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10 BEFORE THE DEPARTMENT OF CORPORATIONS
11 OF THE STATE OF CALIFORNIA

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13	In the Matter of THE COMMISSIONER OF)	DESIST AND REFRAIN ORDER PURSUANT
14	CORPORATIONS OF THE STATE OF)	TO CALIFORNIA FINANCIAL CODE
15	CALIFORNIA,)	SECTION 23050; and
16	Complainant,)	ORDER VOIDING TRANSACTIONS
17	vs.)	PURSUANT TO CALIFORNIA FINANCIAL
18	Twin Bluffs Financial LLC a.k.a. Twin Bluffs)	CODE SECTION 23060
19	Financial; and)	
20	CWB Services LLC)	
21	Respondent.)	

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24 The Commissioner of Corporations of the State of California (“Commissioner” or
25 “Complainant”), is informed and believes, and based on such information and belief, finds as follows:

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I.**FACTUAL BACKGROUND**

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3 1. Twin Bluffs Financial LLC a.k.a. Twin Bluffs Financial (“Twin Bluffs”) is, and was at
4 all relevant times herein, an entity of unknown form and not registered by the California Secretary of
5 State to do business in the State of California. Twin Bluffs transacts business over the internet using
6 email address twinbluffsinfo@cwbservices.net and by telephone number, 1-855-417-4424, and fax
7 number, 1-888-280-8298.

8 2. CWB Services LLC (“CWB Services”) is, and was at all relevant times herein, an
9 entity of unknown form and not registered by the California Secretary of State to do business in the
10 State of California. CWB Services transacts business over the internet using email address
11 twinbluffsinfo@cwbservices.net and by telephone number, 1-855-417-4424, and fax number, 1-888-
12 280-8298.

13 3. The Commissioner has jurisdiction over deferred deposit transactions as set forth in
14 the California Deferred Deposit Transaction Law (“CDDTL”) (California Financial Code sections
15 23000 *et seq.*).

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

22 5. Since at least April, 2013, Twin Bluffs and CWB Services have engaged in the
23 business of originating or offering to originate deferred deposit transactions via the internet to
24 California residents as described below.

25 6. Prospective customers submit an online loan application that requires them to provide
26 personal information, including address, telephone number, social security number, and banking and
27 employment information. Shortly thereafter, Twin Bluffs and/or CWB Services calls the prospective
28 customers to verify this information and offer payday loans that charge fees beyond what the CDDTL

1 allows. Twin Bluffs and/or CWB Services then deposits the loan amount directly into the customer's
2 bank account.

3 7. For example, in or around April, 2013, Twin Bluffs and/or CWB Services called at
4 least one California resident who had submitted an online loan application. The California resident
5 received at least one email communication from CWB Services using the email address,
6 twinbluffsinfo@cwbservices.net, which included a loan agreement entitled, "Account Summary,"
7 attached to the email. The loan agreement states, "By signing below you are authorizing Twin Bluffs
8 Financial LLC, and/or their servicers, Twin Bluffs Financial LLC and/or affiliates to debit the pay off
9 amount due \$390.00 from your account named above on your current due date" The California
10 resident's name is printed, but not signed.

11 8. The loan agreement states the following terms: a \$300 loan amount at an interest rate
12 of 730%, a "refinance fee" of \$90, a returned check fee of \$30, and a due date for the amount of \$390
13 in two weeks. On the due date, and every two weeks thereafter to the present date, \$90 was
14 automatically withdrawn from the California resident's bank account.

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

21 II.

22 **DESIST AND REFRAIN ORDER**

23 The California Department of Corporations ("Department") is responsible for enforcing
24 provisions of the CDDTL found in California Financial Code commencing at section 23000. The
25 Commissioner is authorized to pursue administrative actions and remedies against persons who
26 engage in violations of the CDDTL.

27 California Financial Code section 23050 provides, in pertinent part:
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Whenever, in the opinion of the commissioner, any person is engaged in the business of deferred deposit transactions . . . without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating this division. If within 30 days, after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

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

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

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

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

Pursuant to Financial Code section 23050 Twin Bluffs Financial LLC a.k.a. Twin Bluffs Financial and CWB Services LLC are hereby ordered to desist and refrain from violating Financial Code sections 23005 and 23036. This Order is necessary for the protection of consumers and consistent with the purposes, policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further 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 Twin Bluffs Financial LLC a.k.a. Twin Bluffs Financial and CWB Services LLC are therefore void. Twin Bluffs Financial LLC a.k.a. Twin Bluffs Financial 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: June 13, 2013
Los Angeles, California

JAN LYNN OWEN
Commissioner of Corporations

By: _____
MARY ANN SMITH
Deputy Commissioner