

Appendix I

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

MARVEL MARTINEZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

Civil Action No. 3:20-cv-1772-JCH

AVANTUS, LLC, and Xactus, LLC, d/b/a
Avantus, as successor in interest to certain assets of
Avantus, LLC,

Defendants.

CLASS SETTLEMENT AGREEMENT AND RELEASE

This Class Settlement Agreement and Release (“**Agreement**”) is hereby entered into by and between the Class Representative, on behalf of himself and Class Members, and Defendants Avantus, LLC and Xactus, LLC d/b/a Avantus and successor in interest to certain assets of Avantus, LLC (“**Defendants**”), collectively (the “**Parties**”), as those terms are defined herein.¹

This Agreement is intended by the Parties to fully, finally and forever resolve, discharge and settle all released rights and claims to the extent set forth below, subject to the terms and conditions set forth herein.

RECITALS

WHEREAS, by the Litigation, the Class Representative asserted claims, including the Class Claims, against Defendants for alleged violations of the FCRA;

WHEREAS, by the Class Certification Order, the Court certified a Class of consumers for the purpose of asserting the Class Claims;

WHEREAS, the purpose of this Agreement is to settle the Class Claims of the Class Representative and Class Members, and terminate the Litigation in its entirety;

WHEREAS, Defendants deny the allegations and claims asserted by the Class Representative and Class Members, but nonetheless, without admitting or conceding any liability

¹ Capitalized terms shall have the meaning and definitions set forth in Section 1 of this Agreement.

or damages whatsoever, Defendants have agreed to settle the Class Claims on the terms and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing to defend the Litigation;

WHEREAS, counsel for the Parties have conducted an extensive investigation of the facts and claims alleged in the Litigation, including, but not limited to, reviewing documents and data;

WHEREAS, the Parties have engaged in extensive multi-day arm's-length negotiations by telephone and video conferences, as well as multiple mediation sessions with the assistance of experienced neutral Rodney Max of Upchurch Watson White and Max Mediation Group concerning the settlement of the Class Claims; and

WHEREAS, based upon their analysis and their evaluation of a number of factors, and recognizing the substantial risks of continued litigation, including the possibility that the Litigation, if not settled now, might not result in any recovery for the Class Representative and the Class, or might result in a recovery that is less favorable to the Class Representative and the Class, the Class Representative and Class Counsel are satisfied that the terms and conditions of the Settlement are fair, reasonable and adequate and that this Agreement is in the best interests of the Class Representative and the Class.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, as well as the good and valuable consideration provided for herein, the Parties hereto agree to a full and complete settlement of the Litigation on the following terms and conditions:

1. DEFINITIONS

The defined terms set forth above and herein shall have the following meanings ascribed to them.

1.1 “**Agreement**” means this Class Settlement Agreement and Release.

1.2 “**Automatic Payment**” means the payment of One Hundred Dollars (\$100.00) to each Class Member as provided for in Section 12.1 below.

1.3 “**Automatic Payment Check**” means a check from the Settlement Fund for an Automatic Payment.

1.4 “**Automatic Payment Pool**” means the sum of Two Million Two Hundred and Sixty-Five Thousand Dollars and Zero Cents (\$2,265,000.00) that will be reserved to make the Automatic Payments as provided for in Section 12.1(a) below.

1.5 “**CAFA**” means the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1715(a)-(d).

1.6 “**CAFA Notice**” means notice of this proposed settlement to the appropriate federal and state officials, as required by CAFA, which shall be prepared and mailed as provided for in Section 2.2 below and Section 6.5 below.

1.7 “**Claim Form**” means the document, in the form of Exhibit D, to be made available to Class Members together with the Settlement Notice.

1.8 “**Claimant**” means a Class Member who timely files a valid Claim Form.

1.9 “**Claims Submission Deadline**” means the date sixty (60) days after the date of mailing of the Settlement Notice by which all Claim Forms must be submitted.

