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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

10

OF THE STATE OF CALIFORNIA

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In the Matter of THE COMMISSIONER OF) DESIST AND REFRAIN ORDER PURSUANT
BUSINESS OVERSIGHT OF THE STATE OF) TO CALIFORNIA FINANCIAL CODE
13 CALIFORNIA,) SECTION 23050; and

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Complainant,) ORDER VOIDING TRANSACTIONS
) PURSUANT TO CALIFORNIA FINANCIAL

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vs.) CODE SECTION 23060

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Horizon Opportunities LLC; and)
17 CWB Services LLC)

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Respondents.)

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21 The Commissioner of Business Oversight of the State of California (“Commissioner”),¹ is
22 informed and believes, and based on such information and belief, finds as follows:

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I.

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FACTUAL BACKGROUND

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1. Horizon Opportunities LLC (“Horizon Opportunities”) is, and was at all relevant times
26 herein, an entity of unknown form and not registered by the California Secretary of State to do

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¹ As of July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight.

1 business in the State of California. Horizon Opportunities transacts business over the internet using
2 the email address, horizoninfo@cwbservices.net, telephone number 1-855-502-2936, and fax number
3 1-888-342-5021.

4 2. CWB Services LLC (“CWB Services”) is, and was at all relevant times herein, a
5 Missouri limited liability company with business address located at 8900 Ward Parkway
6 Kansas City, Missouri 64114.

7 3. The Commissioner has jurisdiction over deferred deposit transactions as set forth in
8 the California Deferred Deposit Transaction Law (“CDDTL”) (California Financial Code section
9 23000 *et seq.*).

10 4. “Deferred deposit transaction” (commonly referred to as “payday loans” or “payday
11 advances”) means a transaction whereby a person defers depositing a customer’s personal check until
12 a specific date, pursuant to a written agreement for a fee or other charge. “Personal check,” which is
13 referenced in California Financial Code section 23001, subdivision (a), includes the electronic
14 equivalent of a personal check, such as an Automated Clearing House (“ACH”) or debit card
15 transaction.

16 5. Since at least December, 2012, Horizon Opportunities and CWB Services have
17 engaged in the business of originating or offering to originate deferred deposit transactions via the
18 internet to California residents as described below.

19 6. In or around December, 2012, at least one California resident filled out and submitted
20 an online payday loan application including personal information, such as address, telephone number,
21 and banking information. On December 27, 2012, the California resident received an email from
22 lisar@cwbservices.net stating, in relevant part, “This email is to inform you that your application has
23 been received by our lender, Horizon Opportunities LLC, and has been approved for funding today.
24 Your loan of \$300.00, which carries a finance charge of \$90.00, will be deposited tonight at midnight
25 to the account on file and available the next business day . . . Please contact our office immediately if
26 you have any questions or if you wish to cancel this loan. If we are not notified within two business
27 days of the receipt of this loan, then the loan will be considered active and you will need to contact
28 our office to make payment arrangements regarding the account. Thank you for your application and

1 we look forward to servicing your account.” The signature line read, “Horizon Opportunities LLC,”
2 telephone number 1-855-502-2936, fax number 1-888-342-5021, and email address
3 horizoninfo@cwbservices.net.

4 7. The email from lisar@cwbservices.net attached a document entitled, “Account
5 Summary,” which stated the loan amount of \$300.00, an annual percentage rate of 730.00%,
6 refinance amount of \$90.00, and pay off amount of \$390.00. It also stated that a return fee of \$30.00
7 “will be assessed for any and all finance charges returned to us by your financial institution.”
8 Furthermore, “By signing below you are authorizing Horizon Opportunities LLC, and/or their
9 servicers, Horizon Opportunities LLC and/or affiliates to debit the payoff amount due \$390.00 from
10 your account named above on your current due date” The California resident’s name was typed
11 but not signed.

