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Petitioner

BEFORE THE CITY OF SAN DIEGO

ETHICS COMMISSION

In re the Matter of:	)	Case No.: 2011-66
	)	
MARTI EMERALD,	)	**STIPULATION, DECISION, AND ORDER**
	)	
Respondent.	)	
	)	
	)	

STIPULATION

THE PARTIES STIPULATE AS FOLLOWS:

1. Petitioner Christina Cameron is the General Counsel of the City of San Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer, implement, and enforce local governmental ethics laws contained in the San Diego Municipal Code [SDMC] relating to, among other things, the provisions of the City's Ethics Ordinance.

2. At all times mentioned herein, Marti Emerald was the Councilmember elected to represent City Council District 7. Councilmember Emerald is referred to herein as "Respondent."

3. This Stipulation will be submitted for consideration by the Ethics Commission at its next scheduled meeting, and the agreements contained herein are contingent upon the approval of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

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4. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics Commission without the necessity of holding an administrative hearing to determine Respondent's liability.

5. Respondent understands and knowingly and voluntarily waives any and all procedural rights under the SDMC, including, but not limited to, a determination of probable cause, the issuance and receipt of an administrative complaint, the right to appear personally in any administrative hearing held in this matter, the right to confront and cross-examine witnesses testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees to hold the City of San Diego harmless from any and all claims or damages resulting from the Commission's investigation, this stipulated agreement, or any matter reasonably related thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a reference to each violation, and an order.

6. Respondent acknowledges that this Stipulation is not binding upon any other law enforcement or government agency and does not preclude the Ethics Commission from referring this matter to, cooperating with, or assisting any other law enforcement or government agency with regard to this or any other related matter.

7. The parties agree that in the event the Ethics Commission refuses to accept this Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission becomes necessary, no member of the Ethics Commission or its staff shall be disqualified because of prior consideration of this Stipulation.

Summary of Law and Facts

8. As an elected officeholder, Respondent is a City Official required to abide by the provisions of the City's Ethics Ordinance. SDMC § 27.3503.

9. The Ethics Ordinance prohibits City Officials from using City resources for activities associated with a campaign for elective City office. SDMC § 27.3564(b).

10. On August 26, 2011, Respondent disseminated a News Release (attached as Exhibit A) that included an announcement regarding her plans to run for elective office in the newly-created Council District 9. The News Release was prepared by Council District 7 staff, includes the City seal, and was distributed via Respondent's City email account.

Counts

Count 1 - Violation of SDMC section 27.3564

11. Respondent violated SDMC section 27.3564 by using City resources to prepare and disseminate a News Release on August 26, 2011, that included information regarding her future plans to run for elective City office.

Factors in Mitigation

12. Respondent cooperated fully with the Ethics Commission's investigation.

13. In light of the recent redistricting process, Respondent received numerous inquiries regarding the impact the process would have on the representation of her constituents. The majority of the subject News Release provides information that is responsive to these inquires and is not associated with her campaign for elective office.

14. The underlying facts in this matter indicate that the violation was not willful or intentional. Specifically, Respondent's transparent use of City resources to prepare and disseminate the subject News Release suggests that she believed the content of the News Release was related to City business and not to campaign activities.

Conclusion

15. Respondent agrees to take necessary and prudent precautions to comply with all provisions of the Ethics Ordinance in the future.

16. Respondent acknowledges that the Ethics Commission may impose increased fines in connection with any future violations of the City's ethics laws.

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17. Respondent agrees to pay a fine in the amount of $500 for violating SDMC section 27.3564. This amount must be paid by check or money order made payable to the City Treasurer no later than October 12, 2011. The submitted payment will be held pending Commission approval of this Stipulation and execution of the Decision and Order portion set forth below.

DATED:_____ _____
CHRISTINA CAMERON, General Counsel
ETHICS COMMISSION, Petitioner

DATED:_____ _____
MARTI EMERALD, Respondent

DECISION AND ORDER

The Ethics Commission considered the above Stipulation at its meeting on October 13, 2011. The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the Stipulation, Respondent pay a fine in the amount of $500.

DATED:_____ _____
Clyde Fuller, Chair
SAN DIEGO ETHICS COMMISSION

NEWS RELEASE
COUNCILMEMBER MARTI EMERALD

Date: August 26, 2011

For Immediate Release

Contact: **Don Mullen**
Phone: **619-846-0228**
E-mail: **dmullen@sandiego.gov**

Councilmember Emerald To Run In District 9

San Diego City Councilmember Marti Emerald will to run for a second term on the City Council, but will do so in the newly created Council District 9. Emerald has represented District 7 since 2008. The Councilmember recently sold her home in Tierrasanta and moved to the San Diego State University (SDSU) area, which was also in her 7th District. However, the San Diego Redistricting Commission has included the SDSU area in the city's new 9th District.

"My staff and I have been representing many of the neighborhoods in this new district since I assumed office and we have a great relationship with them", said Emerald responding to the newly approved district map. "I look forward to continuing our partnership with these communities and the other neighborhoods in our new district".

The Redistricting Commission cut District 7 in half, divided by Interstate 8. The new 9th District will be south of I-8, including the College Area, Rolando, El Cerrito, City Heights, Talmadge, Kensington, and South along Interstate 15, including the Mount Hope, Mountain View, and Southcrest communities.

"I want to assure all of my District 7 constituents both north and south of I-8 that my staff and I will continue to provide support and services until a new a Council person is elected to represent them. It is my honor to serve the 7th District and the City of San Diego".

Meantime, Emerald plans immediate outreach in the new district to get up to speed on neighborhood issues and ensure a seamless transition after the 2012 election.

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EXHIBIT A