

BEFORE THE LEET TOWNSHIP CIVIL SERVICE COMMISSION

APPEAL OF MICHAEL MOLINARO

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND DECISION OF THE LEET
TOWNSHIP CIVIL SERVICE COMMISSION**

INTRODUCTION

The above matter was appealed to the Leet Township Civil Service Commission for resolution. At issue is the discharge of Michael Molinaro by the Leet Township Board of Commissioners. A Statement of Charges was served on Mr. Molinaro (Exhibit M-A), who filed an Answer to those charges (Exhibit M-B). Hearing was held before the Civil Service Commission on the following dates: June 21, June 23, July 13, July 21, July 27, July 31 and August 1, 2023. The parties have stipulated that there are no procedural issues or disputes.

The First Class Township Code provides in Section 644. Removals - (a) An individual employed in a police or fire force of a township may not be suspended without pay, removed or demoted except for the following reasons:

* * *

- (2) Neglect or violation of official duty.
- (3) Violation of any law of this Commonwealth, if the violation constitutes a misdemeanor or felony.
- (4) Inefficiency, neglect, intemperance, disobedience of orders or conduct unbecoming of an officer.

53 P.S. §55644

These standards have been incorporated into the Leet Township Civil Service Rules and Procedures at Chapter 7, Section 7.1, Grounds for Disciplinary Action, Subsection (a)(2)(3)(4)

After hearing and thorough consideration, the Civil Service Commission adopts the following Findings of Fact and Conclusions of Law, based on its determination that they are supported by substantial, clear and convincing evidence.

FINDINGS OF FACT

1. Leet Township is a political subdivision of the Commonwealth operating under the First Class Township Code. 53 P.S. § 55101 et seq.

2. Michael Molinaro (“Molinaro”) appealed the termination of his employment as Leet Township Police Chief.

3. The Civil Service Commission of Leet Township held a hearing regarding the appeal of Michael Molinaro on June 21, June 23, July 13, July 21, July 27, July 31 and August 1, 2023.

I. Submission of False Information to MPOETC Regarding Officer Vigliotti

4. In a meeting on December 20, 2021 attended by several Leet Township police officers, Chief Molinaro suggested to part-time Officer Nick Vigliotti that he should resign. (Tr. 6/23/23 at 55.)

5. Officer Vigliotti did not resign at the meeting and left the meeting with the understanding that he would be contacted by Molinaro in a few weeks to work additional shifts for the Township. (Tr. 6/23/23 at 56, 113-114; Tr. 7/27/23 at 58.) In contrast, Molinaro testified that he had given Vigliotti 5 days to submit his resignation, which based on the December 20, 2021 date of the meeting would have been Christmas Day, December 25. (Tr. 7/27/23 at 75-76; Tr. 7/31/23 at 12-13.) The testimony of Officer Vigliotti is more credible than the testimony of Molinaro on this point.

6. Vigliotti credibly testified that he asked Molinaro at the conclusion of the meeting if Vigliotti was still employed by the Township and Molinaro responded by indicating that he was still employed by the Township. (Tr. 6/23/23 at 56.)

7. Vigliotti did not resign and was not separated from the Leet Township Police Department on December 20, 2021. (Tr. 6/23/23 at 56.)

8. Up to the time he submitted his resignation letter dated January 24, 2022, Vigliotti was not presented with any written notice of discipline. (Tr. 6/21/23 at 31; Township Ex. 2; Tr. 7/31/23 at 87.)

9. After not being scheduled for several weeks at Leet following the December 20, 2021 meeting, Vigliotti submitted a written resignation letter dated January 24, 2022 (Tr. 6/23/23 at 61-62; Township Ex. 2.).

10. After unsuccessful attempts to secure a new job as a police officer and being told to check his MPOETC record, Officer Vigliotti requested his Separation Record Form from the Municipal Police Officers' Education and Training Commission (hereinafter "MPOETC") and learned that he was listed as being terminated from Leet Township due to a disciplinary record effective December 30, 2021. (Township Ex. 1 and 2; Tr. 6/23/23 at 58-59.)

11. Molinaro testified that the December 30, 2021 termination date that he listed on the Separation Record Form that Molinaro completed, signed and submitted to MPOETC on January 18, 2023 was correct. (Tr. 7/31/23 at 14.) However, Molinaro forgot about Vigliotti's situation until sometime in January, when Molinaro realized that Vigliotti had not resigned and that Molinaro needed to take action regarding Vigliotti's employment status. (Tr. 7/27/23 at 76; Tr. 7/31/23 at 13-16.) Molinaro's own testimony contradicts his allegation and statement on Vigliotti's Separation Record Form that Vigliotti was terminated on December 30, 2023.

12. As Commissioner McDaniel, Commissioner Nash and Commissioner Verszyla testified, the Leet Township Commissioners had taken no action to terminate Vigliotti on or around December 30, 2021, nor had they delegated that authority to Molinaro. (Tr. 6/21/23 at 30; 33; 38; 66; Tr. 7/13/23 at 64.).

13. Molinaro did not inform Vigliotti, the Township Commissioners or any one else that he was going to terminate Vigliotti on December 30, 2021, nor did he inform Vigliotti, the Township Commissioners or any one else that Vigliotti was in fact terminated on December 30, 2021 at any time before he submitted the Separation Record Form to MPOETC dated January 18, 2022 that falsely indicated that Vigliotti had been terminated for disciplinary reasons on December 30, 2021. (Tr. 6/21/23 at 38, 66; Tr. 6/23/23 at 56-59, 68-69; 90-91; Tr. 7/13/23 at 64; Tr. 7/27/23 at 58.)

14. Commissioner McDaniel testified that, consistent with a reference in the Township Commissioner's February 14, 2021 minutes regarding police staffing issues following the resignation of an officer, the Commissioners met with Molinaro on February 14, 2021 and Molinaro did not tell them that Vigliotti had been terminated instead of resigning. (Township Ex. 26 at 6; Tr. 7/31/23 at 97-99.)

