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9 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**

10 **STATE OF CALIFORNIA**

11 In the Matter of

FPPC Case No. 21/98

12 **STIPULATION, DECISION AND ORDER**

13 LUNDGREN MANAGEMENT
14 CORPORATION,

15 Respondent.

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17 **INTRODUCTION**

18 Respondent, Lundgren Management Corporation (ID# 1342790) (the “Committee”), is a
19 business entity incorporated in the State of California for construction management and consulting. The
20 Committee engaged in campaign activities in 2016 as a major donor committee under the Political
21 Reform Act (the “Act”).¹ The Act requires major donor committees to timely file certain campaign
22 statements and reports to disclose their campaign activities. The Committee violated the Act by failing
23 to timely file semi-annual campaign statements and 24-hour contribution reports.

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28 ¹ The Political Reform Act is contained in Government Code §§ 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practice Commission are contained in §§ 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 The Act and its regulations are amended from time to time. The violations in this case occurred
3 in 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as
4 they existed at that time.

5 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

6 When enacting the Act, the people of California found and declared that previous laws regulating
7 political practices suffered from inadequate enforcement by state and local authorities.² Thus, it was
8 decreed the Act “should be liberally construed to accomplish its purposes.”³

9 A central purpose of the Act is to promote transparency by ensuring that receipts and
10 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed
11 and improper practices are inhibited.⁴ Another purpose of the Act is to provide adequate enforcement
12 mechanisms so that the Act will be “vigorously enforced.”⁵

13 **Major Donor Committee**

14 Under the Act, “committee” means any person or combination of persons who directly or
15 indirectly makes contributions totaling \$10,000 or more in a calendar year to or at the behest of
16 candidates or committees.⁶ This type of committee is known as a major donor committee.

17 **General Purpose Committee**

18 Under the Act, “general purpose committee” includes major donor committees.⁷ A committee is
19 considered a state committee unless it qualifies as a city or county committee.⁸ Also, a major donor
20 committee is considered a state committee if it has made any amount of contributions during the
21 calendar year to support or oppose candidates or measures voted on in state elections, including
22 contributions to other state committees.⁹ A “county general purpose committee” is a committee that

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25 ² Section 81001, subd. (h).

26 ³ Section 81003.

27 ⁴ Section 81002, subd. (a).

28 ⁵ Section 81002, subd. (f).

⁶ Section 82013, subd. (c).

⁷ Section 82027.5, subd. (a) and Regulation 18227.5, subd. (a).

⁸ Regulation 18227.5, subd. (c).

⁹ Regulation 18227.5, subd. (c)(3)(C).

1 makes more than 70% of its contributions or expenditures to support or oppose candidates or measures
2 voted on in only one county.¹⁰

3 **Campaign Reports and Statements; Where to File**

4 State general purpose committees shall file the original and one copy of the campaign statement
5 in paper format with the Secretary of State.¹¹ County general purpose committees shall file the original
6 and one copy of the campaign statement with the elections official of the county.¹² If a committee is
7 initially required to file as a city or county major donor committee and later during the calendar year it
8 qualifies as another type of committee, it must continue to file copies of its campaign statements in the
9 original city or county (in addition to the other locations in which it is required to file) until the end of
10 the calendar year.¹³

11 Each committee that makes a late contribution shall report the late contribution to each office
12 with which the committee is required to file its next campaign statement.¹⁴

13 A general purpose committee shall verify its filing jurisdiction quarterly at the end of March,
14 June, September, and December.¹⁵ For purposes of determining where to file, a major donor committee
15 qualifies anew as a committee each year, and accordingly shall count contributions or expenditures
16 made to support or oppose candidates or measures during the current calendar year.¹⁶

17 **Duty to File Semi-Annual Campaign Statements**

18 All major donor committees shall file semi-annual campaign statements each year no later than
19 July 31 for the period ending June 30, and no later than January 31 for the period ending December 31,
20 if they have made contributions or independent expenditures during the six-month period before the
21 closing date of the statements.¹⁷

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25 ¹⁰ Regulation 18227.5, subd. (c)(2).

26 ¹¹ Section 84215, subd. (a).

27 ¹² Section 84215, subd. (c).

28 ¹³ Section 84215, subd. (g).

¹⁴ Section 84203.

¹⁵ Regulation 18227.5, subd. (d)(1).

¹⁶ Regulation 18227.5, subd. (d)(4).

¹⁷ Section 84200, subd. (b).

