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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

11 In the Matter of:) CRD No. 160862
12)
13 MACIAN WEALTH MANAGEMENT, LLC,) CONSENT ORDER
14)
15 Respondent.)
16)
17)

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19 Respondent Macian Wealth Management, LLC and Complainant the Commissioner of
20 Business Oversight (“Commissioner”) enter into this Consent Order (“Order”) based on the following
21 facts:

22 **RECITALS**

23 A. At all relevant times, Macian Wealth Management, LLC (“Macian”) (CRD number 160862)
24 is and was a California limited liability corporation with its primary place of business at 100 Cortona
25 Way, Suite 130, Brentwood, California 94513. Jadine Wong (CRD number 5628039) is and at all
26 relevant times was an officer and co-owner of Macian. Matthew Hodgen (CRD number 5751454) is
27 and at all relevant times was the chief executive officer and co-owner of Macian Wealth
28 Management. Macian operated an investment adviser business under a certificate issued by the

1 California Department of Business Oversight (“Department”) up until January 29, 2016 when the
2 certificate was summarily revoked for failure to pay renewal fees on time. Macian admits to the
3 jurisdiction of the Department in this matter for the purposes of issuing and enforcing this order.

4 B. The Commissioner of the Department of Business Oversight is authorized to administer and
5 enforce the provisions of the Corporate Securities Law of 1968, Corporations Code section 25000 et
6 seq. (“CSL”) and the regulations promulgated thereunder at Title 10, California Code of Regulations,
7 which includes the licensure and regulation of investment advisers.

8 C. On December 31, 2015, Macian had insufficient funds in its license renewal account linked to
9 the Investment Adviser Registration Depository (“IARD”) which is the online system used by the
10 Department for investment advisers to apply for and renew their investment adviser certification with
11 the Department. Due to Macian’s lack of funds, the IARD system automatically changed Macian’s
12 registration status to “Failure to Renew.” On January 29, 2016, Macian’s investment adviser
13 certificate was revoked by the DBO for failure to pay annual renewal fees. Written notices of the
14 DBO’s intent to revoke and the subsequent revocation of the certificate were sent by certified mail to
15 Macian’s registered business address. Macian did not receive the notices sent by certified mail, as no
16 one was present at their offices to sign for them when the post office repeatedly attempted delivery.
17 Both notices were subsequently returned to the Department as “undeliverable” by the post office.

18 D. On May 24, 2016, Macian filed an application to again obtain an investment adviser
19 certificate. During a review of the application, the Department’s examiners learned that Macian had
20 been conducting business as an investment adviser subsequent to its license revocation. Examiners
21 also learned that during the period of unlicensed activity, Macian had collected \$29,235.54 in fees
22 from their clients’ brokerage accounts.

23 E. The Commissioner finds that Macian violated CSL section 25230(a) which provides “It is
24 unlawful for any investment adviser to conduct business as an investment adviser in this state
25 unless the investment adviser has first applied for and secured from the Commissioner, a
26 certificate, then in effect, authorizing the investment adviser to do so or unless the investment
27 adviser is exempted or... subject to Section 25230.1.”

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1 F. The Commissioner is of the opinion that after January 29, 2016 when its license was revoked
2 by the Department for the failure to pay renewal fees, Macian Wealth Management, LLC conducted
3 business as an investment adviser in this state without first applying for and securing from the
4 Commissioner a certificate, then in effect, authorizing it to do so, in violation of section 25230 of the
5 CSL.

6 G. The Department informed Macian of its findings and of its intent to bring an administrative
7 enforcement action to require disgorgement of the fees charged to clients after its license had been
8 revoked, in addition to other remedies authorized by the CSL. In response, Macian indicated its
9 desire to cooperate with the Department to remedy any violations and to consent to the entry of this
10 Order without the need to file an enforcement action or for other litigation for its violations.

11 H. Macian admits to the jurisdiction of the Department and consents to entry of this Order by the
12 Department as settlement of the issues contained in this Order without the need to file an enforcement
13 action for its violations.

14 I. The Commissioner finds that this Order is necessary, in the public interest, for the protection
15 of investors, and consistent with the purposes, policies, and provisions of the CSL.

16 **TERMS**

17 1. Desist and Refrain Order. Pursuant to CSL section 25532, subdivision (b), Macian agrees to
18 desist and refrain from acting as an investment adviser in the State of California in violation of CSL
19 section 25530, unless and until it has first applied and then secured from the Commissioner a
20 certificate, then in effect, authorizing it to act as an investment adviser.

21 2. Order to Disgorge Fees. Macian agrees to disgorge all investment adviser fees, charged its
22 clients during the period of unlicensed activity from January 29, 2016 to the date of this Order.
23 Macian will disgorge the fees of \$29,235.54 within 30 days of the issuance of this Order. Macian will
24 provide a written report to the Department within 90 days of the issuance of this Order providing a
25 description of the amounts of the refunded fees paid along with proof of the acceptance of the fees by
26 the clients, their return to the client brokerage accounts or proof that the attempted refund was
27 returned in the mail as undeliverable or refund check not cashed by the client. Any of the excess fees
28 that cannot be returned to the affected clients after the 90 days is escheated to the state pursuant to the

1 provisions of the California Unclaimed Property Law (Code Civ. Proc., § 1500 et seq.)

2 3. Administrative Penalties. Macian agrees to pay administrative penalties in an amount of
3 \$5,000.00 due and payable to the Department within 10 days of execution of this Order. It shall be
4 paid by check made payable to the “Department of Business Oversight,” and mailed to the attention
5 of: Accounting, Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California
6 95814. Notice of payment shall be made to Senior Counsel, Kirk Wallace at Department of Business
7 Oversight, One Sansome Street, Suite 600, San Francisco, California 94104.

8 4. Remedy for Breach. In the event Macian fails to comply with the terms of this Order with
9 regard to any terms in this Order it is hereby stipulated and agreed by Macian that this Order may be
10 converted to an enforceable civil judgment for the entire amount of \$34,235.00 pursuant to the
11 procedure specified by CSL section 25532, subdivision (f). It is further agreed and stipulated that
12 such civil judgment may be entered by the court on an ex parte basis without the need of further
13 notice or hearing to Macian. It is agreed by the Department that any of the fees that have already been
14 disgorged by Macian or penalties already paid by Macian will count as an offset and a partial
15 satisfaction of the total amount of the civil judgment entered in any subsequent proceeding to enforce
16 the civil judgment.

17 5. Waiver of Hearing Rights. Macian has read this Order, is aware of a right to a hearing and
18 appeal in this matter if a formal enforcement action had been commenced to request the relief
19 specified under this Order, and elects to permanently waive any right to a hearing and appeal
20 including those under CSL sections 25232, 25232.1 and 25233 and to judicial review of this matter
21 pursuant to Code Civ. Proc. section 1094.5 with respect to the issuance of this Order.

22 6. Future Actions by the Commissioner. The Commissioner reserves the right to bring any
23 future action(s) against Macian or any of its partners, owners, officers, directors, shareholders,
24 employees, or successors for any and all unknown or future violations of the Corporations Code. This
25 Order shall not serve to exculpate Macian or any of its partners, owners, officers, directors,
26 shareholders, employees, or successors from liability for any and all unknown or future violations of
27 the CSL.

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7. Public Record. Macian hereby acknowledges that this Order is a matter of public record.

Dated: January 30, 2017

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: January 27, 2017

By _____
Matthew Hodgen C.E.O.
Macian Wealth Management, LLC