15. In his testimony Molinaro alleged that he told Township Manager Betsy Rengers that he had terminated Vigliotti's employment. (Tr. 7/31/23 at 23.) In contrast, Ms. Rengers testified that Molinaro never told her that Vigliotti had been terminated, that she had not seen anything in writing indicating that Vigliotti had been terminated, and that it was her understanding that Vigliotti had resigned based on the resignation letter dated January 24, 2022 that Vigliotti had submitted. (Tr. 7/13/23 at 93-94.) The testimony of Ms. Rengers is more credible than the testimony of Molinaro on this point.

16. In his testimony Molinaro claimed that he told Officer Lema that Molinaro had terminated Officer Vigliotti on December 30, 2021. (Tr. 7/31/23 at 17.) Officer Lema testified that Molinaro did not tell him that Officer Vigliotti had been terminated on December 30, 2021. (Tr. 7/31/23 at 94.) Officer Lema further testified that he reviewed the Township's records and they indicated that Molinaro was not at work on December 30, 2021 because he had taken a personal day. (Tr. 7/31/23 at 94-95.) The testimony of Officer Lema is more credible than the testimony of Molinaro on this point.

17. In January 2022, Vigliotti went to the Leet Township Police Department in person to request that Molinaro correct his record to reflect that he was not terminated for a disciplinary record but had instead resigned, but Molinaro refused to do so. (Tr. 6/23/23 at 59-60.)

18. Vigliotti credibly testified that until he submitted his resignation letter dated January 24, 2022, he believed that he was still employed by Leet Township and had asked the Chief when he would be scheduled, whether he could attend court appearances, and when he could return to work, which was consistent with his view that he was still employed by Leet Township but not currently being scheduled. (Tr. 6/23/23 at 59-61.)

19. The purported text message communications from Vigliotti to Molinaro in late December 2021 and January 2022 contained in Exhibit Molinaro-G were consistent with Vigliotti's statement that he believed that he was still employed by Leet Township and had asked the Chief when he would be scheduled, whether he could attend court appearances, and when he could return to work. (Tr. 6/23/23 at 91-99.)

20. Vigliotti credibly testified that he asked Molinaro in January 2022 about whether he should attend court appearances not because Vigliotti believed he had been fired but because Molinaro had told him in December 2021 that he would contact him in a few weeks but had not yet done so. (Tr. 6/23/23 at 114-117.)

21. Vigliotti credibly testified that he spoke with Township Manager Betsy Rengers on the day that he went to see Molinaro in January 2022 about correcting his MPOETC Separation Record Form and that Ms. Rengers indicated that it was her understanding that Officer Vigliotti had resigned, based on his January 24, 2022 resignation letter. (Tr. 6/23/23 at 60.)

22. Molinaro refused to correct the Separation Record Form and told Vigliotti to leave the premises before he was arrested. Vigliotti subsequently submitted a letter to the Leet Township Commissioners asking that his MPOETC Separation Record Form be corrected to reflect that he resigned and that he was not terminated for disciplinary reasons. (Township Ex. 1 at 1; Tr. 6/23/23 at 56-57.)

23. On March 7, 2022, in response to questions from Commissioners about Officer Vigliotti and Vigliotti's alleged disciplinary record, Molinaro sent an email containing a Microsoft Word document outlining alleged misconduct of Vigliotti. (Tr. 6/21/23 at 30-32; 58-59; 65, 67.)

24. The Microsoft Word document sent to Commissioner Nash contained metadata properties indicating that the document was created on March 7, 2022, at 9:18 am and modified on March 7, 2022, at 9:43 am. (Tr. 6/21/23 at 31-32.)

25. Molinaro confirmed in his testimony that the documentation regarding Vigliotti's alleged misconduct submitted as Exhibit Molinaro-L was composed by Officer Wilson at Molinaro's direction in 2022 before the Commissioner's April 2022 meeting. (Tr. 7/27/23 at 134-135.) Molinaro likewise testified that other documentation regarding Vigliotti's alleged misconduct was composed in March 2022. (Tr. 7/31/23 at 24; Tr. 7/31/23 at 90-91.)

26. Language in the disciplinary summary contained in Exhibit Molinaro-M dated September 23, 2021, and November 2, 2021 likewise referred to the President of the Board of

Commissioners as “former Board President Donna Adipietro,” indicating that the documents were composed after she stepped down as president in January 2022 (Ex. Molinaro-M; Tr. 7/31/23 at 25.)

27. At the time of the purported verbal “counseling” referenced on both documents, Ms. Adipietro was the current Board President. (Tr. 6/21/23 at 32.)

28. Ms. Adipietro became the “former Board President” in early January 2022. (Tr. 6/21/23 at 32.)

29. Section 700 of Leet Township’s Police Discipline Policy disciplinary policy specifically states that counseling is not disciplinary action. (Tr. at 7/13/23 at 68-69; Township Ex. 13.)

30. Section 700 generally requires progressive discipline to be used, does not distinguish between part-time and full-time officers, requires officers to be notified of disciplinary actions in writing, and requires terminated officers to be notified of the reasons for their termination in writing. (Tr. 7/13/23 at 68-69; Township Ex. 13 at 2.)

31. Vigliotti was never issued a written warning, reprimand, or any other disciplinary action. (Tr. 6/23/23 at 55, 68-69.)

32. On March 14, 2022, the Board of Commissioners rejected Vigliotti’s resignation and directed Molinaro to place Vigliotti back on the schedule, which in 2021 had resulted in him typically working four days per week including some days that he was scheduled in advance to work as opposed to just working when he was called out to fill in for an officer who had called off of work. (Tr. 6/21/23 at 29; 33; 66; Tr. 6/23/23 at 48-49, 52; Tr. 6/23/23 at 64, 106, 108-109; Township Ex. 9 at 6-7.)

