
*
IN THE MATTER OF: *
*
AVIDXCHANGE, INC. *
NMLS # 1494826 *
*
(“Avid”) *
*

CONSENT ORDER

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, known as the “Money Transmission Act”;

WHEREAS, Avid is a Delaware corporation with its main office located at 1210 AvidXchange Lane, Charlotte, North Carolina;

WHEREAS, on October 31, 2017, Avid filed an application with the Commissioner on the Nationwide Licensing System and Registry (“NMLS”) to obtain a license to engage in the business of money transmission in Connecticut, which application is currently pending;

WHEREAS, the Commissioner, through the Consumer Credit Division of the Department of Banking, has investigated the activities of Avid pursuant to Sections 36a-17, 36a-600 and 36a-608 of the Connecticut General Statutes to determine if it had violated, was violating or was about to violate the provisions of the Connecticut General Statutes within the Commissioner’s jurisdiction;

WHEREAS, as a result of such investigation, the Commissioner alleges that Avid engaged an entity to perform certain functions that the Commissioner concludes constitute money transmission activities for customers in Connecticut that never obtained or maintained a main office license to engage in the business of money transmission in this state, as required by Section 36a-597(a) of the Connecticut

General Statutes, at any point during which it engaged in such activity, nor was it exempt from such licensure;

WHEREAS, as a result of such investigation, the Commissioner alleges that Avid's engagement of an entity to perform such functions constituting money transmission activities in this state, which entity did not obtain and maintain a money transmission license, caused Avid to engaged in unsafe or unsound practices, in violation of Section 36a-608(a) of the Connecticut General Statutes;

WHEREAS, the Commissioner believes that such allegation would support the initiation of enforcement proceedings against Avid, including, without limitation, proceedings to issue a cease and desist order pursuant to Sections 36a-608(c) and 36a-52(a) of the Connecticut General Statutes, and to impose a civil penalty of up to One Hundred Thousand Dollars (\$100,000) per violation pursuant to Sections 36a-608(c) and 36a-50(a) of the Connecticut General Statutes;

WHEREAS, initiation of such enforcement proceedings would constitute a "contested case" within the meaning of Section 4-166(4) of the Connecticut General Statutes;

WHEREAS, Section 4-177(c) of the Connecticut General Statutes and Section 36a-1-55(a) of the Regulations of Connecticut State Agencies provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, both the Commissioner and Avid acknowledge the possible consequences of formal administrative proceedings, and Avid voluntarily agrees to consent to the entry of the sanctions imposed below solely for the purpose of obviating the need for formal administrative proceedings concerning the allegation set forth herein;

WHEREAS, the Commissioner and Avid now desire to resolve the matters set forth herein;

WHEREAS, Avid represents that it is in the process of converting all Connecticut customers from the unlicensed entity to Avid's money transmission platform, and upon Avid's receipt of a license under Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, will perform all money transmission activity for Connecticut customers through its own platform on or before

the date certain that is forty-five (45) days following receipt of said license (such period referred to as the “Transition Timeframe”);

WHEREAS, subject to the Transition Timeframe, Avid specifically assures the Commissioner that the violation alleged herein shall not occur in the future;

WHEREAS, Avid acknowledges that this Consent Order is a public record and is a reportable event for purposes of the regulatory disclosure questions on NMLS, as applicable;

AND WHEREAS, Avid, through its execution of this Consent Order, voluntarily agrees to waive its procedural rights, including a right to a notice and an opportunity for a hearing as it pertains to the allegation set forth herein, and voluntarily waives its right to seek judicial review or otherwise challenge or contest the validity of this Consent Order.

CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Avid, through its execution of this Consent Order, consents to the Commissioner’s entry of a Consent Order imposing the following sanctions:

1. No later than the date this Consent Order is executed by Avid, it shall remit to the Department of Banking by wire transfer, cashier’s check, certified check or money order made payable to “Treasurer, State of Connecticut”, the sum of Ten Thousand Dollars (\$10,000) as a civil penalty; and
2. Subject to the Transition Timeframe, Avid shall cease and desist from engaging in unsafe or unsound practices, in violation of Section 36a-608(a) of the Connecticut General Statutes.

CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The Sanctions set forth above be and are hereby entered;
2. Upon issuance of this Consent Order by the Commissioner, this matter will be resolved and the Commissioner will not take any future enforcement action against Avid based upon the allegations set forth herein; provided that issuance of this Consent Order is without prejudice to the right of the Commissioner to take enforcement action against Avid based upon a violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms herein is not being observed or if any representation made by Avid and reflected herein is subsequently discovered to be untrue;

3. Avid shall not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation referenced in this Consent Order or create the impression that this Consent Order is without factual basis;
4. Upon issuance of this Consent Order by the Commissioner, and so long as this Consent Order is promptly disclosed by Avid and its control persons on NMLS, as applicable, nothing in the issuance of this Consent Order shall adversely affect the ability of Avid to apply for or obtain an initial license or renewal license under Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, provided that all applicable legal requirements for such license are satisfied and the terms of this Consent Order are followed;
5. This Consent Order shall be binding upon Avid and its successors and assigns; and
6. This Consent Order shall become final when issued.

Issued at Hartford, Connecticut
this 19th day of July 2019.

/s/

Jorge L. Perez
Banking Commissioner

I, Al McMillian, jr., state on behalf of AvidXchange, Inc., that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of AvidXchange, Inc.; that AvidXchange, Inc. agrees freely and without threat or coercion of any kind to comply with the sanction entered and terms and conditions ordered herein; and that AvidXchange, Inc. voluntarily agrees to enter into this Consent Order, expressly waiving the procedural rights set forth herein as to the matters described herein.

By: /s/
Name: Al McMillian, jr.
Title: VP, Head of Compliance
AvidXchange, Inc.

State of: North Carolina

County of: Mecklenburg

On this the 15th day of July 2019, before me, Alfonzo McMullian, the undersigned officer, personally appeared 1210 AvidXchange Ln CLT, NC, who acknowledged himself/herself to be the VP, Head of Compliance of AvidXchange, Inc., a corporation, and that he/she as such VP, Head of Compliance, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as VP, Head of Compliance.

In witness whereof I hereunto set my hand.

/s/
Notary Public
Date Commission Expires: 5/18/23
Cynthia E. Romeis