

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS

SMALL LOAN COMPANY  
DEBT COLLECTOR  
LICENSING

Docket No. 2022-003

\_\_\_\_\_  
In the Matter of )

AVANT, LLC )  
Chicago, Illinois )  
NMLS# 1246731 )  
\_\_\_\_\_ )

CONSENT ORDER

WHEREAS, AVANT, LLC, (“Avant” or “Company”), a limited liability company headquartered in Chicago, Illinois, has been advised of its rights to Notice and Hearing pursuant to Massachusetts General Laws (M.G.L.) chapter 30A, section 10, and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER (Consent Agreement) with the Division of Banks (Division) dated February 10, 2023 whereby, solely for the purpose of settling this matter and without admitting any allegations of fact or the existence of any violations of law, Avant agrees to the issuance of this CONSENT ORDER (Consent Order) by the Commissioner of Banks (Commissioner);

WHEREAS, the Division, through the Commissioner, has jurisdiction over the licensing and regulation of persons and entities engaged in the business of a debt collector in Massachusetts pursuant to M.G.L. 93 sections 24 through 28 and 209 Code of Massachusetts Regulations (C.M.R.), 18.00 *et seq.*;

WHEREAS, the Commissioner is charged with the administration of Massachusetts General Laws chapter 140, sections 96 through 114A, inclusive and applicable regulations found and 209 CMR 20.00 *et seq.* and 209 CMR 26.00 *et seq.*, relating to the licensing and regulation of small loan companies;

WHEREAS, M.G.L. chapter 140, sections 96 through 114A requires an entity to be licensed by the Commissioner if they are engaged, directly or indirectly, in the business of making loans of \$6,000.00 or less and the interest and expenses paid on the loan exceed in the aggregate 12 percent per annum in the loan amount (small loans), or if they are engaged in the buying or endorsing of notes or the furnishing of guarantee or security for compensation;

WHEREAS, Avant has its main office located at 222 N. LaSalle Street, Suite 1600, Chicago, Illinois, 60601;

WHEREAS, Avant allegedly engaged in the business of a small loan company from at least August 1, 2016 through May 31, 2019 in Massachusetts without the appropriate license;

WHEREAS, according to records maintained on file with the Division, and as recorded on the Nationwide Multi-State Licensing System and Registry (NMLS), on or about October 19, 2015, Avant submitted an application to engage in the business of a debt collector (the “2015 Debt Collector Application”);

WHEREAS, according to records maintained on file with the Division, and as recorded on the NMLS, on or about November 18, 2015, the status of Avant’s 2015 Debt Collector Application was placed into a “Pending” status;

WHEREAS, on or about July 28, 2021, Avant and the Commonwealth of Massachusetts, by and through its Attorney General, executed an Assurance of Discontinuance pursuant to M.G.L.

chapter 93A, section 5 to resolve allegations of unfair and deceptive acts and practices in connection with the collection of debts;

WHEREAS, according to records maintained on file with the Division, and as recorded on the NMLS, on or about September 8, 2021, Avant submitted a new application to engage in the business of a debt collector (the “2021 Debt Collector Application”);

WHEREAS, during a review of Avant’s 2021 Debt Collector Application, the Division came to believe that the Company had engaged in the business of a small loan company in Massachusetts; and

WHEREAS, according to records maintained on file with the Division, and as recorded on the NMLS, on or about February 2, 2022, Avant requested from the Division to withdraw the Debt Collector Application;

WHEREAS, the parties now seek to resolve by mutual agreement the matters identified above.

### ORDER

NOW COME the parties in the above-captioned matter, the Division and the Company, and stipulate and agree as follows:

1. The Company shall pay an administrative penalty to the Division in the amount of five hundred fifty-five thousand dollars (\$555,000.00). The penalty shall be due upon execution and shall be payable by check to the “Commonwealth of Massachusetts,” mailed to the Division of Banks, Attn: Consumer Finance

Examination Unit, 1000 Washington Street, 10th Floor, Boston, Massachusetts 02118.