1.10 “**Class**” or “**Class Members**” means each individual meeting the definition of the class certified by the Court’s Class Certification Order, modified as follows to have a firm end date and to reflect the change in Defendant’s procedures:

All persons residing in the United States and its Territories about whom Defendants sold a consumer report to a third party that included any OFAC record where there is not a match between the date of birth, address, or social security number of the subject of the report and the corresponding person on the SDN list, using its proprietary UltraAMPS OFAC product, during the period beginning July 6, 2020 and ending February 28, 2023.

1.11 “**Class Certification Order**” means this Court’s January 5, 2023 order certifying the Class (ECF 84), reported at *Martinez v. Avantus, LLC, LLC*, 343 F.R.D. 254 (D. Conn. 2023).

1.12 “**Class Claim**” means the claim asserted under section 1681e(b) of the FCRA in Count I of the class action complaint in the Litigation (ECF 1), arising out of the allegations set forth therein and certified by the Class Certification Order.

1.13 “**Class Counsel**” means James A. Francis, John Soumilas, and Lauren KW Brennan of the law firm Francis Mailman Soumilas, P.C.

1.14 “**Class Representative**” means the named plaintiff, Marvel Martinez.

1.15 “**Court**” means the United States District Court for the District of Connecticut, where the Litigation is currently pending.

1.16 “**Claim**” means a claim by a Class Member submitted through a Claim Form by the Claims Submission Deadline as provided for in Sections 1.9 and 10.1.

1.17 “**Claim Check**” means a check from the Settlement Fund to a Claimant for a Claim.

1.18 “**Claim Payment Amount**” means the amount paid to each Claimant calculated in accordance with Section 12.2(a).

1.19 “**Defendants**” means Avantus, LLC and Xactus, LLC d/b/a Avantus and successor in interest to certain assets of Avantus, LLC.

1.20 “Defendants’ Counsel” means the law firm of Troutman Pepper Hamilton Sanders LLP.

1.21 “Effective Date” means the date when the last of the following with respect to the Final Approval Order approving the Settlement has occurred: (i) the expiration of five (5) business days after the time to file a motion to alter or amend the Final Approval Order under Federal Rule of Civil Procedure 59(e) has passed without any such motion having been filed; (ii) the expiration of five (5) business days after the time in which to appeal the Final Approval Order has passed, including the time period for any request for extension under Federal Rule of Appellate Procedure 4(a)(5), without any appeal having been filed; and (iii) if such motion to alter or amend is filed, or if an appeal is taken, five (5) business days after a final determination of any such motion or appeal that permits the consummation of the Settlement in substantial accordance with the terms and conditions of this Agreement without further opportunity for either an appeal or Rule 59(e) motion.

1.22 “Exclusion Deadline” means the date sixty (60) days after the date of mailing of the Settlement Notice by which all Requests for Exclusion must be submitted.

1.23 “FCRA” means the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*

1.24 “Fee Petition” means the petition for an award of fees and costs submitted by Class Counsel as provided for in Section 11.1.

1.25 “Final Approval” means the approval of the Agreement by the Court at or after the Final Approval Hearing, and entry on the Court’s docket of the Final Approval Order.

1.26 “Final Approval Hearing” means the hearing at which the Court will consider arguments relating to finally deciding whether to approve this Settlement, and make such other rulings as are contemplated by this Agreement.

1.27 “Final Approval Motion” means the motion that Plaintiff shall file seeking Final Approval.

1.28 “Final Approval Order” means the final order and judgment entered by the Court giving Final Approval to the Settlement and dismissing with prejudice the claims of the Class and entering a judgment according to the terms set forth in this Agreement, in the form of Exhibit A hereto.

1.29 “Final Judgment” shall have the same meaning as Final Approval Order.

1.30 “Litigation” means the lawsuit filed by the Class Representative in the United States District Court for the District of Connecticut, captioned *Marvel Martinez v. Avantus, LLC and Xactus, LLC d/b/a Avantus and successor in interest to certain assets of Avantus, LLC*, Case No. 3:20-CV-1772-JCH.

