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3 **STATE OF OREGON**
4 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**
5 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

6 **BEFORE THE DIRECTOR OF THE DEPARTMENT**
7 **OF CONSUMER AND BUSINESS SERVICES**

8 In the Matter of:

9 **Case No. PD-11-0079**

10 **SCS PROCESSING, LLC ;**
11 **dba EVEREST CASH ADVANCE,**
12 **dba EVEREST CASH ADVANCE, LLC;**
13 **dba EVERESTCASHADVANCE.COM,**
14 **dba NXT DAY CASH,**
15 **dba MY NEXT DAY CASH,**
16 **dba MYNEXTDAYCASH.COM, and**
17 **dba SCS PROCESSING,**

18 **FINAL ORDER TO CEASE AND**
19 **DESIST, TO SUSPEND COLLECTION**
20 **ACTIVITIES AND ASSESSING CIVIL**
21 **PENALTY ENTERED BY DEFAULT**

22 Respondent.

23 On September 6, 2011, the Director of the Department of Consumer and Business
24 Services for the State of Oregon (hereinafter “the Director”), acting pursuant to the
25 authority of the Oregon Consumer Finance Act, ORS chapter 725¹, and other applicable
26 authority, issued Administrative Order No. PD-11-0079, ORDER TO CEASE AND
DESIST, ORDER TO SUSPEND COLLECTION ACTIVITIES, PROPOSED ORDER
ASSESSING CIVIL PENALTY AND NOTICE OF OPPORTUNITY FOR AN
ADMINISTRATIVE HEARING (“the Proposed Order”) against Respondent SCS
Processing, LLC dba Everest Cash Advance, dba Everest Cash Advance, LLC;
everestcashadvance.com; Nxt Day Cash; My Next Day Cash; mynextdaycash.com; and
SCS Processing (hereinafter collectively referred to as “Everest Cash Advance”).

On September 6, 2011, Respondent Everest Cash Advance was duly served with a
true copy of the Proposed Order by certified United States Mail, postage prepaid, Item No.

¹ All references to the provisions of Chapter 725 and the sections set forth therein shall be deemed to include any applicable restatement or revision thereof. See SB 993; Oregon Laws 2010 Special Session, Chapter 23.





1 RC-016-479-023 US, and addressed to Everest Cash Advance, c/o SCS Processing, LLC;
2 PO Box 636, Charlestown, Nevis West Indies.

3 On September 6, 2011, Respondent Everest Cash Advance was duly served with a
4 true copy of the Proposed Order by sending a copy of the Proposed Order by facsimile
5 copy to Everest Cash Advance, c/o SCS Processing, LLC to telephone number (866) 794-
6 3247.

7 On September 6, 2011, Respondent Everest Cash Advance was duly served with a
8 true copy of the Proposed Order by sending a copy of the Proposed Order by email to
9 Everest Cash Advance, c/o SCS Processing, LLC to sarah@pdlsupport.com.

10 On October 3, 2011, the Division of Finance and Corporate Securities (“Division”)
11 received a letter dated September 29, 2011, from Jared I. Rothkopf (“Rothkopf”) of the law
12 firm Kaplan Papadakis & Gournis, P.C. of Chicago, Illinois. Rothkopf noted that his firm
13 represents SCS Processing, LLC dba Everest Cash Advance and that Everest Cash Advance
14 was in receipt of the Proposed Order. Rothkopf asserted several defenses on behalf of his
15 client but specifically did not demand an administrative hearing. Rothkopf confirmed this
16 point in an email dated October 7, 2011 in response to an email from the Division asking
17 that specific question.

18 Respondent Everest Cash Advance, having received notice of the Proposed Order
19 of the Director, has not made a written demand for an administrative hearing in this matter
20 and time to do so has now expired.

21 NOW THEREFORE, after consideration of the file in this matter maintained by
22 the Division of Finance and Corporate Securities, including any materials that Respondent
23 submitted including the September 29, 2011 letter, the Director hereby issues the following
24 Findings of Fact, Conclusions of Law, and Final Order.

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I.