33. Three days later on March 17, 2022, Molinaro announced that the department was no longer going to use the “PlainIt” software for scheduling. (Tr. 6/21/23 at 33, 34.)

34. From that point forward the police schedule was created on paper and emailed to the officers. (Tr. 6/21/23 at 34.)

35. “PlanIt” allowed all officers to view the schedule a month in advance so they could manage their schedules. (Tr. 6/21/23 at 33-34.)

36. This software allowed part-time officers to coordinate schedules with other departments in which they are employed. (Tr. 6/21/23 at 33-34.)

37. Despite the Board of Commissioners’ directive to place Vigliotti back on the schedule, Molinaro did not place Vigliotti back on the schedule and copies of the April and May 2022 schedules that had been developed as of April 15, 2022 when Molinaro was placed on paid administrative leave indicated that Vigliotti was not scheduled for any shifts for either month. (Tr. 6/21/23 at 35-37, 50-51; 66; Township Ex. 5; Township Ex. 6; Tr. 6/23/23 at 108-109.)

38. Vigliotti credibly testified that it was much more difficult for him to sign up for shifts after the PlanIt software was replaced with a paper scheduling system. (Tr. 6/23/23 at 64-67.)

39. Molinaro’s new system of using a paper schedule and keeping Vigliotti off the regular schedule resulted in higher payroll costs because full-time officers with higher pay rates than Officer Vigliotti were working open shifts on an overtime basis. (Tr. 6/21/23 at 34, 50-51.)

40. Officer Lema credibly testified that he was told that the use of the PlanIt software for scheduling purposes was stopped to keep Officer Vigliotti off of the schedule. (Tr. 6/23/23 at 39.)

41. Section 300.19 of Leet Township’s Police Discipline Policy was in place when Molinaro was the Leet Township Police Chief and prohibits officers from submitting false official reports. (Tr. at 7/13/23 at 47, 70; Township Ex. 14 at 16.)

42. Section 300.46 of Leet Township's Police Discipline Policy was in place when Molinaro was the Leet Township Police Chief and prohibits officers from engaging in conduct unbecoming an officer, neglect of duty, violation of criminal laws, disobedience of orders, and submission of false official reports. (Tr. at 7/13/23 at 47, 70-71; Township Ex. 14 at 21-22.)

43. The evidence and Molinaro's conduct described herein support the conclusion that Molinaro knowingly made false statements on the MPOETC Separation Record Form regarding the alleged December 30, 2021 date of Vigliotti's separation, the existence of a disciplinary record, and the false statement that he was terminated for disciplinary reasons. (Township Ex. 1 at 2; Tr. 6/23/23 at 56-58.)

44. The evidence and Molinaro's conduct described herein support the conclusion that Molinaro was insubordinate by not placing Vigliotti back on the schedule.

45. The evidence and Molinaro's conduct described herein demonstrate that Molinaro provided false information to MPOETC when he submitted Vigliotti's Separation Record to MPOETC because Vigliotti had not been terminated from employment with Leet Township on December 30, 2021, nor had he been terminated as of the date Molinaro submitted the form on or about January 18, 2022. (Township Ex. 1 at 2; Tr. 6/23/23 at 56-58.)

46. The evidence and Molinaro's conduct described herein demonstrate that Molinaro provided false information to MPOETC when he stated on Vigliotti's Separation Record Form that Vigliotti had been terminated from employment with Leet Township on December 30, 2021, because Molinaro himself admitted that following his meeting with Vigliotti on December 20, 2021, Molinaro forgot about Vigliotti's situation until sometime in January 2022, when he submitted the Separation Record Form to MPOETC. As a result, Molinaro's own testimony confirmed that Molinaro's statement on Vigliotti's Separation Record Form that Vigliotti had been terminated on December 30, 2021 was not truthful.

47. The evidence and Molinaro's conduct described herein demonstrate that Molinaro provided false information to MPOETC when he submitted Vigliotti's Separation Record Form to MPOETC because Vigliotti did not have a disciplinary record with Leet Township as of the date Molinaro submitted the form on or about January 18, 2022.

48. The evidence and Molinaro's conduct described herein demonstrate that by submitting information on the Separation Record Form that was false, Molinaro committed the misdemeanor of unsworn falsification to authorities, 18 Pa.C.S. § 4904.

Conclusions of law

49. Molinaro's conduct relating to Vigliotti's Separation Record Form and his actions relating to scheduling in early 2022 after the Township Commissioners directed that Vigliotti be placed back on the schedule, standing alone or viewed in its totality, constitutes neglect or violation of his official duties, violation of the law constituting a misdemeanor, disobedience of orders and conduct unbecoming an officer and was sufficient to warrant termination of his employment as a police officer pursuant to the First Class Township Code, 53 P.S. § 55644 and Sections 7.1(a) (2), (3), and (4) of the Rules and Regulations of the Civil Service Commission of Leet Township.

II. Call to the Home of Michael Molinaro

50. Leet Township Police Officer Lema and Officer Galzarano responded to a call at the home of Molinaro in early 2022. (Tr. 6/23/23 at 11, 36-37.)

51. Officer Lema received a call from Molinaro on Lema's private cell phone to respond to an incident at his house, which Officer Galzarano described as being "unusual" and "not normal" because calls to respond to such emergency calls would normally be dispatched through the 911 system. (Tr. 6/23/23 at 12.) Officer Lema likewise testified that Molinaro

called Lema on Lema's cell phone and that such calls were usually dispatched through the 911 system. (Tr. 6/23/23 at 36-37.)

52. Molinaro testified that he would call 911 in the event of a medical emergency, but also inconsistently stated that he was concerned about his girlfriend's medical condition after she backed into the fence and he "did not know if she was having a medical emergency." (Tr. 7/27/23 at 106, 110; Tr. 7/31/23 at 40-41.)

