, as well as his testimony before me, I find that the first three elements of the test have been met for both allegations.

[45] Consequently, the matter turns on my analysis of the fourth element. In examining the nature of inaccurate statements, various conduct boards have found that they fall into three categories, which are also reflected on pages 205 and 206 of the *Conduct Measures Guide*. My former colleague, in citing the prior decision in *Greenlaw*,⁸ explains them as follows:

[...]

- a) Where the police officer knew the statements he made were false, misleading or inaccurate;
- b) Where the police officer was negligent, reckless or careless as to the validity of the statements being purveyed; and
- c) Where the police officer makes an honest but mistaken statement that ultimately turns out to be false, misleading or inaccurate.

The first two categories attract liability, while the third does not. [...]⁹

⁸ *Commanding Officer "K" Division and Constable Greenlaw, 2019 RCAD 22 [Greenlaw]*, at paragraph 262.

⁹ *Commanding Officer "H" Division and Constable MacGillivray, 2021 CAD 16 [MacGillivray]*, at paragraph 84.

[46] The *Notice of Conduct Hearing* contains 50 particulars. The first 16 provide background information and are admitted with a few minor explanatory comments that are largely immaterial.

[47] Particulars 17 to 36 relate to the core of Allegation 1, while Particulars 37 to 50 relate to the core Allegation 2.

Decision on Allegations

Allegation 1

[48] With respect to Allegation 1, Particulars 17 to 24 are admitted with some context provided. Accordingly, I find them to be established.

[49] It is at Particular 25 where the first inaccuracy is alleged. In his response to the Allegations, Corporal Diaczenko admits that he erred in writing that he attempted to administer the ASD five times, when it was actually four times. He attributes this to his relying solely on his memory.

[50] However, I note that, in *Downey*, Corporal Diaczenko testified that it was his practice in administering the ASD, to always provide four chances, a ritual to which the judge referred as arbitrary. Given that Corporal Diaczenko testified that this was his practice in *Downey*, it is hard to understand how he could make this error. Particular 25 is established.

[51] Particulars 26 to 29 relate to the cross-examination to which he was subjected. Corporal Diaczenko again admitted these particulars, testifying that he discussed the issues with the Crown prior to testifying or was asked similar questions during direct examination. These particulars are established.

[52] Particulars 30 and 31 relate to the outcome of *Downey*. Although he indicated in his example that the accused was convicted, he now admits that he was mistaken. Particulars 30 and 31 are established

[53] Particulars 32 and 33 relate to his assertion that he was complimented by the Crown on his testimony. Corporal Diaczenko acknowledged that, in responding to Sergeant Ward, he was mistaken as to whom the Crown was but has since corrected the identity and maintains the validity

of that statement. Although his assertion has not been confirmed, it is not Corporal Diaczenko's burden to bear. While Particular 32 is established, the fact that the Crown could have been identified and was not spoken to results in my finding that the Conduct Authority failed to establish Particular 33.

[54] Particular 34 relates to whether Corporal Diaczenko received the promotion, in part, due to his example. There is no evidence before me of the selecting line officer's analysis of Corporal Diaczenko's application package. However, the package is designed to be relied upon and understood by members to be relied upon in selecting the successful candidate. Hence, I find it to be established.

[55] Allegation 1 essentially culminates at Particular 35, where the Conduct Authority alleges that Corporal Diaczenko knowingly did not tell the truth on Competency Form 1 or was reckless as to whether he was telling the truth. Particular 36 then alleges that, as a result of Particular 35 being established, a contravention of section 8.1 is made out. Both of which Corporal Diaczenko denies.

[56] Accordingly, I must examine the noted inconsistencies and determine into which of the three categories they fall. To summarize, these inconsistencies include: the administration of the ASD (Particular 25), the information upon which he was cross-examined (Particulars 26 to 29), and the court verdict (Particulars 30 and 31).

[57] For each of these inconsistencies, I must determine whether Corporal Diaczenko knew the statements were false, misleading or inaccurate; or, that he was reckless or careless as to the validity of the statements.