FINDINGS OF FACT

The Director FINDS that:

1. SCS Processing, LLC is understood to be a limited liability company doing business as Everest Cash Advance and other assumed business names. The company is understood to be based in Charlestown, Federation of Saint Kitts and Nevis, West Indies. The entity may be doing business as Everest Cash Advance, LLC; everestcashadvance.com; Nxt Day Cash; My Next Day Cash; mynextdaycash.com; and SCS Processing. The entity may be organized as one or more limited liability companies organized under the laws of the Federation of Saint Kitts and Nevis. Respondent reportedly has a business office located at 300 Creek View Road, Newark, Delaware 19711 and a mailing address of PO Box 636, Charlestown, Nevis, West Indies. Everest Cash Advance is not registered with the Oregon Secretary of State as a foreign business.

2. Everest Cash Advance is in the business of making loans to individuals primarily for personal, family or household purposes for periods of less than 60 days. The loans are not made as purchase money loans and are usually evidenced by a check or electronic repayment agreement provided by or on behalf of the borrower. These loans are commonly called "payday loans".

3. At all times relevant to this matter, Everest Cash Advance was not licensed in Oregon with the Director as a payday lender.

4. At all times relevant to this matter, an individual identified herein as "KH" was a resident of the State of Oregon.

5. On February 7, 2011, KH negotiated a \$400 short term consumer loan with Everest Cash Advance via the Internet. KH intended the loan primarily for personal, family or household purposes. KH negotiated the loan with Everest Cash Advance while being physically present in Oregon.



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III.

ORDERS

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

Cease and Desist Order

14. Pursuant to the authority of ORS 725.400, the Director hereby ORDERS Everest Cash Advance to CEASE AND DESIST from violating any provision of the Oregon Consumer Finance Act, ORS chapter 725, OAR 441-730-0000 through 441-730-0320, or any rule, order, or policy issued by the Director under that chapter.

Order Suspending Collection Activities

15. Pursuant to the authority of ORS 725.626, the Director ORDERS Everest Cash Advance to suspend all collection activities for the interest on, or any fees or charges for, loans made to Oregon consumers unless within 90 days of the date of this Order, Everest Cash Advance obtains a license under ORS 725.045(1).

16. If Everest Cash Advance is approved by the Director to act as a payday lender in Oregon pursuant to ORS 725.045(1), but more than 90 days from the date of this Order, Everest Cash Advance may collect the interest and fees allowed by ORS chapter 725, but only for loans made after the approval of Everest Cash Advance's license as a payday lender in Oregon.

Order Assessing Civil Penalty

17. Pursuant to the authority of ORS 725.910, the Director may assess a CIVIL PENALTY in an amount determined by the Director of not more than \$2,500 per violation against any person who violates any provision of the Oregon Consumer Finance Act, ORS chapter 725. Pursuant to this provision, the Director hereby assesses Everest Cash Advance a CIVIL PENALTY in the amount of \$7,500 (seven thousand five-hundred dollars) as follows:

A. A CIVIL PENALTY of \$2,500 (two thousand five-hundred dollars) for



1 conducting a business in which it made a payday loan as defined by ORS 725.600(3) to an
2 Oregon resident without first obtaining a license under ORS chapter 725 in violation ORS
3 725.045(1);

4 B. A CIVIL PENALTY of \$2,500 (two thousand five-hundred dollars) for making
5 or renewing a payday loan at a rate of interest that exceeds 36 percent per annum,
6 excluding a one-time origination fee for a new loan, in violation of ORS 725.622(1)(a);
7 and

8 18. A CIVIL PENALTY of \$2,500 (two thousand five-hundred dollars) for making
9 or renewing a payday loan for a term of less than 31 days.

10 19. The entry of this Order in no way limits further remedies that may be available
11 to the Director under Oregon law.

12 IT IS SO ORDERED.

13 Dated this 3rd day of November, 2011 at Salem, Oregon

14 NUNC PRO TUNC September 6, 2011.

15
16 SCOTT L. HARRA, Acting Director
Department of Consumer and Business Services

17
18 /s/ David Tatman
19 David C. Tatman, Administrator
Division of Finance and Corporate Securities

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21 **NOTICE OF RIGHT TO APPEAL**

22 You are entitled to seek judicial review of this order. Judicial review may be
23 obtained by filing a petition for review with the Oregon Court of Appeals within 60 days
24 from the date of service of this final order. Judicial review is pursuant to the provisions of
25 ORS 183.482.

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