1.31 “Net Settlement Fund” means the amount remaining in the Settlement Fund after the allocation for payment of the Service Award, the amount approved in connection with the Fee

Petition, the amount for cashed Automatic Payment Checks, and Notice and Administration Expenses in accordance with Section 5.2 below.

1.32 “Notice of Objection” means an objection made by a Class Member to this Settlement by written notice of such objection postmarked by the Objection Deadline.

1.33 “Notice and Administration Expenses” means the fees, costs, and expenses incurred by the Settlement Administrator to carry out its obligations under this Agreement.

1.34 “Objection Deadline” means the date sixty (60) days after the date of the Settlement Notice by which all objections must be submitted.

1.35 “Parties” means the Class Representative and Defendants.

1.36 “Preliminary Approval” means preliminary approval of the Agreement by the Court and approval of the Settlement Notice Plan and the Settlement Notice.

1.37 “Preliminary Approval Hearing” means the initial hearing that shall be requested by the Parties in order for the Court to consider preliminary approval of the Parties’ proposed Settlement.

1.38 “Preliminary Approval Motion” means the motion that Plaintiff shall file seeking Preliminary Approval.

1.39 “Preliminary Approval Order” means the order entered by the Court granting Preliminary Approval in the form of Exhibit B hereto.

1.40 “Released Parties” means Defendants and their respective past, present, and future parents, subsidiaries, successors, predecessors, officers, directors, stockholders, employees, representatives, agents, assigns, insurers, reinsurers, and attorneys, individually and collectively.

1.41 “Request for Exclusion” means any request submitted consistent with Section 8 below by any Class Member requesting to be excluded from the Settlement in this matter.

1.42 “Settlement” means the agreement between the Class Representative, on behalf of himself and Class Members, and Defendants, to fully, finally and forever settle and compromise the Class Claims, as memorialized in this Agreement and the accompanying documents attached hereto.

1.43 “Service Award” means the payment made from the Settlement Fund to the Class Representative for his service in the matter, as approved and directed by the Court.

1.44 “Settlement Administrator” means Continental DataLogix, LLC.

1.45 “Settlement Fund” means the Six Million Seven Hundred Sixty Thousand Dollars and Zero Cents (\$6,760,000.00) to be paid by Defendants pursuant to the Agreement.

1.46 “**Settlement Notice**” means the notice to be sent to the Class Members by the Settlement Administrator, pursuant to the terms of this Agreement and subject to the Court’s approval thereof, and in the form of Exhibit C hereto.

1.47 “**Settlement Notice Plan**” means the plan for sending the Settlement Notice as provided for in Section 7 below.

1.48 “**USPS**” means the United States Postal Service.

2. SCHEDULING OF HEARINGS AND MOTIONS

2.1 On or before November 8, 2023, or another date agreed to by the Parties and directed by the Court, Class Counsel shall file a Preliminary Approval Motion with the Court, which shall seek Preliminary Approval.

2.2 The Final Approval Hearing shall be scheduled for a date no earlier than one hundred (100) days after the CAFA Notice is sent.

(a) The Settlement Administrator shall mail, via First Class United States Mail, postage prepaid, the CAFA Notice within ten (10) days after this Agreement is filed with the Court, as follows:

- (1) Defendants shall prepare and provide a draft cover letter for the CAFA Notice to Class Counsel and the Settlement Administrator five (5) business days before the deadline for mailing such CAFA Notice, with accompanying exhibits. The Settlement Administrator shall mail the CAFA Notice in accordance with Section 6.5 below.
- (2) On the day that it mails the CAFA Notice, the Settlement Administrator shall certify to Class Counsel and Defendants’ Counsel that the CAFA Notice was mailed and to whom it was mailed.
- (3) Within five (5) business days of the time the Settlement Administrator mails the CAFA Notice, Class Counsel shall file a certification with the Court that the CAFA Notice has been served and upon whom it has been served.

2.3 Class Counsel shall file the Final Approval Motion no later than twenty (20) days prior to the Final Approval Hearing, or within any other time set by the Court.

2.4 Class Counsel shall file the Fee Petition no later than ten (10) days prior to the Objection Deadline, or within any other time set by the Court. The hearing on the Fee Petition shall occur during the Final Approval Hearing, or as ordered by the Court.