1 **Duty to File 24-Hour Contribution Reports**

2 Under the Act, a “late contribution” includes a contribution that totals in the aggregate \$1,000 or
3 more and is made to or received by a candidate, a controlled committee, or a committee formed or
4 existing primarily to support or oppose a candidate or measure during the 90-day period preceding the
5 date of the election, or on the date of the election, at which the candidate or measure is to be voted on.¹⁸
6 Each candidate or committee that makes or receives a late contribution shall report the late contribution
7 within 24 hours of the time it is made or received.¹⁹

8 **Filing Due Dates**

9 Whenever the Act requires that a statement or report be filed prior to or not later than a specified
10 date, and the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for such a
11 statement or report shall be extended to the next regular business day.²⁰

12 **SUMMARY OF THE FACTS**

13 According to the Committee’s campaign statements, it qualified as a major donor committee on
14 March 25, 2016 after making a \$25,000 contribution to a primarily formed ballot measure committee.
15 Throughout 2016, the Committee reported making \$162,950 in contributions.

16 **Failure to Timely File Semi-Annual Campaign Statements**

17 As a major donor committee, the Committee was required to file a semi-annual campaign
18 statement for the reporting period of January 1, 2016 to June 30, 2016 by the August 1, 2016 due date
19 since it made contributions during this reporting period. On August 19, 2016, the Committee filed a
20 semi-annual campaign statement with a reporting period of January 1, 2016 to August 19, 2016 with the
21 Secretary of State. This statement disclosed \$79,950 in contributions made between January 1, 2016 and
22 June 30, 2016 as follows:

Date	Name	Candidate/Measure	Jurisdiction	Amount
03/25/2016	Committee for COC (ID# 1384666)	Measure E	Los Angeles	\$25,000
04/29/2016				\$24,950
06/16/2016				\$30,000
			TOTAL:	\$79,950

27 ¹⁸ Section 82036, subd. (a).

28 ¹⁹ Section 84203.

²⁰ Regulation 18116, subd. (a).

1 Since more than 70% of the Committee's contributions were made to support a measure voted on
 2 in only one county and no contributions were made to state committees, the Committee qualified as a
 3 county committee. As a county committee, the Committee was required to file a semi-annual campaign
 4 statement with the Los Angeles County Registrar-Recorder/County Clerk's office ("LACRR") for the
 5 reporting period of January 1, 2016 and June 30, 2016 by the August 1, 2016 due date. Instead, the
 6 Committee reported these contributions on a semi-annual campaign statement filed August 19, 2016
 7 with the Secretary of State. Thus, the Committee was 18 days late in disclosing its campaign activity for
 8 the reporting period of January 1, 2016 to June 30, 2016 and failed to file this statement with LACRR.

9 **Failure to Timely File 24-Hour Contribution Reports**

10 As a major donor committee, the Committee was also required to file 24-hour contribution
 11 reports within 24 hours of making a late contribution. The 90-day period preceding the June 7, 2016
 12 Primary Election began on March 9, 2016. The 90-day period preceding the November 8, 2016 General
 13 Election began on August 10, 2016. The Committee's semi-annual campaign statements revealed late
 14 contributions made by the Committee that required 24-hour contribution reports that were never filed.
 15 The Committee failed to timely file 24-hour contribution reports as follows:

DATE	NAME OF RECIPIENT	AMOUNT	DUE DATE
03/25/2016	Committee for COC	\$25,000	03/28/2016
04/29/2016	(ID# 1384666)	\$24,950	05/02/2016
08/17/2016	PTA for Better-Safer Schools (ID# 1388934)	\$2,500	08/18/2016
08/19/2016	Yes for Bakersfield City K-8 Schools (ID# 1388152)	\$5,000	08/22/2016
10/06/2016	Yes on AV AVC 21 (ID# 1388257)	\$40,000	10/07/2016
	Yes on GC Glendale Community College (ID# 1390507)	\$1,000	
	Wilk for Senate 2016 (ID# 1383880)	\$1,000	
10/27/2016	Yes on M Save Capistrano USD (ID# 1388375)	\$2,000	10/28/2016
TOTAL:		\$101,450	

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1 In summary, the Committee failed to timely file six 24-hour contribution reports prior to the
2 relevant elections in 2016 to disclose eight late contributions made totaling \$101,450. Each of the
3 recipient committees that received late contributions from the Committee, during the pre-election
4 reporting periods, reported the late contributions prior to the election on pre-election campaign
5 statements. And all of the recipient committees also reported the late contributions prior to the election
6 on 24-hour contribution reports. Thus, all of the Committee's late contributions were disclosed prior to
7 the election by the recipient committees.

8 VIOLATIONS

9 **Count 1: Failure to Timely File Semi-Annual Campaign Statement**

10 The Committee failed to timely file a semi-annual campaign statement for the reporting period
11 ending June 30, 2016 by the August 1, 2016 due date, in violation of Government Code Section 84200,
12 subdivision (b).

