

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

VT SUPERIOR COURT
WASHINGTON UNIT
CRIME DIVISION

2015 MAR -9 A 9 57

In Re: Advantage ACH

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Civil Division

Docket No. 134-3-16 Wnew

ASSURANCE OF DISCONTINUANCE

The State of Vermont, by and through Vermont Attorney General
William H. Sorrell, and Advantage Payment Systems, LLC dba Advantage ACH
("Advantage ACH" or "Respondent"), hereby enter into this Assurance of
Discontinuance ("AOD") pursuant to 9 V.S.A. § 2459.

Background

Respondent

1. Respondent Advantage ACH is a Nevada Limited Liability Corporation with its corporate office located at 3993 Howard Hughes Parkway, # 390, Las Vegas, NV 89169.
2. Prior to September 2013, Respondent processed electronic payments in connection with consumer loans made to Vermont residents by lenders, some of whom did not hold a state lending license in the state of Vermont.

Regulatory Framework

3. The Vermont Consumer Protection Act ("the Act") authorizes the Attorney General to take actions to restrain unfair and deceptive acts in commerce. 9 V.S.A. §§ 2453 & 2458.

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4. On May 18, 2012, the Vermont Legislature added section 2481w to the Act (the unlicensed lender law), to address unlicensed loan transactions. 9 V.S.A. § 2481w.
5. Under section 2481w(b), it is an unfair and deceptive act in commerce for any lender to solicit or make loans in Vermont unless the lender is in compliance with all statutory requirements under Vermont's lending and banking laws contained in Title 8, chapter 73 of the Vermont Statutes Annotated.
6. Under section 2481w(c), it is an unfair and deceptive act in commerce for a processor to process checks or debits, or to transfer any electronic funds in connection with a loan, unless the lender is in compliance with all requirements under Title 8, chapter 73.
7. Chapter 73 of Title 8 requires all lenders to obtain a state license from the Vermont Department of Financial Regulation. 8 V.S.A. § 2201.
8. Lenders who are not licensed under 8 V.S.A. § 2201 are hereinafter referred to as "unlicensed lenders."
9. Chapter 73 of Title 8 also requires that all loans made in Vermont comply with the interest rate limits contained in Title 9, chapter 4. 8 V.S.A. § 2233(b).
10. Chapter 4 of Title 9 caps the interest any person may charge on loans at between 12-24% per annum, depending on the type of loan. 9 V.S.A. § 41a.

Respondent's Payment Processing Practices

11. Respondent processes electronic financial transactions using the Automated Clearing House ("ACH") Network. The ACH Network is a system that allows electronic transfer of funds for participating financial institutions.
12. During 2012-2013, Respondent engaged in processing electronic transfers from various financial institutions employing routing numbers associated with Vermont, withdrawing a total of approximately \$112,000 in net transfers from individual bank accounts located in Vermont.
13. The total amounts processed were collected on behalf of approximately 36 separate lenders (the amounts vary for each lender) in connection with high-interest, small-dollar consumer loans made via the internet.
14. The Attorney General's Office determined that none of the lenders were licensed to make loans in Vermont.
15. As of September 2013, Respondent ceased processing electronic payments in connection with online consumer loans in Vermont.
16. Respondent admits the truth of the facts described in ¶¶ 1-2, 11-13, and 15.

The State's Allegations

17. The Vermont Attorney General's Office alleges the Respondent processed electronic transfers from Vermont consumers' bank accounts on behalf of unlicensed lenders and said processing violated the Vermont Consumer Protection Act, 9 V.S.A. §§ 2453(a) and 2481w(c).

18. The State of Vermont alleges that the above behavior constitutes unfair and deceptive acts and practices in commerce under 9 V.S.A. § 2453.
19. Respondent denies that it violated Vermont law.
20. The parties agree that this AOD is entered into for settlement purposes only and does not constitute an admission of the violation of any law, rule, or regulation by Respondent.

Assurances and Relief

21. The Attorney General and Respondent are willing to accept this AOD pursuant to 9 V.S.A. § 2459 as a just resolution of this matter, and the parties agree as follows:
22. To the extent not already done, Respondent shall immediately cease processing any electronic transfers from Vermont financial accounts on behalf of any unlicensed lender.
23. Prior to doing any future business in Vermont, Respondent shall provide written notice to the Attorney General's Office of its intent to do business in Vermont and comply with all applicable state law requirements, including without limitation, the following sections of the Vermont Statutes Annotated: Title 9, Chapter 63 (Consumer Protection statutes).

