

1 **BEFORE THE WASHINGTON STATE**
2 **EXECUTIVE ETHICS BOARD**

3 In the Matter of:

EEB Case No. 2023-027

4 Sumer Keith,

FINAL ORDER

5 Respondent
6

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8 **I. PROCEDURAL HISTORY**

9 On March 14, 2023, the Executive Ethics Board (Board) received a complaint alleging
10 that Sumer Keith, an employee of the Washington State Department of Corrections (DOC), may
11 have violated the Ethics in Public Service Act. The complaint alleged that Sumer Keith violated
12 RCW Chapter 42.52, by using state resources for non-work related activities.

13 The Board entered an Order of Default on March 8, 2024. On March 11, 2024, Board
14 staff provided Sumer Keith with notice of the Board’s Order of Default by regular and certified
15 mail. According to USPS, the certified mail was delivered and “left with an individual” on March
16 13, 2024, 9:52am and the regular mail notice was not returned.

17 Pursuant to WAC 292-100-060(4) Sumer Keith was allowed 10 days to request vacation
18 of the Order of Default. Sumer Keith has not moved to vacate the order entered on March 8,
19 2024.

20 **II. FINDINGS OF FACT**

21 1. According to the complaint, Sumer Keith used their DOC Teams account to
22 “have an affair” and also “searched the internet.” The complainant further alleged that based on
23 a public records request, there was evidence of Sumer Keith having an “affair” on Teams,
24 between the dates of January 13, 2023 and January 26, 2023.
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1 2. According to DOC, Sumer Keith was hired on August 11, 2020, as a Corrections
2 & Custody Officer 2 (CO2) non-permanent/on call. On October 23, 2022, Sumer Keith was
3 made a permanent CO2 and still holds that position.

4 3. As part of this investigation, Board staff obtained a copy of Sumer Keith's Teams
5 chats, for the dates in question, as well as a copy of their 2022 and 2023 internet browsing
6 history. DOC provided Excel spreadsheets listing browsing history by date of usage associated
7 with Sumer Keith's DOC username.

8 4. In reviewing the Teams chat history, between the dates of January 13 and January
9 26, 2023, there were hundreds of messages (sent and received) between Sumer Keith and a male
10 DOC employee. The messages did not appear work related, including:
11

12 **From Sumer:** "Have fun sleeping next to your wife??? 😊"

13 **From male DOC employee:** "Ready to spend time with your loving husband lol"

14 **From Sumer:** "Ugh well I'll be there tonight."

15 **From male DOC employee:** "I cant wait my love. I miss you so much."

16 **From Sumer:** "I love you."

17 **From male DOC employee:** "I know it's almost shift change time. So message me
18 when you leave work I love you talk to in a little bit beautiful."
19

20 5. In reviewing the DOC provided web browsing history, there was substantial
21 evidence of personal web usage, including:

22 • **August 1 – August 31, 2022: Visits to:**

23 Netflix
24 YouTube
25 Profootballnetwork.com
26 Amazon
Worldofcars.fandom.com
Dailymail.co.uk
Peacocktv.com
Redfin

- 1 Zillow
- 2 • **September 1 – September 21, 2022: Visits to:**
- 3 YouTube
- 4 Amazon
- 5 Expedia
- 6 Facebook
- 7 MSN.com
- 8 Dailymail.co.uk
- 9 Redfin
- 10 HBOmax.com
- 11 Fox news
- 12 Peacocktv.com
- 13 Netflix
- 14 • **October 1 – October 15, 2022: Visits to:**
- 15 YouTube
- 16 Amazon
- 17 MSN
- 18 Dailymail.co.uk
- 19 Q13fox.com
- 20 Redfin
- 21 CNN
- 22 • **November 15 – November 30, 2022: Visits to:**
- 23 Dailymail.co.uk
- 24 YouTube
- 25 Redfin
- 26 Amazon
- 27 Netflix
- 28 • **December 1 – December 30, 2022: Visits to:**
- 29 Dailymail.co.uk
- 30 YouTube
- 31 Redfin
- 32 Craigslist
- 33 Amazon
- 34 Zillow
- 35 Foxnews
- 36 • **January 1 – January 31, 2023: Visits to:**
- 37 YouTube
- 38 Craigslist
- 39 Dailymail.co.uk
- 40 Netflix
- 41 PeacockTv
- 42 Offroad.polaris.com
- 43 Redfin
- 44 Amazon
- 45 Zillow

1 Myturbotax
2 FoxNews
3 Cabellas
4 Costco
5 Q13news

6 • **February 1 – February 28, 2023: Visits to:**

7 Redfin
8 Amazon
9 Craigslist
10 Dailymail.co.uk
11 Zillow
12 Reddit.com
13 Disneyplus
14 Q13news

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16 6. In reviewing the provided browsing history, Board staff noted an abrupt stoppage
17 of personal usage, from March 2023 to July 2023. Board staff contacted David Harper (DOC
18 Cyber Security Operations Supervisor) and asked if something changed on their end around that
19 time frame. David Harper replied and stated, “We were switching from Cisco to Palo Alto
20 firewalls and URL filters so some traffic might have gotten dropped. Or what typically happens
21 is that the staff gets wind of an investigation and they alter their behavior for a time span.”¹

22
23 7. In Sumer Keith’s written response to Board staff, they stated, “I was not nor have
24 I ever used teams or any other applications to facilitate an affair. I have not and was not having
25 an affair. I don’t think that anything that was said or anything in those messages are or should
26 point to anything close to an affair. As far as being on the internet I don’t really have anything
to say about that.” (sic)

CONCLUSIONS OF LAW

1. The Board has jurisdiction to hear this matter pursuant to RCW 42.52.360(1),
which authorizes the Board to enforce the Ethics in Public Service Act, chapter 42.52 RCW,

¹ Sumer Keith was notified of this investigation in March 2023.