13 **Count 2: Failure to Timely File 24-Hour Contribution Reports**

14 Prior to the June 7, 2016 Primary Election, the Committee failed to timely file two 24-hour
15 contribution reports for two late contributions made on March 25, 2016 and April 29, 2016, totaling
16 \$49,950, by the March 28, 2016 and May 2, 2016 respective due dates, in violation of Government Code
17 Section 84203.

18 **Count 3: Failure to Timely File 24-Hour Contribution Reports**

19 Prior to the November 8, 2016 General Election, the Committee failed to timely file four 24-hour
20 contribution reports for six late contributions made on August 17, 2016, August 19, 2016, October 6,
21 2016, and October 27, 2016, totaling \$51,500, by the August 18, 2016, August 22, 2016, October 7,
22 2016 and October 28, 2016 respective due dates, in violation of Government Code Section 84203.

23 PROPOSED PENALTY

24 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
25 count. Thus, the maximum penalty that may be imposed here is \$15,000.²¹

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²¹ Section 83116, subd. (c).

1 This case is excluded from the Tier One Streamline Program because the Committee's
2 contributions for calendar year 2016 exceeded \$50,000.²² This case is not eligible for inclusion in the
3 Tier Two Streamline Program because the Committee's contributions for calendar 2016 exceeded
4 \$150,000 and more than three statements or reports were late during that calendar year.²³

5 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
6 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
7 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division
8 considers the facts and circumstances of the violation in the context of the following factors set forth in
9 Regulation 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused
10 by the specific violation; (2) The level of experience of the violator with the requirements of the
11 Political Reform Act; (3) Penalties previously imposed by the Commission in comparable cases; (4) The
12 presence or absence of any intention to conceal, deceive or mislead; (5) Whether the violation was
13 deliberate, negligent or inadvertent; (6) Whether the violator demonstrated good faith by consulting the
14 Commission staff or any other governmental agency in a manner not constituting complete defense
15 under Government Code Section 83114(b); (7) Whether the violation was isolated or part of a pattern
16 and whether the violator has a prior record of violations of the Political Reform Act or similar laws; and
17 (8) Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide
18 full disclosure.²⁴

19 The public harm inherent in campaign reporting violations is that the public is deprived of
20 important, time-sensitive information regarding campaign activity. Here, the Committee's failure to
21 timely file 24-hour contribution reports is mitigated because a majority of the Committee's campaign
22 activity, approximately 62%, was disclosed by the recipient committees prior to the relevant elections on
23 pre-election campaign statements and/or 24-hour contribution reports.

24 In this case, there was no evidence to support an intent to conceal, deceive or mislead the public
25 as to the Committee's campaign activities as the Committee filed a semi-annual campaign statement
26 with the Secretary of State only 18 days late and disclosed each of the contributions. Also, some

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28 ²² Regulation 18360.1, subd. (d)(13)(B)(ii)(a).

²³ Regulation 18360.3, subd. (d)(10)(B)(ii)(a).

²⁴ Regulation 18361.5, subd. (e).

1 evidence supports that the Committee did not receive major donor notifications from the recipient
2 committees. The Enforcement Division confirmed the Committee did not receive a major donor
3 notification from one of the recipient committees, Committee for College of the Canyons – Yes on
4 Measure E, during investigation of FPPC Case No. 2017-00287.²⁵ The Enforcement Division could not
5 determine whether the remaining major donor notifications were sent since the 4-year recordkeeping
6 requirement for the recipient committees had passed well before the complaint in this case was filed.

7 The violations here appear to be negligent as the Committee had previously qualified as a major
8 donor committee and filed campaign statements in 2011, 2012, and 2013. Also, the Committee has a
9 prior enforcement history for failing to timely file a semi-annual campaign statement after it qualified as
10 a major donor committee in 2006. Thus, the Committee knew, or should have known, of its filing
11 obligations. The Committee did not consult with Commission staff or any other governmental agency
12 regarding its campaign reporting obligations. However, the Committee has been fully cooperative with
13 the FPPC and the Committee’s responsible officer and person in charge of filing the Committee’s
14 campaign statements and reports at the time of these violations is now deceased. The responsible
15 officer’s widow has agreed to settle this matter on behalf of the Committee even though she had no
16 knowledge or involvement in the contributions or the reporting of them.

17 The Commission considers penalties in prior cases with the same or similar violations and
18 comparable facts.

19 *In the Matter of Del Terra Real Estate Services, Inc.*; FPPC Case No. 2018-00619. Respondent, a
20 major donor committee, failed to timely file two semi-annual campaign statements to disclose the
21 contributions it made in 2016 totaling \$53,350 (1 count) and 24-hour contribution reports to disclose
22 three late contributions it made totaling \$40,000 (1 count). In aggravation, Respondent received at least
23 three major donor notices regarding its potential filing obligations and had previously qualified as a
24 major donor committee in 2014 and 2015. On December 17, 2020, the Commission approved a penalty
25 of \$2,500 for each of these counts.