2. Avant previously represented to the Division that it ceased from engaging in any business activity that requires licensing or registration from the Division, and will not engage in such business activity in the future prior to obtaining the appropriate license or approval from the Division, including but not limited to, acting as a small loan company in Massachusetts as such business is described in M.G.L. chapter 93, section 24A.
3. Avant shall not transact business in Massachusetts under a name or title which contains the word “bank”, “banking”, “bankers”, or any word in a foreign language having the same or similar meaning unless authorized to do so under the laws of the Commonwealth as described in M.G.L. chapter 167, section 37.
4. Within ninety (90) days from the execution of this Consent Order, Avant shall conduct a portfolio review of all Massachusetts consumer small loans made, directly or indirectly, by the Company since August 1, 2016, which are in excess of the amount permitted under M.G.L. 140, section 96 and shall reimburse all affected consumers for the full amount of interest and fees collected above 12 percent.
  - a. For Massachusetts small loans with rates in excess of 12 percent that are currently active, the consumer reimbursement would be applied as a credit

to the account. If the credit exceeds the unpaid balance of the account, the excess credit will be disbursed to the borrower(s) by ACH or check.

b. For Massachusetts small loans with rates in excess of 12 percent that have been paid in full, the consumer reimbursement would be disbursed to the borrower(s) by ACH or check.

i. For Massachusetts small loans with rates in excess of 12 percent that have been paid in full due to a refinance, the consumer reimbursement shall be applied as a credit to the borrower's new loan. If the credit exceeds the unpaid balance of the account, the excess credit will be disbursed to the borrower(s) by ACH or check.

ii. For Massachusetts small loans with rates in excess of 12 percent that have been "charged off," the consumer reimbursement would be applied to reduce the unpaid balance of the account, and future credit reporting with respect to such accounts will be updated accordingly. If the consumer reimbursement exceeds the charged-off balance of the account, the excess credit would be disbursed to the borrower(s) by ACH or check.

c. Any reimbursement payments mailed to a consumer shall be mailed to the consumer's last known address in the Company's records or, if the address is invalid, to the address set forth for such borrower in the U. S. Postal Service national change of address database (NCOA Database).

d. Additionally, regarding any non-sufficient fees charged to affected consumers, the Company shall reimburse affected consumers for the full

amount of each non-sufficient fee in accordance with the reimbursement methodology described in paragraph 3 and subparagraphs a through e.

5. Avant will submit to the Division documentation of the review performed on its Massachusetts consumer accounts, including a list of all the accounts reviewed, which shall include, at a minimum: the name of the consumer, the account number, the origination date for each account, the original loan amount, the amount financed on each loan, the contract interest rate, the total amount of any fees or expenses paid at origination, the total interest accrued on the account at the contract rate, the total payments made by each borrower, and the check number of each refund or evidence of account credit.
6. Within one hundred eighty (180) days of the effective date of this Consent Order, Avant shall submit to the Division evidence of all consumer reimbursements or credits issued under Paragraph 3 including but not limited to: the consumer's name, the loan number, the amount reimbursed, the date of reimbursement, and the check number (if applicable).
7. Avant shall certify that it has made a reasonable good faith effort to identify the current address of all consumers who are entitled to refund checks. In all cases where consumers cannot be located, the Company shall comply with General Laws chapter 200A regarding the disposition of unclaimed property.
8. Nothing in this Consent Order shall be construed as permitting Avant to violate any law, rule, regulation, or regulatory bulletin to which the Company is subject.

9. Failure to comply with the terms of this Consent Order shall constitute grounds for formal regulatory action pursuant to applicable provisions of the General Laws of the Commonwealth of Massachusetts.
10. Regarding any application(s) submitted to the Division by the Company, the Division retains all of the discretion set forth within Massachusetts General Laws in determining the appropriate action on the concerned application, provided, however, that the Division would not take any adverse action on said application(s) solely as a result of any of the issues resolved by this Consent Order or because the Company entered into the Consent Order or agreed to the issuance of this Consent Order.
11. This Consent Order shall become effective immediately upon the date of its issuance.
12. The provisions of this Consent Order shall be binding upon Avant and their respective subsidiaries, officers and directors, employees, successors and assigns.
13. In consideration of this Consent Order, the Division agrees not to pursue any other remedial measures, sanctions, or penalties relative to this matter unless the Division is made aware of material information that is not addressed in this Consent Order, or if Avant fails to comply with the terms of this Consent Order.
14. The provisions of this Consent Order shall not limit, estop, or otherwise prevent any other state agency or department from taking any other action under separate authority affecting the Company or any of its officers and directors, or their successors or assigns.

15. The provisions of this Consent Order shall remain effective and enforceable except to the extent that and until such time as the Commissioner or a court of competent jurisdiction modifies, terminates, suspends, or sets aside any provision of this Consent Order.
16. In accordance with the terms of the Consent Agreement entered into by Avant and the Commissioner, Avant has waived all rights of appeal that they may have relative to this Consent Order or any of its provisions.
17. This Consent Order and the Consent Agreement are the complete documents representing the resolution of this matter. There are no other agreements between the Division and Avant.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS:

Dated at Boston, Massachusetts, this 10th day of February, 2023.

By:  
Mary L. Gallagher  
Commissioner of Banks