[58] Clearly, his reliability is at issue, as by his own account, his memory issues have led to the inaccuracies in his examples, resulting in this matter being before me.

[59] With respect to the administration of the ASD, I have some difficulty in understanding why his recollection would depart from his usual practice. However, there is no evidence before me that would allow me to conclude that he was knowingly untruthful, nor do I see any benefit in him

claiming that he provided five attempts as opposed to four. Hence, I must attribute it to a lack of attention.

[60] In relation to being cross-examined with respect to the medical issue, I note that he did indicate in his example that he discussed concerns about the accused's medical condition with the Crown, though he was not questioned by defence, as he wrote in his example. Again, I have difficulty with this explanation, since there would normally be quite a distinction between a conversation with the Crown and a cross-examination. However, given that he testified that the Crown had identified this as an area of concern for the defence, I cannot conclude that it does not have an air of reality. Accordingly, I find that it is attributable to a lack of diligence.

[61] Similarly, I find his explanation with respect to the verdict somewhat tenuous. However, I have been provided with no evidence to suggest that his recollection of being advised of the outcome while waiting for evening traffic court to begin was untrue. Again, I find that Corporal Diaczenko failed to be diligent when providing this erroneous detail.

[62] However, based on the evidence before me, I do not conclude that he **knew** these statements were false.

[63] Consequently, I must assess whether Corporal Diaczenko was negligent, reckless or careless as to the validity of the statements being purveyed.

[64] Corporal Diaczenko and the Subject Member Representative suggested that the references had a responsibility to verify the examples that he provided, noting that some of the references did. I want to be clear, while there is an expectation that a reference will only agree to confirm legitimate examples, the onus remains with the member applying for the position to ensure that the information is accurate.

[65] Despite all the reasons that Corporal Diaczenko provided as to why he could not confirm the details of the examples himself, he did not testify at the Conduct Hearing to specifically requesting for the references to query the examples to ensure that they were accurate. Although he stated that he spoke to each of the references before sending the examples, he did not testify at the

Conduct Hearing to making that request. Nor was it included in the emails that he sent accompanying the examples.

[66] On this topic, a previous conduct board stated in part:

[...] a reasonable constable when asked an operational question directly by their staff sergeant would go out of their way to ensure what they told him was accurate. [...] ¹⁰

[67] Likewise, it is expected that a member who feels that they are ready to assume a position of leadership would, at a minimum, ensure that the information that they are providing is accurate.

[68] On several occasions during his testimony before me, Corporal Diaczenko spoke to the difference between operational matters and administrative matters, implying that a lower standard applies when completing administrative tasks. Seemingly, this is the approach he elected to take when completing his examples, which I find to be a marked departure from what is in fact expected.

[69] In another conduct matter, the conduct board explains the meaning of recklessness:

[58] Recklessness is more than mere negligence. **It is a gross deviation from what a reasonable person would do.** Recklessness is distinguished from negligence in that recklessness has an element of advertence or intent. Recklessness is understood to require a conscious effort to be indifferent to the consequences of one's actions, even if these consequences are unintended. [Bold added] ¹¹

[70] I find that a reasonable person in a situation like that in which Corporal Diaczenko found himself would have taken additional steps to ensure the veracity of their examples. I also note that I was not presented with any evidence to suggest otherwise. Therefore, I find that he was reckless in the completion of this competency example. Consequently, Allegation 1 is established.

¹⁰ *Commanding Officer "K" Division and Constable J. Girard, 2020 CAD 30 [Girard]*, at paragraph 31.

¹¹ *Level III Conduct Authority "K" Division and Constable S. Avery, 202024 CAD 11 [Avery]*, at paragraph 58.

Allegation 2

[71] With respect to Allegation 2, Particulars 37 to 41 set out the context for this Allegation, including the applicable competency example, and are admitted to by Corporal Diaczenko in his response to the Allegations. Hence, I find them to be established.