53. Molinaro told Officer Lema during that call that a driver in a white Lincoln hit a fence on Molinaro's property. (Tr. 6/23/23 at 11.) Molinaro stated that he told Officer Lema that the driver was Molinaro's girlfriend at the time. (Tr. 7/31/23 at 39.) Officer Lema stated that Molinaro did not identify the driver. (Tr. 6/23/23 at 36, 45; Tr. 7/31/23 at 94.) Officer Lema's testimony is more credible than Molinaro's testimony on that point.

54. When the officers responded, they observed a vehicle matching Molinaro's description driving down the street and then returning to Molinaro's residence. (Tr. 6/23/23 at 12-13, 37.)

55. Officer Lema and Officer Galzarano observed the driver to be Molinaro's girlfriend at the time. (Tr. 6/23/23 at 13, 37.)

56. Molinaro's girlfriend was upset and crying. (Tr. 6/23/23 at 12-14, 37.) She told Officer Lema that Molinaro had hit her and that her hair had been ripped. (Tr. 6/23/23 at 37.)

57. Officer Lema later stated to Officer Galzarano at the station that Lema believed that the girlfriend had red marks on around her face and head. (Tr. 6/23/23 at 14.)

58. Molinaro's girlfriend calmed down and decided to stay at Molinaro's home. (Tr. 6/23/23 at 13-14, 38.)

59. Leet Township Police Policy 400.1 requires "[a]ll officers to make a report when a complaint is received regardless of relevance." (Township Ex. 7; Tr. 6/23/23 at 15.)

60. Officer Galzarano testified that when police officers are called to address a situation, a report is normally written. (Tr. 6/23/23 at 15.)

61. Lema testified that Molinaro instructed him not to write a police report documenting the call on the day after the call. (Tr. 6/23/23 at 38-39.) Officer Galzarano similarly testified that he spoke with Officer Lema the day after the incident and Officer Lema told Officer Galzarano that Molinaro had directed Lema not to write a report. (Tr. 6/23/23 at 14.) In contrast, Molinaro testified that he did not tell Lema not to write a report but instead told Officer Galzarano that the officers needed to do a “good report” about the incident. (Tr. 7/27/23 at 108; Tr. 7/31/23 at 40.) The testimony of Officer Lema and Officer Galzarano was more credible than the testimony of Molinaro on these issues.

62. Molinaro bypassed the use of county dispatch and called Officer Lema using a personal cell phone, which made the preservation of a 911 call recording impossible. (Tr. 6/23/23 at 11-12.)

63. The evidence and Michael Molinaro’s conduct described herein supports the conclusion that Molinaro frustrated legitimate means of preserving evidence that would have, or could have, been used in investigating allegations of domestic abuse. Molinaro improperly expressly directed Officer Lema not to write a report documenting their response to a call to his house and his alleged domestic abuse.

Conclusions of law

64. Molinaro’s conduct relating to the call to his house and his untruthfulness about whether he told the officers to write a report or not write a report, standing alone or viewed in its totality, constituted neglect or violation of his official duties and conduct unbecoming an officer and is sufficient to warrant termination of his employment as a police officer pursuant to the First

Class Township Code, 53 P.S. § 55644 and Sections 7.1(a) (2) and (4) of the Rules and Regulations of the Civil Service Commission of Leet Township.

III. Missing Money from Execution of Search Warrant

65. On January 11, 2022, officers from Leet Township Police Department including, Lema, Galzarano, Molinaro, Wilson and part-time Officer Sam Holden executed a search warrant of a home in Leet Township where it was suspected that drugs were being sold. (Tr. 7/21/23 at 24-25.)

66. Galzarano was coordinating the search as he was the initiating officer on the search warrant in the case. (Tr. 7/21/23 at 24-25.)

67. The search yielded a quantity of narcotics, a firearm (Tr. 7/21/23 at 78-79.), and cash.

68. Wilson was responsible for taking inventory of the items seized. (Tr. 7/21/23 at 38.)

69. Lema was in the basement of the home with Molinaro and Holden when U.S. Currency was located and counted by Lema. (Tr. 7/21/23 at 38.)

70. As demonstrated on the body camera footage of the event, a voice on the recording indicated before the money was counted that it appeared that there was about \$1500. (Tr. 7/21/23 at 55, 58.)

71. However, Lema then counted the funds on a flat surface in the presence of Officer Holden and former Chief Molinaro and after counting the money indicated the amount was approximately \$900. (Tr. at 7/21/23 at 43, 55-56; Tr. 7/27/23 at 7-8.)

72. Lema asked Molinaro to take the money upstairs, Lema gave all of the money that was found to Holden, and Holden immediately handed it to Molinaro. (Tr. at 7/21/23 at 43, 55-56, 115.)

73. The officers were standing in close proximity to each other as the area in the basement was small and crowded with objects. (Tr. 7/21/23 at 107; Tr. 7/27/31 at 8.)

74. Although Molinaro testified that he believed Holden was attempting to block his view, Holden credibly testified that he was not trying to do so but rather was attempting to keep his balance in a narrow, crowded area in a hoarder basement. (Tr. at 7/27/23 at 8-9.)

75. Molinaro's own Body camera footage verifies that Officer Lema counted over \$900 and then passed the money to Officer Holden, who then passed it to Chief Molinaro. Officer Lema was 100% sure that Chief Molinaro received the entire amount from Officer Holden and himself. (Tr. at 7/21/23 at 42-44, 55-56.)

76. Holden is then shown on camera picking up the stack of money and handing the money to Molinaro. (Tr. at 7/21/23 at 43, 55-56.)

77. Lema confirmed that there was approximately \$900 recovered in the basement. (Tr. 7/21/23 at 42, 121.)

78. Molinaro did not go directly upstairs but walked toward the back of the basement and can be seen flipping through the money on his body camera. Holden testified that Molinaro did not go directly upstairs but instead walked toward the back of the basement and that Holden heard sounds that sounded like Molinaro was shuffling money. (Tr. 7/27/23 at 8.) Molinaro testified that he walked toward the back of the basement to look for drugs and a gun, but his body camera video indicates that he did not lift or move anything and that he had a cell phone in one hand and money in his other hand, as he admitted in his testimony at the hearing. (Tr. at 7/21/23 at 108; Tr. 7/31/23 at 43-44.)