1 with respect to employees in the executive branch of state government. The Board has
2 jurisdiction over Sumer Keith, whose actions occurred while they were a state employee.

3 Based on the evidence reviewed, Sumer Keith has used state resources for their private benefit
4 or gain in violation of RCW 42.52.160. Sumer Keith's activities do not meet the exceptions for
5 the use of state resources as permitted in WAC 292-110-010.

6 2. RCW 42.52.160(1) – Use of persons, money, or property for private gain, states:

7 No state officer or state employee may employ or use any
8 person, money, or property under the officer's or employee's
9 official control or direction, or in his or her official custody, for
the private benefit or gain of the officer, employee, or another.

10 Under WAC 292-110-010 Use of state resources states, in part:

11 (3) **Permitted personal use of state resources.** This subsection applies to any use of
state resources not included in subsection (2) of this section.

12 (a) A state officer or employee's use of state resources is de minimis only if each
of the following conditions are met:

13 (i) There is little or no cost to the state;

14 (ii) Any use is brief;

15 (iii) Any use occurs infrequently;

16 (iv) The use does not interfere with the performance of any state officer's
or employee's official duties;

17 (v) The use does not compromise the security or integrity of state
property, information systems, or software;

18 (vi) The use is not for the purpose of conducting an outside business, in
furtherance of private employment, or to realize a private financial gain;
and

19 (vii) The use is not for supporting, promoting the interests of, or soliciting
for an outside organization or group.

20 3. The Board is authorized to impose sanctions for violations to the Ethics Act
pursuant to RCW 42.52.360.

21 4. In determining the appropriateness of the civil penalty, the criteria in WAC 292-
22 120-030 have been reviewed.

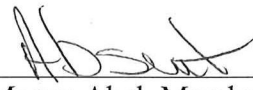
23 III. FINAL ORDER

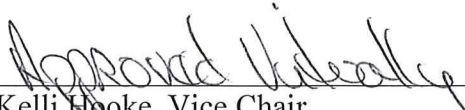
24 Based on the foregoing:
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1 IT IS HEREBY ORDERED Respondent Sumer Keith is liable for and shall pay a civil
2 penalty of three-thousand dollars (\$3,000). The payment shall be made to the Executive Ethics
3 Board within forty-five (45) days of this Order.

4 DATED this 10th day of May 2024.

5 
6 Jan Jutte, Chair


Megan Abel, Member

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9 Kelli Hooke, Vice Chair


Cam Comfort, Member

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11 **APPEAL RIGHTS**

12 **RECONSIDERATION OF FINAL ORDER – BOARD**

13 Any party may ask the Executive Ethics Board to reconsider a Final Order. The request
14 must be in writing and must include the specific grounds or reasons for the request. The request
15 must be delivered to Board office within 10 days after the postmark date of this order.

16 The Board is deemed to have denied the request for reconsideration if, within 20 days
17 from the date the request is filed, the Board does not either dispose of the petition or serve the
18 parties with written notice specifying the date by which it will act on the petition.
19 RCW 34.05.470.

20 The Respondent is not required to ask the Board to reconsider the Final Order before
21 seeking judicial review by a superior court. RCW 34.05.470.

22 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

23 A Final Order issued by the Executive Ethics Board is subject to judicial review under
24 the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures
25 are provided in RCW 34.05.510 - .598.

1 The petition for judicial review must be filed with the superior court and served on the
2 Board and any other parties within 30 days of the date that the Board serves this Final Order on
3 the parties. RCW 34.05.542(2). Service is defined in RCW 34.05.542(4) as the date of mailing
4 or personal service.

5 A petition for review must set forth:

- 6 (1) The name and mailing address of the petitioner;
- 7 (2) The name and mailing address of the petitioner's attorney, if any;
- 8 (3) The name and mailing address of the agency whose action is at issue;
- 9 (4) Identification of the agency action at issue, together with a duplicate copy, summary,
10 or brief description of the agency action;
- 11 (5) Identification of persons who were parties in any adjudicative proceedings that led to
12 the agency action;
- 13 (6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;
- 14 (7) The petitioner's reasons for believing that relief should be granted; and
- 15 (8) A request for relief, specifying the type and extent of relief requested.
16 RCW 34.05.545.

17 **ENFORCEMENT OF FINAL ORDERS**

18 If there is no timely request for reconsideration, this is the Final Order of the Board. The
19 Respondent is legally obligated to pay any penalty assessed.

20 The Board will seek to enforce a Final Order in superior court and recover legal costs
21 and attorney's fees if the penalty remains unpaid and no petition for judicial review has been
22 timely filed under chapter 34.05 RCW. This action will be taken without further order by the
23 Board.