[72] In Particular 42, the Conduct Authority alleges that Corporal Diaczenko never testified in court about a file with these facts, which he denied. Subsequent to receiving disclosure, Corporal Diaczenko referenced HRP file 06-48847 and identified the accused. He explained that it was the date of the example that led to the inability of it being located previously by Sergeant Ward. Therefore, this Particular is not established.

[73] Particulars 43 to 47 relate to files which Corporal Diaczenko agrees are not the one being referenced in his example. These Particulars are established.

[74] Particular 48 mimics that of Particular 34 of Allegation 1, thus, I simply note that my remarks are the same.

[75] Similar to Particulars 35 and 36 of Allegation 1, in Particular 49, the Conduct Authority alleges that Corporal Diaczenko knowingly did not tell the truth on Competency Form 2 or was reckless as to whether he was telling the truth. Particular 50 then alleges that because of Particular 49, a contravention of section 8.1 is made out. Both of which Corporal Diaczenko denies.

[76] Unlike the particulars for Allegation 1, where various inaccuracies were identified, Allegation 2 rests solely on the premise that Corporal Diaczenko never testified on a file with the facts delineated in his second example. Accordingly, a finding of recklessness is not available, I can only determine whether he knew it was false.

[77] The Conduct Authority Representatives allege that the second competency example is merely a fabrication. They assert that, upon being notified of the issue with this example, Corporal Diaczenko simply looked for another file in which he was called to testify with enough similarities that he could pass it off as this impugned example. However, I note that Corporal Diaczenko did

provide Sergeant Ward with more details for the competency example approximately six months prior to receiving the investigation package.

[78] That being said, it is difficult to understand how he could be off by 10 years in providing the date of this incident for that example. Especially considering that it occurred a mere two months after starting with HRP, as opposed to two years before he left that service. Nevertheless, based on the evidence provided to me, I cannot conclude that he knew his statement to be false.

[79] Consequently, I do not find that Corporal Diaczenko was deceitful with respect to this Allegation. Hence, Allegation 2 is not established.

CONDUCT MEASURES

[80] In accordance with paragraph 36.2(e) of the *RCMP Act*, I am required 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.”

[81] At the onset of the conduct measures phase, Corporal Diaczenko again took the opportunity to testify. He expressed relief that this matter was coming to a conclusion and his embarrassment for making the mistakes that led to this hearing. He voiced regret for his actions and the position in which he had placed others. He noted that due to his personal circumstances, he made errors in judgment that were atypical for him.

[82] Corporal Diaczenko spoke of his childhood dream to be a “motorcycle cop” and the various roles that he had in the different agencies, including the differences between the organizations. He stated that he learned a lot from this process and was hopeful that he could return to an operational role.

[83] During cross-examination, a Record of Decision for an unrelated conduct matter was introduced and Corporal Diaczenko testified that some, but not all, of his references were aware of the unrelated discipline.

[84] By virtue of the very fact that a matter is referred to a conduct board, the general understanding is that the nature of the alleged misconduct warrants the possibility of dismissal.

The *Notice of Conduct Hearing* for this matter contained two Allegations; however, only Allegation 1 was established.

[85] Nevertheless, the Conduct Authority is still seeking Corporal Diaczenko's dismissal. The Conduct Authority has asked that he be ordered to resign. Alternatively, if I deem that dismissal is not the appropriate outcome, then the Conduct Authority has requested that I impose the following conduct measures: an indefinite demotion to the rank of Constable, the ineligibility for promotion for a period of 3 years and the forfeiture of 25 days' pay.

[86] As for the Subject Member Representative, she suggested that conduct measures should fall within the normal to aggravated range of the *Conduct Measures Guide*, resulting in the forfeiture of 5 to 10 days' pay in the normal range and 11 to 20 days' pay in the aggravated range. Additionally, it was proposed that I could remove supervisory responsibilities from him without imposing a demotion and place him on a 3-year period of ineligibility for promotion.