79. Molinaro took a stack of money upstairs and gave it to Wilson, who counted approximately \$150. (Tr. 7/21/23 at 38, 127.)

80. The sequence of events from Officer Lema's counting of the money in the basement, Molinaro's walk toward the back of the basement after he received the money, and the money being received and counted by Officer Wilson is contained on the body camera recording designated Molinaro 2 at time stamp 30:54 through 42:30. (Tr. 7/21/23 at 54, 68-70.)

81. Lema later asked Wilson if he got the money, and Wilson replied that he only received approximately \$150 from Molinaro. (Tr. 7/21/23 at 38, 43, 62, 121.) Officer Wilson confirmed in his testimony at the hearing that his reference to \$150 was to the amount of money that Molinaro handed to Wilson on the porch. (Tr. 7/21/23 at 70.)

82. Wilson initially believed that Lema was joking with him about the amount being \$900. (Tr. 7/21/23 at 38.)

83. Officer Lema, who described himself as having a shocked look on his face, which is consistent with what is seen on the recording, was very concerned about the discrepancy in the amounts and Officer Lema and Officer Holden approached Officer Galzarano about the money that was believed to be missing and that had been given to Molinaro and that Lema and Holden believed Molinaro may have taken. (Tr. 7/21/23 at 26, 44, 62-63.)

84. The officers then spent approximately two hours looking for the missing money. (Tr. 7/21/23 at 26, 33.)

85. Officer Lema and Officer Holden both offered to let Galzarano search them. (Tr. 7/21/23 at 27, 122; Tr. 7/27/23 at 9.)

86. Officer Galzarano approached Molinaro to discuss the missing money around 1:30 P.M. as Molinaro had been indicating that he needed to leave to go to an appointment. (Tr. 7/21/23 at 26-27.)

87. While Officer Galzarano spoke with Molinaro, Officer Lema, Officer Wilson and Officer Holden remained in the living room and did not go back down to the basement. (Tr. 7/21/23 at 115-116, 124; Tr. 7/27/23 at 9-10.)

88. Molinaro responded by saying “let’s find the money” and went back to the basement to look for the money again. (Tr. 7/21/23 at 27.)

89. Molinaro rapidly moved to the basement and then returned upstairs. (Tr. 7/21/23 at 27-28, 26-37.)

90. Officer Galzarano testified that upon returning upstairs, Molinaro asked Galzarano to go back to the basement with Molinaro to look for the money, suggesting that Galzarano go down the steps first. (Tr. 7/21/23 at 27, 122.) In contrast, Molinaro testified that he told Galzarano that Molinaro had found the money but did not want to touch it and that Galzarano should go to the basement to get it. (Tr. 7/21/23 at 100-102; Tr. 7/27/23 at 117.) The testimony of Officer Galzarano was more credible than the testimony of Molinaro on these issues.

91. When Galzarano returned to the basement, the missing money was in plain sight near a wood burning furnace. (Tr. 7/21/23 at 28.) Officer Galzarano credibly testified that the location where the money was found had been searched multiple times in the preceding few hours, including right before Galzarano spoke to Molinaro about the missing money, without any money being located. (Tr. 7/21/23 at 28.) Officer Lema likewise credibly testified that the officers had searched the area near the furnace where the money was found several times without locating any money before Molinaro reported finding it there. (Tr. 7/21/23 at 44.)

92. A suspect who had been apprehended in the house had told officers that he had approximately \$1,000 in cash in the basement and had a pay stub for about \$700 of it. (Tr. 7/21/23 at 28, 72-73.)

93. After Molinaro received the money from Holden, and before Officer Galzarano found the money in the basement, Molinaro's Body Camera captured the area of the basement near the furnace where the money was later found by Galzarano and no money was visible. (Molinaro II at 33:30 and 46:00)

94. Interim Police Chief Steve Panormios, after consultation with the software manufacturer, and based on data that Panormios saw, reported that some of the body camera footage from the January 11, 2022 search had likely been deleted. (Tr. 7/13/23 at 45-46, 59; Tr. 7/27/23 at 21-22.) Panormios further testified that to the best of his knowledge only Molinaro had access to the portable hard drive from the January 11, 2022 search until Panormios retrieved the hard drive that the footage was stored on from Molinaro. (Tr. 7/27/23 at 21.)

95. Commissioner John Stephansky credibly testified that Molinaro told Stephansky that the Department's body camera footage was backed up to an external hard drive and that only Molinaro had access to the external hard drive containing the body camera footage. (Tr. 7/27/23 at 27-28.)

96. Molinaro testified that the only time he took the hard drive containing the body camera footage home was inadvertently on April 15, 2022 when he was placed on paid administrative leave and that he "never" took it home on any other occasion. (Tr. 7/31/23 at 60.) In contrast, Officer Lema testified that Molinaro regularly took the hard drive that Molinaro used to store the body camera video to Molinaro's home. (Tr. 7/31/23 at 95-96.)

97. The portion of Molinaro's body camera video that would have shown him placing the money where it was found, was deleted from the drive that stores the body camera evidence.

98. When Molinaro and Lema met up at the station the following day at shift change around 1:30 PM, Molinaro told Lema that his body camera had stopped working just as the money was being counted. Lema asked Molinaro to show Lema his body camera video twice,

and Molinaro said “No” both times. Molinaro told Lema not to bring the incident to light because Molinaro didn’t want to see anything happen to him. Lema said he felt threatened because he had seen what had happened to Officer Vigliotti a month earlier. (Tr. 7-21-23 at 44-45.)