Payment to the State of Vermont

24. Within 15 business days of the filing of this AOD, Respondent shall pay to the State of Vermont a total of \$22,000. The parties agree that \$12,000 of the \$22,000 payment shall be set aside by the Attorney

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General's Office and paid on a *cy pres* basis to the Vermont Financial Literacy Commission Fund. Payment of the \$22,000 shall be made by check to the "State of Vermont" and shall be sent to the Vermont Attorney General's Office at the following address: Justin E. Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

Other Terms

25. Respondent shall, upon request by the Attorney General, provide all documentation and information necessary for the Attorney General to confirm compliance with, and assist in implementation of, this AOD.
26. Acceptance of this AOD by the Vermont Attorney General's Office shall not be deemed approval by the Attorney General of any practices or procedures of Respondent not required by this AOD, and Respondent shall make no representation to the contrary.
27. This AOD and all terms therein shall be binding on Respondent, all of its affiliate companies doing business in Vermont, their officers, directors, owners, managers, successors and assigns.
28. The undersigned authorized agent(s) of Respondent shall promptly take reasonable steps to ensure that copies of this document are provided to all relevant officers, directors, owners and managers of the company, and all of its affiliate companies doing business in Vermont.
29. This AOD constitutes a complete settlement and general release by the Attorney General of all claims, causes of action, damages, restitution,

finances, costs, attorneys' fees, penalties and other remedies, monetary or otherwise, that the Vermont Attorney General could have asserted or obtained under any applicable law, state or federal, including but not limited to the Vermont Consumer Protection Act and Vermont common law, relating to or arising from the conduct that is the subject of this AOD against Respondent, its current and former parents, subsidiaries, predecessors, successors, assigns and affiliates of any kind, and the owners, officers, directors, employees, agents, attorneys, and heirs thereof.

30. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this AOD and the parties hereto for the limited purpose of enabling any of the parties to apply to this Court at any time for orders and directions as may be necessary or appropriate to carry out or construe this AOD, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions. Respondent does not otherwise waive any defense it may have to the jurisdiction of Vermont state courts.

31. All notice related to this AOD shall be given to:

- (a) **Respondent** at: Richard J. Zack, Pepper Hamilton LLP, 3000
Two Logan Square, Eighteenth and Arch Streets, Philadelphia,
PA 19103-2799.

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(b) **The Attorney General** at: Justin Kolber, Assistant Attorney General, Office of the Attorney General, 109 State Street
Montpelier, VT 05609, justin.kolber@vermont.gov.

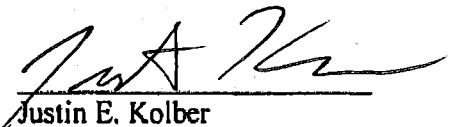
32. For a period of two years beginning from the date of this AOD, Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

*** SIGNATURES APPEAR ON NEXT PAGE ***

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DATED at Montpelier, Vermont this 8th day of March, 2016.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 
Justin E. Kolber
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609
(802) 828-5620
jkolber@atg.state.vt.us


DATED this 4th day of March, 2016

ADVANTAGE ACH

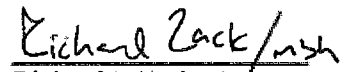
By: 
Its Authorized Agent

LINDEN FELLERMAN <sup>Managing
Member
& CEO</sup>
Name and Title of Authorized Agent

APPROVED AS TO FORM:


Justin E. Kolber
Assistant Attorney General
Office of Attorney General
109 State Street
Montpelier, VT 05609

For the State of Vermont


Richard J. Zack, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103

For Respondent

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Exhibit A

List of Lenders

1	AAA Fast Cash Inc.
2	AAA Holdings, LLC
3	ABI CO, LLC
4	ABJT Funding, LLC
5	Advance Business Services, LLC
6	Alpine Group LTD
7	American Consumer Credit, LLC
8	Archer Direct, LLC
9	Blue and Grey Capital, Ltd
10	Blue Hole Financial
11	Cash Cloud, LLC
12	Check on Hold, Inc.
13	CK Marketing, Inc.
14	DMA Financial
15	Down Under Ventures, Ltd
16	Eastside Lenders, LLC
17	Encore Service Corp, LLC
18	FFD Resources IV
19	Finestra US, LLC
20	Int'l Cash Advance
21	Joro Resources, LTD
22	MD Financial
23	MK Financial, LLC
24	NHCash.com
25	Ocenture LLC
26	Omega Investments Limited, LLC
27	Payment Direct, Inc.
28	Platinum Finance Co LLC
29	RD STN Financial, LLC
30	RKM, LLC
31	RMF Services LLC
32	RTMM Consulting, LLC
33	Three B Financial, LLC
34	United Consumer Financial
35	United Loan, Inc
36	WTKBJT Financial LLC

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