[87] In assessing the appropriate conduct measures, I will begin by applying the five foundational principles that guide the assessment of a fit conduct measure, as set out at pages 20 to 30 of the *Conduct Measures Guide*.

Assessing fit conduct measures

[88] The first foundational principle states that conduct measures "must fully accord with the purposes of the police complaint and discipline process", which requires the balancing of four interests: 1) the public; 2) the RCMP as an employer; 3) the subject member in being treated fairly; and 4) those affected by the misconduct at issue, where applicable.

[89] Paragraphs 36.2(b) and (c) of the *RCMP Act* highlight this principle:

36.2 The purposes of this Part are

[...]

(b) to provide 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;

(c) to ensure that members are responsible and accountable for the promotion and maintenance of good conduct in the Force;

[...]

[90] The Supreme Court of Canada has also highlighted the importance of the public interest by stating that “The purposes of disciplinary bodies are to protect the public, to regulate the profession and to preserve the public confidence in the profession”.¹²

[91] The second and third principles provide that educative and remedial conduct measures should prevail, where appropriate, and that the presumption of the least onerous disposition should be imposed. However, both of these principles will be displaced if the public interest or other considerations, such as the seriousness of the misconduct, triumph.

[92] The fourth principle is that the conduct measures imposed must be proportionate to the nature and circumstances of the contravention. This requires the conduct board to identify the relevant proportionality considerations, and assess whether they may be mitigating, aggravating or neutral. Finally, the conduct board must appropriately balance and weigh these in consideration of the circumstances of the case and of the four purposes of the police complaint and discipline processes.

[93] The fifth principle is that police officers are expected to adhere to a higher standard of conduct.

[94] In their submissions, the parties have noted that changes were made to the *Conduct Measures Guide* in November 2024, and there has been some discussion as to whether the 2024 version or the 2014 version should apply, given that Corporal Diaczenco’s misconduct occurred in 2020.

[95] The Conduct Authority Representatives stated that the *Conduct Measures Guide* is a living document that should be evergreened to reflect societal values. However, they submit that little hinges on which version is used as both suggest a similar range of measures for the established misconduct.

¹² *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at paragraph 53.

[96] The Subject Member Representative referred to both versions but suggested that the structure of the 2014 version better reflects the nature of Corporal Diaczenko's misconduct. Specifically, she referenced the distinction between non-operational and operational incidents.

[97] I would like to emphasize the role of the *Conduct Measures Guide*, whether with respect to the 2014 or 2024 version. As acknowledged by all the Representatives, it is just that, a guide. The *Conduct Measures Guide* is a useful reference when determining the appropriate range of sanctions for a particular category of behaviour and helpful in ensuring parity of sanction. However, it does not fetter my discretion in deciding on measures. While recognizing the date upon which the misconduct occurred, I will be guided by the 2024 version.

[98] Although I will canvass all five of the principles, they will not be addressed in order. I will provide my findings with respect to the second and third principles later in my decision.

Analysis

Accordance with the purposes of the police complaint and discipline process

[99] The public has an expectation that RCMP members, who have been granted exceptional powers to enforce the laws in our society, will uphold and abide by the law in not only their professional life, but their personal life as well. To exercise those powers effectively, the police must have the public's trust. Acting with honesty and integrity is fundamental to building and maintaining that trust.

[100] Police officers deal with the public in a variety of situations, in some of which, members of the public find themselves in vulnerable positions. Hence, trust is paramount in effectively managing those situations.

[101] Similarly, the RCMP as an employer, has a responsibility to maintain the public's trust in the organization.

[102] Over the past several years, various reports about the RCMP have been released that have garnered significant media attention, created a lack of trust in our communities and tarnished the

reputation of the RCMP. To rebuild this trust, the RCMP must demonstrate that it is holding members who contravene the Code of Conduct accountable.

[103] Corporal Diaczenko's interests must also be considered. He must be afforded the rights dictated by procedural fairness. Additionally, given that the result of an administrative process, such as the RCMP Code of Conduct, will likely have ramifications on his career as well as his personal life, I must be mindful of the corrective and rehabilitative objectives of this process.