99. Lema was the officer who alerted the other officers about the missing money. (Tr. 7-21-23 at 38, 43.)

100. Officer Wilson credibly testified that the inventory sheet (Ex. Molinaro-I) from the January 11, 2022 search was not updated at the end of the day to reflect the accurate amount of money that was found at the house. (Tr. 7/27/23 at 56-56.)

Conclusions of law

101. Molinaro’s conduct in relation to the missing money on January 11, 2022, standing alone or viewed in its totality, constitutes neglect or violation of his official duties and conduct unbecoming an officer and is sufficient to warrant termination of his employment as a police officer pursuant to the First Class Township Code, 53 P.S. § 55644 and Sections 7.1(a) (2) and (4) of the Rules and Regulations of the Civil Service Commission of Leet Township.

IV. Owner of Fasmio Towing Facebook Post

102. The owner of Fasmio Towing, Michael Savka, a resident of Leet Township, credibly testified that on July 2, 2021, he made a post on Facebook stating that he was glad to see a police car driving through his neighborhood and that he had not seen one doing that in about a month. (Tr. 7/13/23 at 28.)

103. Jill Savka credibly testified that she recalled her husband’s post stating that he was glad to see a police car in their neighborhood and that it had been a couple of months since he had seen one. (Tr. 7/13/23 at 38.)

104. Savka credibly testified that about an hour after he made the Facebook post, Molinaro came into his place of business. (Tr. 7/13/23 at 29.) Molinaro was in uniform and had arrived in a police car. (Tr. 7/13/23 at 29.)

105. Savka credibly testified that Molinaro was angry and upset and that Molinaro told Savka that he needed to take the Facebook post down, that Molinaro had only been police chief for about a month and it made him look bad, and that if Savka did not take the post down there were going to be repercussions. (Tr. 7/13/23 at 29-30.)

106. Savka credibly testified that he was concerned and afraid due to Molinaro's behavior regarding the Facebook post. (Tr. 7/13/23 at 34.)

107. Savka told Molinaro he would remove the Facebook post and did remove the post. (Tr. 7/13/23 at 31.)

108. Fasmio Towing had been on the towing rotation for the Leet Township Police, but was informed a week or two after the Facebook post that he had been removed from the list . (Tr. 7/13/23 at 28, 30.)

109. Joseph Fetcko worked for Fasmio Towing at the time and was present when Molinaro was speaking to Michael Savka and overheard Molinaro stating "you better take it down" and speaking to Savka in an angry tone. (Tr. 7/27/23 at 11.)

110. Michael Savka's wife, Jill Savka, who also works at the business, credibly testified that Molinaro "stormed" into the building, asked for her husband, and went to the part of the shop where her husband was located. (Tr. 7/13/23 at 36-37.)

111. Jill Savka credibly testified that Molinaro arrived in a police car, was in uniform, and that his tone and demeanor was angry and aggressive. (Tr. 7/13/23 at 38.)

112. Jill Savka testified that Molinaro subsequently "stormed" back through the area where she was located, that Molinaro told Jill Savka that she needed to get her husband in check,

that Jill Savka responded that her husband was a big boy and that she did not need to get anybody in check, and that Molinaro responded by saying that there would be consequences or repercussions if she did not. (Tr. 7/13/23 at 36-37.) Michael Savka likewise testified that he heard Molinaro tell Jill Savka that she needed to get Michael Savka in check or there would be repercussions. (Tr. 7/13/23 at 29.) In contrast, Molinaro testified that he remained calm and professional during his visit to Fasmio Towing and that Jill Savka had referred to Michael Savka as “an a—hole.” (Tr. 7/27/23 at 124-128; Tr. 7/31/23 at 45-46.) The testimony of Michael Savka, Jill Savka and Joseph Fetcko was more credible than the testimony of Molinaro regarding the Facebook post and Molinaro’s visit to Fasmio Township on July 2, 2021.

113. Jill Savka testified that as Molinaro was walking out of the shop, he told her “Get your husband in check before he causes problems for himself.” (Tr. 7/13/23 at 37.) Molinaro denied making such a comment but instead alleged that Jill Savka had state that her husband was “an a—hole.” (Tr. 7/27/23 at 124-128.) The testimony of Jill Savka was more credible than the testimony of Molinaro on these issues.

114. Former Leet Township Interim Police Chief Steve Panormios credibly testified that Michael Savka’s testimony and Jill Savka’s testimony regarding the Facebook post and Molinaro’s visit to Fasmio Towing on July 2, 2021 was consistent with what they told Interim Chief Panormios after he became interim Chief in April 2022. (Tr. 7/13/23 at 44, 46-47.)

115. Officer Galzarano credibly testified that Molinaro had shown him a Facebook post by the owner of Fasmio Towing in which the poster commented that he was glad to see a police car on his street and had not seen one in a month and that Molinaro indicated he had “handled” the situation, had talked to the owner, and would be using towing companies other than Fasmio Towing in the future. (Tr. 7/21/23 at 23-24.)

116. Officer Galzarano further credibly testified that it was his understanding from Molinaro that officers were to begin using a new towing company in place of Fasmio Towing for police tows the next day after Molinaro showed him the Facebook post. (Tr. 7/21/23 at 31-32, 36.)

117. Leet Township Manager Betsy Rengers testified that around July 6, 2021 she received a call from a female at Fasmio Towing about an unpaid bill Ms. Rengers stated had been received two days before, that the caller was angry and demanded that the Township pay the bill, and as a result of the call and concerns about the quality of repairs that Fasmio Towing had performed she asked Molinaro to stop using Fasmio Towing.

118. Jill Savka credibly testified that she did call the Township about a bill in July 2021, but not one that was two days overdue but rather one that related to work that had been completed in April 2021 and indicated that she did not yell and was not rude to Ms. Rengers during the call. (Tr. 7/21/23 at 18-22; Township Ex. 19.)

119. The evidence and Molinaro's conduct relating to the response to the Facebook post and Fasmio Towing supports the conclusion that Molinaro abused his authority and engaged in conduct unbecoming an officer during his confrontation with Savka.

