

**STATE OF NEW HAMPSHIRE  
BANKING DEPARTMENT**

In The Matter of: Avant, Inc.  
Case No. 16-040

**CONSENT ORDER**

**WHEREAS**, the New Hampshire Banking Department (“Department”) is charged with regulating persons who engage in small loan lending in New Hampshire and enforcing the provisions of RSA 399-A.

**WHEREAS**, Avant, Inc. (“Avant”) is a Delaware corporation originally incorporated in 2012 under the name of Avant Credit Corporation.

**WHEREAS**, the Department was in receipt of information indicating that Avant had conducted lending activities with New Hampshire consumers.

**WHEREAS**, the Department requested information from Avant about its business activities with New Hampshire consumers, from which the following information is relevant:

1. Numerous loans of \$10,000 or less and with an annual percentage rate of 10 to 36 percent have been made to New Hampshire consumers by a Utah chartered bank through the Avant platform.
2. Avant provided and continues to provide the online platform through which New Hampshire consumers may apply for loans between \$1,000 and \$35,000.
3. The third-party bank approves the loan applications and funds the loans.
4. After holding the loans for a limited period of time, the third-party bank typically assigns the loans to an affiliate of Avant.

5. Avant acts as the loan servicer and administers the loan on behalf of the third-party bank, its successors or assigns.

**WHEREAS**, RSA 399-A:1, XII defines “lender,” in pertinent part, as:

a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

- (a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.
- (b) Offers to serve as an agent for any person in an attempt to obtain a loan.
- (c) Offers to serve as an agent for any person who has money to lend for a loan.
- (d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.
- (e) Acts as a credit services organization as defined in RSA 359-D:2, II.
- (f) Advertises for, solicits, or holds himself out as willing to make or procure small loans, payday loans, or title loans.
- (g) Holds the servicing rights to a small loan or records small loan payments on its books and records and performs such other administrative functions as may be necessary to properly carry out the debt holders' obligations under a loan agreement.

**WHEREAS**, Avant makes the following acknowledgements:

1. Avant knowingly and voluntarily enters into and signs this Consent Order without threats, force, intimidation or coercion of any kind.
2. Although Avant neither admits nor denies any of the findings herein or any violation of New Hampshire law, Avant understands the nature of the allegations set forth herein and that they could constitute grounds for potential sanctions, in the event that the Department successfully brought an action against Avant, as provided by RSA 399-A.
3. Avant understands that it has the right to notice and an adjudicatory hearing to contest the matters set forth herein, including any appeal, and hereby waives those rights.
4. Avant understands that its action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.

5. Avant represents and warrants that it has all the necessary rights, powers and abilities to carry out the terms of this Consent Order.
6. Avant acknowledges that the Department is relying upon Avant's representations and warranties stated herein in making its determinations in this matter.
7. Avant acknowledges that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Avant if the Department later learns that Avant knowingly or willfully withheld information from the Department.

**WHEREAS**, as an economical and efficient method of resolving the foregoing matters, Avant consents to enter into this voluntary Consent Order with the Department as follows:

1. Avant shall, pursuant to RSA 399-A:23, IV, pay an administrative fine in the amount of \$39,000, which Avant shall remit to the New Hampshire Banking Department by check payable to the State of New Hampshire, within 10 days of the execution of this Consent Order by Avant;
2. Avant shall immediately commence the licensure process with the Department and, upon issuance of such license, Avant agrees to maintain the license for so long as it engages in activities that are deemed to fall within the scope of RSA 399-A; and
3. Failure by Avant to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license suspension, revocation and monetary penalties.

**NOW THEREFORE**, the Commissioner of the New Hampshire Banking Department enters the following ORDER:

1. The sanctions set forth above are hereby entered;

2. This Order fully resolves this matter and the Commissioner will not take further action against Avant for the allegations presented herein, provided that the Department may take enforcement action against Avant for any violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms of this Order are not being observed or if any representation made by Avant and reflected herein is subsequently discovered to be untrue;
3. Nothing herein shall nor is intended in any way whatsoever to challenge or negate the validity or legality of any of the small loan contracts, or any term therein, entered into by New Hampshire consumers through the Avant platform;
4. Nothing herein is intended to alter any future statutory or regulatory requirements of licensure and the allegations set forth above may be fully taken into account by the Department in connection with future examinations and enforcement actions;
5. Pursuant to RSA 399-A:20, VI, the Commissioner finds this action necessary or appropriate to the public interest or the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title; and
6. This Consent Order shall become effective and final upon the date signed by the Banking Department Commissioner.
7. Once this Consent Order is effective and final, the Department agrees not to seek reimbursement, refunds, penalties, fines, costs or fees regarding any of the facts, allegations or findings of violations contained herein.

8. This Consent Order is the complete document representing resolution of this matter. There are no other agreements, promises, representations or warranties other than those set forth in this Consent Order.

Executed by:

\_\_\_\_\_/s/\_\_\_\_\_  
Rosemary Wiant, Esq.  
New Hampshire Banking Department

\_\_\_\_\_/12/20/16\_\_\_\_\_  
Date

\_\_\_\_\_/s/\_\_\_\_\_  
Ryan McLennan  
General Counsel and Corporate Secretary  
Avant, Inc.

\_\_\_\_\_/12/20/16\_\_\_\_\_  
Date

**SO ORDERED.**

\_\_\_\_\_/s/\_\_\_\_\_  
Gerald H. Little, Commissioner  
New Hampshire Banking Department

\_\_\_\_\_/12/21/16\_\_\_\_\_  
Date