[104] Corporal Diaczenko's interests have been protected throughout this process, culminating in a full Conduct Hearing, where he has been afforded the opportunity to test the Conduct Authority's case. It is his right to test the case against him.

[105] In this case, there is not a specific affected person. While there is an individual whose grievance precipitated the Code of Conduct investigation, it is difficult to characterize them as an affected person, as Corporal Diaczenko's misconduct may not have had any actual impact on them. While it is possible that one of the candidates in that specific promotion process was impacted, any such evidence is not before me.

[106] However, I will note that Sergeant Ryan was impacted by his involvement in this matter; his being questioned concerning his diligence and needing to testify at this hearing.

Proportionality

[107] The presence of mitigating, aggravating or neutral considerations play a factor in my decision-making. Thus, I must appropriately weigh these in the context of the case and of the four purposes of the police complaint and discipline process, as enumerated under the first foundational principle.

[108] The *Conduct Measures Guide* provides a non-exhaustive list of factors to be considered in determining proportionality. I will list those that are relevant to this matter and indicate whether I have found them to be mitigating, aggravating or neutral.

- **Public interest:** As previously noted, the public has a profound interest in ensuring that those in a position of authority can be trusted and relied upon to act with honesty and integrity. However, there is no indication that this matter has gained

significant attention from the public. Accordingly, I find Corporal Diaczenko's recklessness in the completion of his competency example to be a neutral factor.

- **Seriousness of the misconduct:** As previously noted, honesty and integrity are essential to building trust and are core values that every police officer must possess. I do agree with the Subject Member Representative that a finding of recklessness is distinct from a finding of intentional misrepresentation, i.e., lying. However, anything that serves to call these values into question is very serious. Hence, it is an aggravating factor.
- **Recognition of the seriousness of the misconduct (remorse):** During his testimony for the conduct measures phase, Corporal Diaczenko took responsibility for the lack of diligence that he demonstrated in the preparation of his competency examples and recognized that the burden rests with him to ensure their veracity. Although Corporal Diaczenko took responsibility during the conduct measures phase, I cannot ignore the testimony he provided during the allegation phase of the Conduct Hearing. I cannot look past the fact that he deflected the blame or responsibility onto others. For instance, his repeated suggestions that it was his references' responsibility to verify the examples he provided to them, as opposed to his own. Nevertheless, I did find his comments to be sincere and genuinely remorseful, once he had the benefit of hearing my oral decision on the Allegations and that I did not find this deflection of blame to others acceptable. Thus, I attribute minimal mitigation to this factor.
- **Disability and other relevant considerations:** It is undisputed that Corporal Diaczenko was suffering and continues to suffer from PTSD. However, a clear nexus was not drawn between his PTSD and the misconduct as there is no documented issue with his memory until 2023. I also heard of his personal circumstances at the time of the misconduct, including the birth of a child, his wife's medical complications and his lack of sleep, amongst others. While every member is subjected to their own set of personal circumstances and challenges, I accept that, at this point in his life, the impact on him may have been profound. Consequently, I find this to be a mitigating factor.

- **Employment history:** In reviewing the letters of support that Corporal Diaczenko provided, I can see that he is well liked and respected. The letters convey that Corporal Diaczenko is a caring and compassionate leader, whose personal traits, such as loyalty and authenticity, have permeated the teams in which he has worked and subsequently led. They capture his commitment to public safety and his investment in the people around him. Additionally, they speak to his competence and professionalism in fulfilling his duties.

However, I also note what has been referred to as the “other discipline”. In that matter, two allegations were established against Corporal Diaczenko during a conduct meeting held on July 15, 2024, in which he was found to have submitted an inaccurate expense claim and provided inaccurate information in support of taking a day off in lieu. While not to be considered prior discipline in the usual sense, since that incident took place after the present matter, I cannot overlook the fact that Corporal Diaczenko has now been disciplined twice for integrity-related misconduct. Especially when I consider that, at present, he only has 7 years of service in the RCMP. Consequently, I find this to be a neutral factor.