12 8. On or around December 28, 2012, Horizon Opportunities deposited \$300.00 into the
13 California resident’s bank account. In January, 2013, Horizon Opportunities twice withdrew \$90.00,
14 for a total of \$180.00. In February, 2013, Horizon Opportunities made debit transactions to the
15 California resident’s bank account totaling \$420.00. In March, 2013, Horizon Opportunities made
16 debit transactions to the California resident’s bank account totaling \$210.00.

17 9. Neither Horizon Opportunities nor CWB Services has been issued a deferred deposit
18 transaction originator license by the Commissioner pursuant to the CDDTL. As such, neither
19 Horizon Opportunities nor CWB Services is authorized to engage in payday lending, or to offer,
20 originate, or make a deferred deposit transaction, arrange a deferred transaction for a deferred deposit
21 originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in
22 the origination of a deferred deposit transaction in California or to California residents.

23 II.

24 **DESIST AND REFRAIN ORDER**

25 The California Department of Business Oversight (“Department”) is responsible for enforcing
26 provisions of the CDDTL found in California Financial Code commencing at section 23000. The
27 Commissioner is authorized to pursue administrative actions and remedies against persons who
28 engage in violations of the CDDTL.

1 California Financial Code section 23050 provides, in pertinent part:

2 Whenever, in the opinion of the commissioner, any person is engaged in
3 the business of deferred deposit transactions . . . without a license from the
4 commissioner, or any licensee is violating any provision of this division,
5 the commissioner may order that person or licensee to desist and to refrain
6 from engaging in the business or further violating this division. If within
7 30 days, after the order is served, a written request for a hearing is filed
8 and no hearing is held within 30 days thereafter, the order is rescinded.

7 California Financial Code section 23005, subdivision (a) provides in pertinent part:

8 (a) No person shall offer, originate, or make a deferred deposit transaction,
9 arrange a deferred deposit transaction for a deferred deposit originator, act
10 as an agent for a deferred deposit originator, or assist a deferred deposit
11 originator in the origination of a deferred deposit transaction without first
12 obtaining a license from the commissioner and complying with the
13 provisions of this division.

12 California Financial Code section 23036, subdivision (a) limits fees to 15% of the face
13 amount of the deferred deposit transaction. Section 23036, subdivision (e) limits the exclusive fee
14 charged for the return of a dishonored check to fifteen dollars (\$15).

15 The foregoing facts establish violations of the CDDTL by Horizon Opportunities LLC and
16 CWB Services LLC, including: 1) engaging in the business of originating or offering to originate
17 deferred deposit transactions without having first obtained a license to do so from the Commissioner,
18 in violation of section 23005, subdivision (a); 2) charging excessive transaction fees in violation of
19 section 23036, subdivision (a); and 3) charging excessive returned check fees in violation of section
20 23036, subdivision (e).

21 Pursuant to Financial Code section 23050 Horizon Opportunities LLC and CWB Services
22 LLC are hereby ordered to desist and refrain from violating Financial Code sections 23005 and
23 23036. This Order is necessary for the protection of consumers and consistent with the purposes,
24 policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further
25 order of the Commissioner.

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III.

ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS

California Financial Code section 23060 provides:

(a) If any amount other than, or in excess of, the charges or fees permitted by this division is willfully charged, contracted for, or received, a deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive the principal amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

(b) If any provision of this division is willfully violated in the making or collection of a deferred deposit transaction, the deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive any amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

Pursuant to California Financial Code section 23060, subdivisions (a) and (b), any and all deferred deposit transactions contracted with California customers or in the State of California by Horizon Opportunities LLC and CWB Services LLC are therefore void. Horizon Opportunities LLC and CWB Services LLC are hereby ordered to immediately cease collecting all principal amounts, and return all principal amounts, provided in any and all deferred deposit transactions contracted with California customers or in the State of California, and to disgorge any and all charges or fees received in conjunction with those deferred deposit transactions.

Dated: July 29, 2014
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARY ANN SMITH
Deputy Commissioner