

SUMNER INVESTIGATION REPORT

This Investigator was retained by the Town of Sumner, at the request of the Sumner Select Board (the “Board”), to investigate concerns about the activities and actions of Town Select Board member Kelly Stewart and [REDACTED]. Those concerns arose out of information raised during the Board meeting on April 25, 2023, during which several present and former Fire Department members raised issues about potentially questionable purchases made by [REDACTED] potential diversion of some of those purchases to the business owned by Kelly Stewart, and alleged resultant safety issues at the Department.

This Report consists of three sections: (1) Common Procedural Background and Factual Findings; (2) Conclusions with Regard to Select Board member Kelly Stewart; and (3) Conclusions with Regard to [REDACTED]

I. COMMON PROCEDURAL BACKGROUND AND FACTUAL FINDINGS

This Investigator was contacted by Town Attorney Leah Rachin (“Rachin”) on or about May 2, 2023, to conduct an independent investigation into the conduct and activities of Kelly Stewart with regard to her role as a Select Board Member and a member of the Sumner Volunteer Fire Department. [REDACTED]

[REDACTED] This Investigator has no prior connections with the Town of Sumner, and had never met the Stewarts or any witnesses interviewed.

At the outset, Attorney Rachin provided me with a packet of information and Town records. I also obtained additional records, budgets, financial records, meeting minutes, photos, by-laws, inspection records, policies, lists and other documents during the investigation, including documents provided by Kelly Stewart’s attorney. The documents received are

contained in the Appendix to this Report. During the investigation, I interviewed Kelly Stewart (represented by counsel), Robert Stewart (represented by counsel), Select Board Member Mary Ann Haxton, Assistant Fire Chief Brian Bullecks (“Bullecks”), Firefighter Chris Tripp (“Tripp”), and Town Treasurer Sherry Sullivan (“Sullivan”). I also conducted follow-up telephone interviews with Bullecks, Tripp and Sullivan.

Kelly Stewart is a current Select Board member, has been in that office for approximately 12 years, and was a member of the Sumner Fire Department for approximately 18 years. She also acted as the Department’s Safety Officer. She resigned from the Department on April 25, 2023. Kelly is also the co-owner of Foothills Firearms Safety, LLC (“Foothills”), located at 265 Valley Road in Sumner, which is also her home address. According to its website, Foothills is a licensed firearms dealer offering firearm sales, transfers, and firearm related accessories. It also offers group and individual instruction and safety lessons.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Sumner Volunteer Fire Department is listed on the Town website as a Town department. Its Chief is nominated and elected by members, subject to the confirmation and appointment by the Select Board. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] For the 2022-2023 fiscal year, the Department received from the Town funding of \$11,000 for Operations and \$15,000 for Equipment.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On April 21, 2023, prompted by Bullecks questions, Sullivan called Admiral and requested that they send the Town all invoices and purchase slips for 2022 and 2023. She also sent Kelly Sullivan an email that morning, stating in relevant part:

“Several residents came in and questioned how money was being spent in the FD, requested invoices, and expressed concerns about lack of PPE and training. I’m sure Bob keeps track of inventory and I know you log training. A formal complaint has not been made and I’m unsure if they intend to. I believe they’d like to discuss it at next [sic] FD meeting.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

At the scheduled April 25, 2023, Select Board meeting that evening, Kelly Stewart submitted a resignation letter from the Department. Robert Kelly verbally resigned as Fire Chief, and then also signed the resignation letter. As reflected by the Board’s approved meeting minutes, Robert Stewart asserted that he had “not stolen or hidden equipment,” that he had purchased and passed out items such as batons and mace “to protect fire department personnel,”

and that the Operation and Equipment budget didn't have enough money to complete testing every year.

The April 25, 2023, meeting discussion then turned to concerns about untested equipment. Two former members of the Department stated that they had previously resigned from the Department due to concerns about equipment safety and the lack of proper protective (PPE) gear. Both stated that they had brought these concerns to the attention of [REDACTED] Kelly Stewart at Department meetings without receiving any response.

In light of Chief Stewart's resignation, the Select Board appointed Assistant Chief Doug Fournier as the interim Fire Chief. Fournier then announced that he was taking the Fire Department out of service until appropriate testing was completed to bring the Department into compliance with State requirements. The Select Board then voted to take the Department out of service pending inspections, testing and repair of the Department trucks and equipment.

On May 2, 2023, the Select Board authorized this investigation.

II. CONCLUSIONS WITH REGARD TO KELLY STEWART

Select Board member Kelly Stewart resigned from the Department on April 24, 2023. Accordingly, as a former member of the Department, she is not subject to any disciplinary or corrective action by either the current Fire Chief or the Select Board. That being said, my review of this matter will focus on her conduct while she was simultaneously a Department member and a Select Board member with oversight responsibilities over the Fire Department led by her husband, Robert Stewart.

