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BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:) Case No.: 2008-73
)
) ADMINISTRATIVE ENFORCEMENT
MARTI EMERALD,) ORDER
)
Respondent.) [SDMC § 26.0439]
)
) Date: April 8 and 29, 2010
) Time: 9:00 a.m.
) Location: 202 C Street, 12th Floor
) San Diego, CA 92101

Pursuant to San Diego Municipal Code section 26.0436 *et seq.*, the City of San Diego Ethics Commission (composed of Commissioners Lee Biddle, Clyde Fuller, Dorothy Leonard, Richard Valdez, and Larry Westfall), sitting as the Presiding Authority at a public Administrative Hearing held on the 8th and 29th day of April, 2010, heard testimony and reviewed evidence relating to the allegations in the Final Administrative Complaint [Administrative Complaint] brought by Petitioner Alison Adema against Respondent Marti Emerald [Respondent].

The Administrative Complaint alleges that Respondent violated the Election Campaign Control Ordinance [ECCO] of the San Diego Municipal Code [SDMC] (SDMC 27.2901 *et seq.*) in connection with Respondent's candidacy for the Seventh District City Council seat in the City of San Diego in the 2008 election cycle. Specifically, the Administrative Complaint alleges two counts against Respondent for the failure to timely disclose accrued expenses.

1 (SDMC 27.2930) Respondent stipulated to both counts and the Presiding Authority accepted
2 such stipulation, thereby establishing the violations of ECCO alleged in the Administrative
3 Complaint against Respondent at the Administrative Hearing.

4 As a violation of ECCO had been established by way of stipulation, the Ethics
5 Commission voted on the penalty to be imposed against the Respondent, if any, in consideration
6 of all of the relevant circumstances, including, but not limited to: (1) the severity of the
7 violation; and (2) the presence or absence of any intention to conceal, deceive, or mislead; and
8 (3) whether the violation was deliberate, negligent, or inadvertent; and (4) whether the
9 Respondent demonstrated good faith by consulting the Commission staff for written advice that
10 does not constitute a complete defense; and (5) whether the violation was an isolated incident or
11 part of a pattern, and (6) whether the violator has a prior record of violations of Governmental
12 Ethics Laws; and (7) the existence of any Mitigating Information; and (8) the degree to which
13 the Respondent cooperated with Commission staff by providing full disclosure, remedying a
14 violation, or assisting with the investigation. SDMC §26.0438(f). Based on the concurring
15 votes of at least five Commissioners, as set forth in the Ethics Commission Resolution dated
16 May 3, 2010, the Ethics Commission imposed the penalties on Respondent set forth below for
17 her violations of ECCO.

18 **Counts 1 and 2 – Violations of SDMC section 27.2930**

19 SDMC section 27.2930 requires candidates and committees to file campaign statements
20 in the time and manner required by state law. California Government Code section 84211
21 requires the itemized disclosure of all contributions and expenditures over \$100.00, including
22 accrued expenses.

23 Based upon the stipulation of the parties, the Ethics Commission finds that Respondent
24 committed two violations of SDMC section 27.2930 by failing to timely disclose two accrued
25 expenses. The Ethics Commission's specific findings and imposition of penalties on Counts 1
26 and 2 are as follows:

27 **Count 1** - Respondent failed to timely disclose the win bonus owed to KM Strategies in
28 the amount of \$10,000 as an accrued expense on the campaign statement covering the period

1 ending December 31, 2008, and is ordered to pay a penalty in the amount of \$1,500.00 for
2 Count 1.

3 **Count 2** - Respondent failed to timely disclose the win bonus owed to Ross
4 Communications in the amount of \$40,000 as an accrued expense on the campaign statement
5 covering the period ending December 31, 2008, and is ordered to pay a penalty in the amount of
6 \$1,500.00 for Count 2.

7 Based upon the stipulation of the parties, the findings set forth above, and pursuant to
8 SDMC section 26.0438, the Ethics Commission orders that Respondent pay a monetary penalty
9 in the amount of \$3,000 to the General Fund of the City of San Diego in accordance with the
10 provisions of SDMC sections 26.0439(b)(3) and 26.0440, within 90 days of the date this Order
11 is served on Respondent.

12 **IT IS SO ORDERED,**

13 Dated: May 3, 2010

CITY OF SAN DIEGO ETHICS COMMISSION

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15 By _____
Richard Valdez, Chair

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