120. The evidence and Molinaro's conduct relating to the Facebook post and Fasmio Towing supports the conclusion that Molinaro abused his authority and engaged in conduct unbecoming an officer by having Fasmio Towing removed from the Township's towing list.

Conclusions of law

121. Molinaro's conduct relating to the Facebook post and Fasmio Towing, standing alone or viewed in its totality, constitutes violation of his official duties and conduct unbecoming an officer and is sufficient to warrant termination of his employment as a police officer pursuant

to the First Class Township Code, 53 P.S. § 55644 and Sections 7.1(a) (2) and (4) of the Rules and Regulations of the Civil Service Commission of Leet Township.

V. **Untruthfulness to the Leet Township Board of Commissioners**

122. At the April 15, 2022, special meeting of the Leet Township Board of Commissioners, Molinaro indicated to the Board of Commissioners that Officer Vigliotti had been placed back on the schedule as directed by the Board at the March regular meeting and stated that Vigliotti was being scheduled at least one day a week. (Tr. 6/21/23 at 35, 36.)

123. At that meeting, the Board was in possession of the schedules that had been developed for April and May. (Tr. 6/21/23 at 35-37; Township Ex. 5; Township Ex. 6.)

124. According to the schedules that had been developed for April and May 2022 and as also credibly testified by Officer Vigliotti, Officer Vigliotti was not scheduled in advance for a single day on the April or May schedules as they existed on April 15, 2022 when Molinaro was placed on paid administrative leave, despite Molinaro's statement to the Board of Commissioners that he had scheduled Vigliotti to work at least one day a week. (Tr. 6/21/23 at 34-37; Township Ex. 5; Township Ex. 6; Tr. 6/23/23 at 67-68, 106, 108-109.) Tr. 6/23/23 at 64, 65, 106, 108-109.

125. Molinaro stated that part-time officers were treated as "on call" employees and only offered open shifts available without advance notice. (Tr. 6/21/23 at 36.)

126. He further stated that there was no advanced notice to part time officers regarding the schedule. (Tr. 6/21/23 at 36.)

127. However, other officers of Leet Township indicated that when the PlanIt software was being used to schedule, part time officers were given advance notice of the days scheduled and open shifts, part-time officers were able to coordinate schedules with their other jobs, and

Officer Vigliotti had been regularly scheduled for four shifts per week prior to 2022. (Tr. 6/21/23 at 33-34, 36-37, 51.) Officer Galzarano credibly testified that Officer Vigliotti had been regularly scheduled in 2021 but was not regularly scheduled in early 2022. (Tr. 6/23/23 at 29-30;33-35.) Officer Vigliotti credibly testified that he had been regularly scheduled for shifts in 2021, not just called to fill shifts when officers called off. (Tr. 6/23/23 at 53-54, Tr. 6/23/23 at 64, 106, 108-109.)

128. Current Leet Township Interim Police Chief Brian Jameson credibly testified that based on a review of the Township's records, in 2021 Officer Vigliotti covered the majority of the average of 22.8 shifts that were covered by part-time officers per month and that Vigliotti was working an average of 31.2 hours per week in 2021. (Tr. 7/13/23 at 73.)

129. As Interim Chief Jameson further credibly testified, although Vigliotti was working some shifts as a result of call offs, he was also working shifts that had been scheduled in advance in 2021. (Tr. 7/13/23 at 73-74.)

130. Interim Chief Jameson further testified that the Township's records indicated that Vigliotti was not scheduled to work any shifts in January or February of 2021, nor was he paid for working any shifts during those months. (Tr. 7/13/23 at 73.)

131. Interim Chief Jameson further indicated that the Township records reflected that Vigliotti worked 20 shifts and 160 hours in March 2021; 22 shifts and 181.5 hours in April 2021; 13 shifts and 105 hours in May 2021; 12 shifts and 96 hours in June 2021; 17 shifts and 136 hours in July 2021; 20 shifts and 160 hours in August 2021; 20 shifts and 160 hours in September 2021; 24 shifts and 192 hours in October 2021; 18 shifts and 144 hours in November 2021; 14 shifts and 112 hours in December 2021; no shifts and no hours in January 2022; no shifts and no hours in February 2022; 3 shifts and 24 hours in late March 2022 (on March 23, 25 and 26, 2022); and 17 shifts and 138 hours in April 2022) (but only 3 shifts before Molinaro was

placed on paid administrative leave on April 15, 2022). (Tr. 7/31/23 at 111-112.) The records reflected that Vigliotti was working double shifts on most Saturdays. (Tr. 7/31/23 at 119-120.) This information is consistent with Officer Vigliotti's testimony that he was regularly scheduled for shifts in 2021, in addition to picking up some shifts due to calls offs, but was not regularly scheduled for shifts in 2022 up until Molinaro was placed on paid administrative leave on April 15, 2022.

132. When the PlanIt was being used to schedule, part time officers at Leet Township were able to see the schedule and open shifts for the upcoming month. (Tr. 6/21/23 at 33.)

133. Molinaro was untruthful to the Board of Commissioners when he responded to the question regarding Officer Vigliotti being placed back on the schedule.

134. Molinaro was untruthful to the Board of Commissioners when he responded to the question regarding the scheduling practice for part time officers.

Conclusions of law

135. Molinaro's conduct relating to his communications with the Board of commissioner's regarding the scheduling of Vigliotti, standing alone or viewed in its totality, constituted violation of his official duties, disobedience of orders, and conduct unbecoming an officer and is sufficient to warrant termination of his employment as a police officer pursuant to the First Class Township Code, 53 P.S. § 55644 and Sections 7.1(a) (2) and (4) of the Rules and Regulations of the Civil Service Commission of Leet Township.

VI. Insubordination

136. At the April 15, 2022, special meeting of the Leet Township Board of Commissioners, Molinaro was directed by the Board to turn over all property of Leet Township

and all computer passwords for software used by the Leet Township Police Department. (Township Ex. 10; Tr. 6/21/23 at 37-38; Tr. 6/23/23 at 49-50.)

