

1 ALISON ADEMA, General Counsel  
City of San Diego Ethics Commission  
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5 Petitioner

6  
7 **BEFORE THE CITY OF SAN DIEGO**  
8 **ETHICS COMMISSION**

9  
10 In re the Matter of: ) Case No.: 2008-73  
11 )  
MARTI EMERALD, ) **FINAL ADMINISTRATIVE**  
12 ) **COMPLAINT**  
Respondent. )  
13 ) [SDMC § 26.0430]  
14 )  
15 ) Date: February 25, 2010  
Time: 9:00 a.m.  
16 ) Location: 202 C Street, 12th Floor  
San Diego, CA 92101

17 Petitioner Alison Adema, General Counsel of the City of San Diego Ethics Commission  
18 [Ethics Commission], hereby alleges that the above-named Respondent violated the San Diego  
19 Municipal Code as follows:

20 **Parties**

21 1. Petitioner Alison Adema is the General Counsel of the Ethics Commission and makes  
22 this accusation in her official capacity. The Ethics Commission is charged with a duty to  
23 administer, implement, and enforce local governmental campaign laws contained in the San  
24 Diego Municipal Code [SDMC] relating to, among other things, the provisions of the City's  
25 Election Campaign Control Ordinance [ECCO].

26 2. At all times mentioned herein, Marti Emerald was a candidate for City Council  
27 District 7 in the 2008 election cycle. The Marti Emerald for San Diego committee (Identification  
28 No. 1301052) [Emerald Committee] is a campaign committee registered with the State of

1 California and established to support Ms. Emerald's candidacy for City Council. At all relevant  
2 times herein, the Emerald Committee was controlled by Ms. Emerald within the meaning of the  
3 California Political Reform Act, California Government Code section 82016.

#### 4 **General Allegations**

5 3. As a candidate for elective office in the City of San Diego, Respondent is required  
6 to comply with the provisions of ECCO.

7 4. SDMC section 27.2930 requires candidates and committees to file campaign  
8 statements in the time and manner required by state law. According to the filing deadlines  
9 delineated in California Government Code sections 84200, et seq., candidates in the November  
10 2008 general election were required to file campaign statements covering the period from  
11 October 19, 2009, through December 31, 2009, on or before February 2, 2009 (January 31, 2009,  
12 fell on a Saturday).

13 5. California Government Code section 84211 requires the disclosure on campaign  
14 statements of all expenditures over \$100, and specifically includes accrued expenses. Moreover,  
15 Fair Political Practices Commission Regulation 18421.6 states that recipient committees must  
16 disclose accrued expenses on campaign statements from the time the expenses are incurred until  
17 they are extinguished.

18 6. Respondent entered into agreements with two campaign vendors whereby she  
19 agreed to pay each a "win bonus" in the event that she prevailed in the November 2008 general  
20 election. In particular, Respondent agreed to pay KM Strategies a win bonus in the amount of  
21 \$10,000, and Ross Communications a win bonus in the amount of \$40,000. Respondent did in  
22 fact prevail in this election, and the win bonuses became accrued expenses of the Emerald  
23 Committee on December 2, 2008, the date that the election results were certified by the City  
24 Council.

25 7. The Ethics Commission, in accordance with SDMC section 26.0423, authorized a  
26 formal investigation into allegations that Respondent failed to comply with various provisions of  
27 ECCO. As a result of this investigation Petitioner concluded that Respondent did not timely  
28 disclose the win bonuses owed to KM Strategies and Ross Communications on the campaign  
statement filed on February 2, 2009, covering the period from October 19, 2008, through

1 December 31, 2008, despite the fact that these expenses were accrued during the reporting  
2 period. On July 13, 2009, in accordance with direction from the Ethics Commission, Respondent  
3 filed an amended campaign statement for the period ending December 31, 2008, and disclosed  
4 both win bonuses as accrued expenses.

5 **Counts**

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

7 8. Respondent failed to timely disclose the win bonus owed to KM Strategies in the  
8 amount of \$10,000 in violation of SDMC section 27.2930. In particular, Respondent did not  
9 disclose this accrued expense on the campaign statement filed on February 2, 2009, covering the  
10 period from October 19, 2008, through December 31, 2008, despite the fact that the expense was  
11 accrued during the reporting period. The accrued expense was not disclosed until July 13, 2009,  
12 over six months late.

13 9. Respondent failed to timely disclose the win bonus owed to Ross Communications  
14 in the amount of \$40,000 in violation of SDMC section 27.2930. In particular, Respondent did  
15 not disclose this accrued expense on the campaign statement filed on February 2, 2009, covering  
16 the period from October 19, 2008, through December 31, 2008, despite the fact that the expense  
17 was accrued during the reporting period. The accrued expense was not disclosed until July 13,  
18 2009, over six months late.

19 **WHEREFORE**, Petitioner prays as follows:

20 1. That the Ethics Commission find that Respondent violated the San Diego Municipal  
21 Code as alleged herein;

22 2. That the Ethics Commission order Respondent to pay a monetary penalty to the  
23 General Fund of the City of up to five thousand dollars (\$5,000) for each violation; and

24 3. That the Ethics Commission grant such other relief as it deems just and proper.

25  
26 Dated: December 10, 2009

**CITY OF SAN DIEGO ETHICS COMMISSION**

27 By \_\_\_\_\_  
28 Alison Adema, General Counsel