THE CITY OF SAN DIEGO

December 11, 2009

Councilmember Marti Emerald
Marti Emerald for San Diego
202 "C" Street, MS #10A
San Diego, CA 92101

Re: Ethics Commission Audit of Marti Emerald for San Diego (ID # 1301052)

Dear Councilmember Emerald:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was presented to and accepted by the Ethics Commission at its meeting held on December 10, 2009.

Sincerely,

Rosalba Gomez
Ethics Commission Auditor

Enclosure

cc: Carol Mundell, Treasurer

Ethics Commission
1010 Second Avenue, Suite 1530 • San Diego, CA 92101
Tel (619) 533-3476 Fax (619) 533-3448

THE CITY OF SAN DIEGO

FINAL AUDIT REPORT

December 4, 2009

Councilmember Marti Emerald
Marti Emerald for San Diego
202 "C" Street, MS #10A
San Diego, CA 92101

Treasurer: Carol Mundell
10809 Via Cascabel
San Diego, CA 92124-2115

SAN DIEGO ETHICS COMMISSION
AUDIT REPORT:
Marti Emerald for San Diego

I. Introduction

This Audit Report contains information pertaining to the audit of the committee, Marti Emerald for San Diego, Identification Number 1301052 ("the Committee") for the period from September 6, 2007, through June 30, 2009. The Committee was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 10, 2009. The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the City of San Diego's Election Campaign Control Ordinance (San Diego Municipal Code Chapter 2, Article 7, Division 29). The Election Campaign Control Ordinance (ECCO) was amended on January 1, 2009. This Committee operated under the previous ECCO, and therefore all Code references in this report relate to the provisions of ECCO that were in effect prior to January 1, 2009.

During the period covered by the audit, the Committee reported total contributions of $385,440.08 (inclusive of $4,434.60 in non-monetary contributions) and total expenditures of $382,559.11. Total cash contributions relative to total expenditures resulted in a $1,553.63 monetary shortfall that was offset by the Committee's miscellaneous increase to cash. **The audit revealed two material findings: the committee failed to report two accrued expenditures in violation of San Diego Municipal Code section 27.2930.**

II. Committee Information

On September 6, 2007, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Committee was formed to support the election of Marti Emerald for Council District 7 in the June 8, 2008, primary election and the November 4, 2008, general election. The Committee has not terminated. The Committee's treasurer is Carol Mundell.

III. Audit Authority

The Commission is mandated by San Diego Municipal Code section 26.0414 to audit campaign statements and other relevant documents to determine whether campaign committees comply with applicable requirements and prohibitions imposed by local law.

IV. Audit Scope and Procedures

This audit was performed in accordance with generally accepted auditing standards. The audit involved a thorough review of the Committee's records for the time period covered by the audit. This review was conducted to determine:

1. Compliance with all disclosure requirements, pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
2. Compliance with applicable filing deadlines;
3. Compliance with restrictions on contributions, loans and expenditures;
4. Accuracy of total reported receipts, disbursements and cash balances as compared to bank records; and
5. Compliance with all record-keeping requirements.

V. Summary of Applicable Law

San Diego Municipal Code section 27.2930 – Base Level of Campaign Statements and Disclosures

Each candidate and committee shall file campaign statements in the time and manner required by California Government Code sections 81000 et seq. and title 2 of the California Code of Regulations....

Government Code section 84211 – Contents of Campaign Statements

Each campaign statement required by this article shall contain all of the following:

....

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

....

(k) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement, all of the following:
   (1) His or her full name.
   (2) His or her street address.
   (3) The amount of each expenditure
   (4) A brief description of the consideration for which each expenditure was made.

. . . .

For purposes of subdivisions (i), (j), and (k) only, the terms "expenditure" or "expenditures" mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

. . . .

VI. Material Findings

Section 27.2930: Failure to Disclose Accrued Expenses

The Committee failed to report two accrued expenses on its campaign statement for the period ending December 31, 2008. In particular, the Committee entered into agreements with Ross Communications and KM Strategies in July 2008 where in exchange for their services it would pay a "win bonus" in the event that Marti Emerald prevailed in the November 8, 2008, general election. The agreed-upon win bonus for Ross Communications was $40,000 and for KM Strategies $10,000. Ms. Emerald prevailed in the November election. The win bonuses became accrued expenses of the Emerald Committee on December 2, 2008, the date that the election results were certified by the City Council. The Committee failed to report the two win bonuses as accrued expenses on its campaign statement filed on February 2, 2009, for the period from October 19, 2008, through December 31, 2008. On July 13, 2009, the Committee filed an amended campaign statement for the period ending December 31, 2008, to include these previously undisclosed accrued expenses.

At the post-audit conference held on December 4, 2009, the Committee's treasurer explained that the aforementioned win bonuses were not disclosed on the statement for the period ending December 31, 2008, because she believed the win bonuses were not reportable until they were paid. The treasurer acknowledged that she had previously disclosed other unpaid expenses as "accrued expenses" on campaign statements; however, she thought win bonuses were handled differently. The treasurer believed the Committee's disclosure obligations were fulfilled when the win bonus payments were reported on the Committee's campaign statement for the period ending June 30, 2009.

VII. Conclusion

Through the examination of the Committee's records and campaign disclosure statements, the Auditor verified that the Committee timely disclosed all contributions received and all expenditures made and that the Committee maintained the necessary documentation regarding contributions and expenditures

in accordance with disclosure and record-keeping provisions of ECCO, with the following exceptions: **the Committee failed to report two accrued expenses in violation of San Diego Municipal Code section 27.2930.**

_____ _____

Rosalba Gomez — Date
Ethics Commission Auditor

_____ _____

Lauri Davis — Date
Ethics Commission Senior Investigator