This investigation stems largely from concerns about possible misappropriation of Fire Department equipment, the inappropriate expenditures from the Department budget, and safety concerns possibly stemming from the misuse or misapplication of Board-approved Equipment funding. As a preliminary observation, Kelly Stewart, as both a Select Board member and a member of the Fire Department, should have recused herself from any Board items that dealt with the Department. For example, the numerous (and as I conclude, questionable) purchases made by [REDACTED] (while accompanied by [REDACTED] Department member Kelly Stewart) were later approved by Select Board member Kelly Stewart. This Investigator is aware of the realities of life in a small town in Maine. However, in this circumstance, recusal with regard to any and all financial matters concerning the Department would have been the prudent course of action, given the potential conflicts of interest and the need to avoid even the appearance of impropriety.

Setting aside the benefit of 20/20 hindsight, Kelly Stewart's membership in the Department ideally could have provided an advantage to the Select Board, potentially giving it insight into Departmental needs and expenditures. Conversely, her membership on the Select

Board could have shielded the rest of the Board from gaining an accurate picture of both the conduct of [REDACTED], and from other members' concerns about Departmental operations. My review leads me to conclude that the Select Board likely did not gain such insight from Kelly Stewart, and indeed the numerous and serious problems in the Department and [REDACTED] were shielded by her presence on the Board. One concern is the Board's review and approval of warrants. According to Kelly Stewart, she often did not review the warrants for Fire Department expenditures because her job frequently left her no time to do so before she arrived at Board meetings. She stated she would rely upon the review of the other Board members. However, as a member of the Board, it was incumbent upon her to review the warrants for accuracy before approving them.

My review of this matter also leads me to conclude that [REDACTED] [REDACTED] and that as a long-time Department member, Kelly Stewart had firsthand knowledge of that mismanagement. The Department lacked updated basic policies – for example, the Department's Respiratory Protection Plan had not been updated since 2014. The Department also lacked comprehensive standard operating procedures that were readily available from the Maine Fire Chief's Association. It failed to be in compliance with expected safety standards, and normal and expected inspections went undone. For example, the last comprehensive inspection of the fire trucks was in 2020, and equally troubling, the annual State sticker inspection was conducted by [REDACTED], with payment to his outside company [REDACTED]. The expenditure of funds authorized by the Select Board for equipment had no guidelines, and the purchases [REDACTED] often made no rational or explicable sense. In most Fire Departments, safety is the first priority, and that starts with having up to date equipment, training and inspections. The Department [REDACTED]

During our interview, Kelly Stewart stated that none of the many items purchased by Robert Stewart at Admiral Fire & Safety in Scarborough, Maine, were ever re-sold by Foothills Firearms Safety, LLC. Specifically, Kelly Stewart denied that the “Blauer Insulated Flicker Gloves” and “Perfect Fit PFO-20 Gloves, Size XXL” gloves displayed on the Foothills’ website were the same gloves purchased by Robert Stewart on or about December 28, 2022, from Admiral. I conclude that it is more likely than not that those in fact were the same gloves that had been purchased on the Town account. The gloves on the website are the exact brand, model and size. In anticipation of questions about the alleged misappropriation and re-sale of Departmental equipment, Kelly Stewart, through counsel, provided to me three documents purporting to show that Foothills had purchased an allotment of “tactical equipment” from an estate in early 2023. However, none of the three documents (an affidavit from the personal co-representative of the estate; a statement by a Foothills’ employee; and a statement by the girlfriend of that employee) state that the gloves displayed on the website were not the gloves purchased by Robert Stewart on the Town’s account, or that the “Blauer Insulated Flicker Gloves” and “Perfect Fit PFO-20 Gloves, Size XXL” gloves displayed were purchased from the estate. Rather, they simply state, in vague terms, that amongst the items purchased from the estate were “gloves.” Neither Kelly Stewart nor Robert Stewart was able to provide any itemized list of the specific items purchased from the estate, by brand, model and size.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The documents provided by

Kelly Stewart's counsel cannot be credited with stating that the gloves purchased from the estate are the same ones displayed for sale on the Foothills' website – or different from the pairs purchased by Robert Stewart. Indeed, those declarants are apparently very careful not to make such an assertion. [REDACTED]

[REDACTED] it is more likely than not that the gloves displayed by Foothills for sale are the very same gloves purchased by Robert Stewart on December 28, 2022, accompanied at that time by Kelly Stewart.

I do not make any similar conclusions with regard to Kelly Stewart for the many other items purchased [REDACTED] at Admiral in 2022 and 2023. Simply put, the complete lack of recordkeeping, the lack of any procedures regarding purchases, inventory and disbursements, [REDACTED], prevent me from making any such conclusions with regard to the ultimate disposition of those many (non-Fire) items, and whether or not they ended up for sale at Foothills.

The only other conclusions I draw is that as a long-time member and active participant of the Department (including Safety Officer), Kelly Stewart most certainly had awareness of the mismanagement of the Department, [REDACTED] purchases of non-Fire related items at Admiral at the same time that necessary safety concerns were unmet, and [REDACTED]. And, I also conclude that Kelly Stewart, as a long-time Select Board member with budgetary oversight responsibilities, owed a fiduciary duty to the Town and to the Board with respect to the apparent misuse inappropriate

expenditures of Board-approved Equipment funds in a Department with which she had been a long-time member.

III. CONCLUSIONS WITH REGARD TO

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]