- **Potential to reform or rehabilitate:** I believe it is worth noting that, unlike most municipal police forces, members of the RCMP are granted extensive autonomy in exercising their duties. This is usually a consequence of the geographic areas in which they police and minimal resources, resulting in limited supervision when policing rural communities. Building on my previous comments, I am not entirely satisfied that misconduct of this nature will not reoccur, but I also do not find that Corporal Diaczenko is devoid of rehabilitative potential under the right conditions. Therefore, I find this to be a neutral factor.
- **Effect on police officer and their family:** Corporal Diaczenko spoke about the impact that these accusations have had on his life. Particularly, he emphasized the embarrassment he felt for having placed himself in this position. Undoubtedly, this process has taken a toll on him and his family and will continue to impact them moving forward. As such, I find this to be a mitigating factor.
- **Parity (consistency of disposition):** As noted by the parties, the circumstances of this matter are unlike those in any previous conduct board decision. The only other

Conduct Board decision in which recklessness was found was *Avery*, which has little semblance to this matter. Consequently, it is of little value. Hence, this is a neutral factor but will be further addressed in my contemplation of the range of measures.

- **Specific and general deterrence:** I acknowledge Corporal Diaczenko's experience with the conduct process, the regret that he has expressed for his actions and his newfound appreciation for the responsibility that rests upon him. However, given the other misconduct, I find that there remains a need for specific deterrence. Moreover, as I noted in my decision on the Allegations, policy there is policy in place to deter members from fabricating or overembellishing their competency examples, to ensure fairness to the members who compete for promotions honestly. Accordingly, I find that general deterrence is also required. Therefore, it is an aggravating factor.
- **Public confidence in the police service:** As I have already spoken about the importance of honesty and integrity, I will not revisit it again other than to note its significance to public confidence. Hence, I find this to be an aggravating factor.

[109] In weighing all the factors, I find that the balance shifts to the side of aggravation.

[110] As I noted at the onset, the public expects that police officers will be held to a higher standard of behaviour, particularly those in more senior positions.

Decision on conduct measures

[111] The 2024 *Conduct Measures Guide* recommends that lying to a supervisor should result in conduct measures ranging from ineligibility for promotion and the forfeiture of 10 to 20 days' pay at the mid-range to demotion, the forfeiture of 21 to 45 days' pay or dismissal at the higher end.

[112] However, given that I have found that the circumstances in this matter are aggravating, I find that Corporal Diaczenko's conduct falls at the higher end of the spectrum. I note that a situation akin to this can be found at page 210 of the 2024 *Conduct Measures Guide*, which indicates that "[k]nowingly providing false or misleading information during a promotional process" should fall on the higher end of the spectrum.

[113] While I have not found that Corporal Diaczenko knowingly provided false or misleading information in a promotion process, this guidance is still instructive.

Educative and remedial conduct measures should prevail, where appropriate, and presumption of the least onerous conduct measure

[114] I have considered the preference for the imposition of educative and remedial conduct measures, where appropriate, and that the presumption of the least onerous disposition should be imposed. However, when I consider the totality of the circumstances, particularly the need for both general and specific deterrence, I have concluded that these principles should be displaced.

[115] Consequently, I direct for the following conduct measures to be imposed on Corporal Diaczenko:

- a) An indefinite demotion to the rank of Constable;
- b) Ineligibility for promotion for a period of 1 year to take effect upon reinstatement;
- c) The forfeiture of 10 days' pay.

CONCLUSION

[116] Corporal Diaczenko is being given an opportunity to continue his career with the RCMP and has the chance to earn back the trust of the organization. I am hopeful that he will make the most of this opportunity and not repeat the same mistakes in the future, as any reoccurrence will be highly scrutinized and likely put his employment in jeopardy.

[117] 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.

[118] 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 Corporal Diaczenko, as set out in section 45.11

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

July 16, 2025

Colin Miller
Conduct Board