

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 SAMUEL J. PARK (State Bar No. 293902)  
Counsel  
4 Department of Business Oversight  
320 West 4th Street, Suite 750  
5 Los Angeles, California 90013  
Telephone: (213) 576-7683  
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
9 OF THE STATE OF CALIFORNIA

11	In the Matter of:	)	CRD NO.: 176523
12	THE COMMISSIONER OF BUSINESS	)	ORDER SUMMARILY REVOKING
13	OVERSIGHT,	)	INVESTMENT ADVISER CERTIFICATE
14	Complainant,	)	(CORP. CODE, § 25242)
15	v.	)	
16	WEALTH BY DESIGN, USA, INC.,	)	
17	Respondent.	)	
18		)	

19  
20 The Commissioner of Business Oversight (Commissioner) finds:

- 21 1. Wealth by Design USA, Inc. (Wealth by Design), is a California corporation with its  
22 principal place of business at 827 State Street, Suite 16, Santa Barbara, California 93101. Tamara  
23 Marie Simmons is the sole owner and officer of Wealth by Design.
- 24 2. On April 29, 2015, the Commissioner issued an investment adviser certificate to  
25 Wealth by Design.
- 26 3. Under Corporations Code section 25241, subdivision (a), certified investment  
27 advisers “shall make and keep accounts, correspondence, memorandums, papers, books, and other  
28 records and shall file financial and other reports as the commissioner by rule requires.”

1           4.       Certified investment advisers are required to file an annual financial report within 90  
2 days after their fiscal year-end. (Cal. Code Regs., tit. 10, § 260.241.2.)

3           5.       Certified investment advisers are also required to “make and keep true, accurate and  
4 current” enumerated books and records, including “[a]ll written agreements (or copies thereof)  
5 entered into by the investment adviser with any client or otherwise relating to the business of such  
6 investment adviser as such.” (Cal. Code Regs., tit. 10, § 260.241.3, subd. (a)(10).)

7           6.       On December 28, 2016, after conducting a routine examination of Wealth by Design  
8 under Corporations Code section 25241, the Commissioner mailed to Wealth by Design a  
9 regulatory letter identifying various violations of laws and regulations relating to investment  
10 advisers. In particular, the Commissioner informed Wealth by Design that it had not filed its 2015  
11 annual report as required under California Code of Regulations, title 10, section 260.241.2, and that  
12 the report was due. The Commissioner also informed Wealth by Design that the “Financial  
13 Planning Services Agreement” for one of its clients was not signed or dated as required under  
14 section 260.241.3, subdivision (a)(10) and requested that it provide a signed and dated copy. The  
15 Commissioner instructed Wealth by Design to submit a written response no later than 15 days after  
16 December 28, 2016, the date of the letter.

17           7.       On January 17, 2017, the Commissioner had not received a response. The  
18 Commissioner sent a follow-up letter by certified mail that day. It was returned as unclaimed.

19           8.       On February 6, 2017, the Commissioner still had not received a response. The  
20 Commissioner sent a follow-up letter by certified mail that day. It was returned as unclaimed.

21           9.       On February 17, 2017, the Commissioner received by electronic mail Wealth by  
22 Design’s response. In it, Wealth by Design stated that it was “including a signed and dated Financial  
23 Planning Services Agreement” for the previously identified client. No such document was included  
24 with the response, however. Wealth by Design also stated that it would prepare its 2015 annual  
25 report and file it “within 90 days of the fiscal year end.”

26           10.      On March 8, 2017, the Commissioner had not received the 2015 annual report or  
27 signed and dated Financial Planning Services Agreement. That day, the Commissioner sent a  
28 regulatory letter to Wealth by Design by certified mail and electronic mail, requesting that it provide

1 the 2015 annual report and signed agreement, among other things. The certified mailing was  
2 returned as unclaimed.

3 11. On May 5, 2017, the Commissioner still had not received the 2015 annual report or  
4 signed agreement. That day, the Commissioner sent a regulatory letter to Wealth by Design by  
5 certified mail and electronic mail, requesting the 2015 annual report and signed agreement, among  
6 other things, and warning that “[f]ailure to satisfactorily respond within 10 days from the date of  
7 this letter may lead to summary revocation or suspension” of its license. The certified mailing was  
8 returned as unclaimed.

9 12. On May 25, 2017, the Commissioner still had not received the 2015 annual report or  
10 signed agreement. That day, the Commissioner sent a regulatory letter to Wealth by Design by  
11 certified mail and electronic mail, again requesting the 2015 annual report and signed agreement,  
12 among other things, and warning that “[f]ailure to satisfactorily respond within 10 days from the  
13 date of this letter may lead to summary revocation or suspension” of its license. The certified  
14 mailing was returned as unclaimed. In addition, the Commissioner attempted personal service of the  
15 letter on May 30, May 31, and June 1, 2017, and was unsuccessful.

16 13. Under Corporations Code section 25242, the Commissioner may summarily revoke  
17 the certificate of an investment adviser if the adviser “fails to file any report required under Section  
18 25241 within 10 days after notice by the commissioner that the report is due” (§ 25242, subd.  
19 (c)(2)) or if the adviser “fails to maintain records as required by Section 25241” (§ 25242, subd.  
20 (c)(6)).

21 14. To date, Wealth by Design has not filed its 2015 annual report. Accordingly, Wealth  
22 by Design failed to file a required report within 10 days after notice from the Commissioner in  
23 violation of Corporations Code section 25242, subdivision (c)(2).

24 15. To date, Wealth by Design has not provided to the Commissioner the requested  
25 signed and dated copy of one of its Financial Planning Services Agreements. Accordingly, Wealth  
26 by Design failed to maintain records in violation of Corporations Code section 25242, subdivision  
27 (c)(6).  
28

1           Therefore, based on the foregoing and good cause appearing, it is hereby ORDERED under  
2 Corporations Code section 25242, subdivision (c)(2) and (c)(6), that Wealth by Design’s investment  
3 adviser certificate is summarily revoked. This Order is effective immediately. Wealth by Design is  
4 precluded from soliciting or facilitating new business, including for existing clients. This revocation  
5 does not preclude Wealth by Design from engaging in activities necessary to wind down the  
6 business, such as liquidating transactions, transferring accounts, forwarding any checks received to  
7 the clearing firm, responding to regulatory inquiries, filing Form U5s for investment adviser  
8 representatives, and fielding client requests for account servicing or documents, for up to 60 days  
9 after the date of this Order. Any winding down of the investment adviser business must be  
10 completed by the end of the 60-day period, after which Wealth by Design is not permitted to engage  
11 in any further investment adviser activities.

12  
13 Dated: July 24, 2017  
14           Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

15  
16 By: \_\_\_\_\_  
17           MARY ANN SMITH  
18           Deputy Commissioner  
19           Enforcement Division  
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