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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:

CRD NO.: 151676

13 THE COMMISSIONER OF BUSINESS
14 OVERSIGHT,

15 Complainant,

ORDER SUMMARILY REVOKING
INVESTMENT ADVISER CERTIFICATE

16 v.

(CORP. CODE SECTION 25242)

17 BRIAN A. WITTMAN INVESTMENT
18 COUNSEL, LLC, an entity,

19 Respondent.

20
21 TO: Brian A. Wittman Investment Counsel, LLC
22 11201 South Eastern Avenue, Suite 100
Henderson, Nevada 89052

23
24 Jan Lynn Owen, Commissioner of Business Oversight (Commissioner) of the Department of
25 Business Oversight (DBO) finds that:

26 1. At all relevant times, Brian A. Wittman Investment Counsel, LLC (Wittman) was a
27 Nevada limited liability company which held a valid and unrevoked investment adviser certificate
28 issued by the Commissioner on July 27, 2010, pursuant to Corporations Code section 25230.

Wittman is located at 11201 South Eastern Avenue, Suite 100, Henderson, Nevada 89052.

1 2. On or about March 14, 2018, the Commissioner notified Wittman that it must designate
2 an email address to receive an online examination form. In response to the Commissioner’s
3 notification, Wittman designated an email address to receive the online examination form.

4 3. On or about October 2, 2018, the Commissioner sent the online examination to
5 Wittman to the email previously designated by Wittman. The Commissioner informed Wittman that
6 the online examination must be completed and submitted to the Department by November 16, 2018.

7 4. The Commissioner sent four emails, dated October 15, 2018, October 26 or 29, 2018,
8 November 5, 2018, and November 12, 2018, to Wittman’s designated email address, reminding
9 Wittman of the November 16, 2018 deadline to complete and submit the online examination.

10 5. Despite the Commissioner’s efforts, Wittman failed to timely complete and submit the
11 online examination by the November 16, 2018 deadline.

12 6. Corporations Code section 25241 requires every investment adviser licensed by the
13 Commissioner to maintain books and records, file reports with the Commissioner, and submit to
14 examination by the Commissioner, as the Commissioner deems necessary or appropriate in the
15 public interest or for the protection of investors.

16 Therefore, based on the foregoing and good cause appearing, it is hereby ORDERED under
17 Corporations Code section 25242, subdivision (c), that Brian A. Wittman Investment Counsel,
18 LLC’s investment adviser certificate is summarily revoked for violations of Corporations Code
19 section 25241. This order is effective immediately. This revocation precludes Brian A. Wittman
20 Investment Counsel, LLC from engaging in normal investment adviser activities that includes
21 soliciting or facilitating new business, including for existing clients.

22 This revocation does not preclude Brian A. Wittman Investment Counsel, LLC from
23 engaging in activities necessary to the winding down of the business such as liquidating transactions,
24 transferring accounts, forwarding any checks received to clearing firms, responding to regulatory
25 inquiries, and otherwise fielding client/customer inquiries for account servicing or document
26 requests, among other things.

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This order is necessary, in the public interest, for the protection of investors and consistent with the purposes, policies, and provisions of the Corporate Securities Law of 1968.

Dated: March 29, 2019

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARY ANN SMITH
Enforcement Division
Department of Business Oversight