137. Molinaro failed to turn over any computer passwords and failed initially to turn over all Township property in the form of a portable hard drive that contained police body camera video that was in his possession. (Tr. 6/21/23 at 37-38; Tr. 7/13/23 at 44.) As a result, former Interim Police Chief Steve Panormios had to contact manufacturers of the equipment and software to gain access to Township equipment and software. (Tr. 7/13/23 at 44-45.)

138. Molinaro's testimony that he wrote his computer password on a post-it note and left it on his computer screen before the meeting where he was directed to turn over his computer and software passwords was not credible, particularly in light of the fact that a schedule that had been posted on the wall of the police office was removed due to security concerns and the fact that he was not told until he went to the meeting that he was being required to turn over his passwords, which was after he allegedly placed his password on his computer screen on a post-it note. (Tr. 7/31/23 at 37-39.)

139. Former Interim Police Chief Panormios credibly testified that the portable hard drive was not turned over to the Township until a couple of weeks after Molinaro was placed on paid administrative leave. (Tr. 7/13/23 at 50.)

140. Molinaro was also directed not to contact, even through third parties, any current or former Leet township employee. (Township Ex. 10.)

141. Officer Lema's wife Eryn Lema credibly testified that Molinaro and Molinaro's then girl friend approached Eryn Lema on April 17, 2022 while she shopped at a Walmart. (Tr. 7/13/22 at 48.)

142. Eryn Lema credibly testified that Molinaro stated that he hoped the officers "have his back." (Tr. 7/13/22 at 48.)

143. In contrast, Molinaro testified that his girlfriend at the time did not know Eryn Lema but that Eryn Lema had nevertheless approached her and the Chief to strike up a conversation with Molinaro's girlfriend and that it was Eryn Lema, not Molinaro, who spoke about the officers having the Chief's back. (Tr. 7/27/23 at 145; Tr. 7/31/23 at 46-47.) Eryn Lema's testimony was more credible than Molinaro's testimony on the issues that she addressed in her testimony.

144. Molinaro's statement to Eryn Lema that he hoped the officers had Molinaro's back violated the Township's directive not to communicate with any Leet township employees including through third parties.

Conclusions of law

145. The evidence and Molinaro's conduct described herein, standing alone or viewed in its totality, constituted disobedience of orders and conduct unbecoming an officer and is sufficient to warrant termination of his employment as a police officer pursuant to the First Class Township Code, 53 P.S. § 55644 and Sections 7.1(a)(2) and (4) of the Rules and Regulations of the Civil Service Commission of Leet Township.

VII. Incompetence

146. Officer Galzarano was involved in drug investigations as part of his duties as a Leet Township police officer. (Tr. 6/23/23 at 16.)

147. In early 2022, Officer Galzarano asked Molinaro for money for a drug buy. (Tr. 6/23/23 at 16.)

148. Molinaro told Officer Galzarano to take money that was in evidence in another ongoing drug case to use for the controlled buy. (Tr. 6/23/23 at 18.) Galzarano declined to use money that was evidence in another case due to concerns about the chain of custody that would

result if that money were taken out of evidence and used for a drug buy in a different case. (Tr. 6/23/23 at 18.)

149. Apparently, Molinaro and Galzarano had a discussion about potential use of fake money for use in the drug buy. (Township Ex. 8; Tr. 6/23/23 at 16.)

150. Officer Galzarano testified that he was concerned about the safety of the confidential informant who would be conducting the undercover drug buy. (Tr. 6/23/23 at 17.)

151. There is a conflict in testimony between Officer Galzarano and Mr. Molinaro concerning whether Mr. Molinaro seriously proposed using fake currency for drug buy. The Commission, however, finds that there is insufficient evidence to indicate that there was an imminent drug buy or drug transaction at the time of the conversation. Moreover, Mr. Molinaro is not alleged to have given an order to any of his officers to use fake currency or that he placed any officer in harm's way as a result of this discussion.

Conclusions of law

152. For these reasons, the Commission finds that the allegations in this Count are not supported by substantial, clear and convincing evidence, and, therefore, determines that they are unfounded.

153. Molinaro raised no procedural issues before the Civil Service Commission.

154. Taken on an individual basis, the above conclusions of law with respect to Counts I through VI each constitute neglect of duty, disobedience of orders, violation of the law and/or conduct unbecoming a police officer demonstrating that Molinaro failed to meet the higher standard applicable to all police officers.

155. The above conclusions of law, taken together or separately, justify Molinaro's termination of service from the Leet Township Police Department. These conclusions are supported by substantial, clear and convincing evidence presented to the Commission.

156. The weight of the substantial and credible evidence of record supports these findings of fact and conclusions of law.

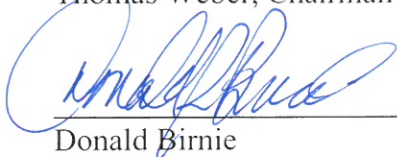
DECISION

157. Accordingly, based on the Findings of Fact and Conclusions of Law set forth above, the APPEAL OF THE DECISION OF THE LEET TOWNSHIP BOARD OF COMMISSIONERS TO TERMINATE THE EMPLOYMENT OF MICHAEL MOLINARO FROM HIS POSITION AS CHIEF OF POLICE WITH LEET TOWNSHIP is DENIED and the DISCHARGE of Michael Molinaro is AFFIRMED.

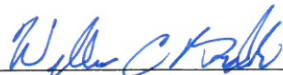
Adopted this 1st day of November, 2023.



Thomas Weber, Chairman



Donald Birnie



William Bubbs,

*(Concurs with Counts I and VII Findings and Conclusions;
Concurs with Counts V and VI Findings and Conclusions, but dissents from the penalty of discharge on these Counts;
Dissents from Counts II, III, and IV)*