26 A similar penalty than that approved in *Del Terra* is recommended. Here, the Committee failed
27 to timely file a semi-annual campaign statement to disclose the contributions it made during the first half
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²⁵ The stipulated settlement for this case was approved by the Commission on June 18, 2020.

1 of 2016 totaling \$79,950, a higher amount than that at issue in *Del Terra*. In aggravation, the Committee
2 failed to timely file a copy of its semi-annual campaign statement for the second half of 2016 with
3 LACRR; however, the statement was timely filed with the Secretary of State. Next, the Committee
4 failed to timely file 24-hour contribution reports to disclose eight late contributions made totaling
5 \$101,450, a higher amount than that at issue in *Del Terra*. Similar to *Del Terra*, the Committee had
6 previously qualified as a major donor committee.

7 In mitigation to all counts, the Committee's responsible officer and person in charge of filing the
8 Committee's campaign statements and reports at the time of these violations is now deceased; the
9 responsible officer's widow has fully cooperated with the Enforcement Division and signed a tolling
10 agreement; and there is some evidence that the Committee did not receive major donor notifications.

11 Therefore, a total penalty of \$7,500 is recommended; 1 count of \$2,500 for failing to timely file a
12 semi-annual campaign statement and 2 counts of \$2,500 per count for failing to timely file 24-hour
13 contribution reports.

14 Under these circumstances, it is respectfully submitted that imposition of an agreed upon penalty
15 in the amount of \$7,500 is justified, as reflected in the chart below:

Count	Violation	Penalty
1	Failure to Timely File Semi-Annual Campaign Statement	\$2,500
2	Failure to Timely File 24-Hour Contribution Reports	\$2,500
3	Failure to Timely File 24-Hour Contribution Reports	\$2,500
	TOTAL:	\$7,500

21 CONCLUSION

22 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
23 Respondent, Lundgren Management Corporation, hereby agree as follows:

- 24 1. Respondent violated the Act as described in the foregoing pages, which are a true and accurate
25 summary of the facts in this matter.
- 26 2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at
27 its next regularly scheduled meeting – or as soon thereafter as the matter may be heard.

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1 3. This stipulation resolves all factual and legal issues raised in this matter – for the purpose
2 of reaching a final disposition without the necessity of holding an administrative hearing to
3 determine the liability of Respondent pursuant to Section 83116.

4 4. Respondent has consulted with its attorney, Gary S. Winuk of Kaufman Legal Group, and
5 understands, and hereby knowingly and voluntarily waives, any and all procedural rights set
6 forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This
7 includes, but is not limited to the right to appear personally at any administrative hearing held in
8 this matter, to be represented by an attorney at Respondent’s own expense, to confront and cross-
9 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to
10 have an impartial administrative law judge preside over the hearing as a hearing officer, and to
11 have the matter judicially reviewed.

12 5. Respondent agrees to the issuance of the decision and orders set forth below. Also,
13 Respondent agrees to the Commission imposing against them an administrative penalty in the
14 amount of \$7,500. One or more cashier’s checks or money orders totaling said amount – to be
15 paid to the General Fund of the State of California – is/are submitted with this stipulation as full
16 payment of the administrative penalty described above, and same shall be held by the State of
17 California until the Commission issues its decision and order regarding this matter.

18 6. If the Commission refuses to approve this stipulation – then this stipulation shall become
19 null and void, and within fifteen business days after the Commission meeting at which the
20 stipulation is rejected, all payments tendered by Respondent in connection with this stipulation
21 shall be reimbursed to Respondent. If this stipulation is not approved by the Commission, and if
22 a full evidentiary hearing before the Commission becomes necessary, neither any member of the
23 Commission, nor the Executive Director, shall be disqualified because of prior consideration of
24 this stipulation.

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1 7. The parties to this agreement may execute their respective signature pages separately. A
2 copy of any party's executed signature page, including a hardcopy of a signature page
3 transmitted via fax or as a PDF email attachment, is as effective and binding as the original.
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6 Dated: _____
7 _____
8 Angela J. Brereton, Chief of Enforcement
9 Fair Political Practices Commission

10 Dated: _____
11 _____, on behalf of
12 Lundgren Management Corporation, Respondent
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16 The foregoing stipulation of the parties "In the Matter of Lundgren Management Corporation,"
17 FPPC Case No. 21/98, is hereby accepted as the final decision and order of the Fair Political Practices
18 Commission, effective upon execution by the Chair.
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20 IT IS SO ORDERED.
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22 Dated: _____
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24 Richard C. Miadich, Chair
25 Fair Political Practices Commission
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