

1 ALISON ADEMA, General Counsel
City of San Diego Ethics Commission
2 1010 Second Avenue, Suite 1530
San Diego, CA 92101
3 Telephone: (619) 533-3476
4 Facsimile: (619) 533-3448

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)
12) **AMENDED NOTICE OF**
MARTI EMERALD,) **ADMINISTRATIVE HEARING**
13)
Respondent.) [SDMC § 26.0430]
14) **Date:** April 8, 2010
15) **Time:** 12:00 p.m.
16) **Location:** 202 C Street, 12th Floor
San Diego, CA 92101

17 **TO: RESPONDENT AND HER REPRESENTATIVE(S) OF RECORD:**

18 **YOU ARE HEREBY NOTIFIED** that a public hearing will be held before a Presiding
19 Authority appointed by the City of San Diego Ethics Commission upon the allegations made in
20 the Final Administrative Complaint. The hearing will be held on April 8, 2010, commencing at
21 12:00 p.m., in the Council Committee Room at 202 C Street, 12th Floor, San Diego, California,
22 92101. The hearing will conclude at 6:00 p.m. on April 8, 2010, unless completed earlier, and, if
23 the hearing is not completed on April 8, 2010, it will continue on April 29, 2010, commencing at
24 9:00 a.m.

25 Pursuant to San Diego Municipal Code section 26.0435(b)(2)(A), the entire Commission
26 has been appointed as the Presiding Authority to conduct the Administrative Hearing, comprised
27 of Commissioners Lee Biddle, Clyde Fuller, Dorothy Leonard, Richard Valdez, and Larry
28 Westfall.

1 You have a right to attend the hearing, and may be represented by legal counsel or any
2 other representative of your choosing. You may present any relevant evidence, including the
3 testimony of witnesses, and will be given an opportunity to cross-examine all witnesses
4 testifying against you.

5
6 Dated: March 15, 2010

CITY OF SAN DIEGO ETHICS COMMISSION

7
8 By _____
Alison Adema, General Counsel

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 ALISON ADEMA, General Counsel
City of San Diego Ethics Commission
2 1010 Second Avenue, Suite 1530
San Diego, CA 92101
3 Telephone: (619) 533-3476
4 Facsimile: (619) 533-3448

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