3. CLASS LIST

3.1 On April 4, 2023, Defendants' Counsel provided Class Counsel with an Excel spreadsheet identifying consumer reports sold to third parties between July 6, 2020 and February 28, 2023 which included any OFAC record as a result of Defendants' proprietary UltraAMPS OFAC product.

3.2 According to the Parties' review of the Excel spreadsheet, the Parties estimate that there are 25,173 members of the Class.

3.3 The Settlement Administrator shall be responsible for reviewing the class data Excel spreadsheet to confirm the total number of unique members of the Class.

3.4 Class Representative, Class Counsel, and the Class hereby acknowledge and agree that Defendants are providing the information referenced in this Section to the Settlement Administrator solely to effectuate the terms of this Agreement, and that such information shall not be used, disseminated, or disclosed by or to any other person for any other purpose. Defendants' inclusion of these individuals' personal information during this process is in no way an admission of liability with respect to these individuals.

3.5 If the settlement is terminated for any reason, the Settlement Administrator shall immediately destroy any and all copies of the information referenced in this Section.

4. PRACTICE CHANGES AS A RESULT OF THE LITIGATION

As a direct result of the Litigation and reflecting an integral component of the relief provided to the Class through the Settlement, Defendants have implemented changes to the practices challenged by the Litigation. Specifically, as of March 1, 2023, Defendants discontinued use of the proprietary UltraAMPS OFAC product at issue in the Litigation.

5. THE SETTLEMENT FUND

5.1 Creation of and deposit into the Settlement Fund

The Settlement Fund shall consist of Six Million Seven Hundred Sixty Thousand Dollars and Zero Cents (\$6,760,000.00) to be paid to the Settlement Administrator by Defendants. In no event shall Defendants pay more than \$6,760,000.00 in connection with the Settlement.

(a) First payment

The first payment into the Settlement Fund shall consist of the sum of Twenty-five Thousand Dollars and Zero Cents (\$25,000.00), to be paid by Defendants to the Settlement Administrator within ten (10) business days after entry of the Preliminary Approval Order, to be used to pay Notice and Administration Expenses prior to the date of the Final Approval Hearing.

(b) Second payment

The balance of the Settlement Fund, in the amount of Six Million Seven Hundred Thirty-Five Thousand Dollars and Zero Cents (\$6,735,000.00), shall be paid by Defendants to the Settlement Administrator within 10 days of the Effective Date.

5.2 Allocation of the Settlement Fund

(a) Automatic Payment Pool

Two Million Two Hundred Sixty Five Thousand Dollars and Zero Cents (\$2,265,000.00) shall be allocated for the Automatic Payment Pool, from which the Settlement Administrator shall fund Automatic Payments to Class Members in accordance with Section 12.1(a) below.

The amount of any unclaimed or uncashed Automatic Payment Checks shall then become part of the Net Settlement Fund.

(b) Service Award

Fifteen Thousand Dollars and Zero Cents (\$15,000.00) shall be preliminarily allocated for the Service Award.

Any amount sought for the Service Award but not approved by the Court shall then become part of the Net Settlement Fund.

(c) Fee Petition

Two Million Two Hundred Fifty Three Thousand and Three Hundred Thirty Three Dollars and Thirty Three Cents (\$2,253,333.33) shall be preliminarily allocated for payment of the amount sought by Class Counsel in the Fee Petition.

Any amount sought by the Fee Petition but not allowed by the Court shall then become part of the amounts to be distributed to the *cy pres* recipient in accordance with Section (g) below.

(d) Notice and Administration Expenses

Notice and Administration Expenses shall be capped at one hundred fifteen thousand dollars (\$115,000.00). Twenty-five thousand dollars (\$25,000.00) shall be allocated initially for payment to the Settlement Administrator for Notice and Administration Expenses.

Any amount included within the \$115,000 cap, but not actually incurred by and paid to the Settlement Administrator, shall become part of the Net Settlement Fund.

(e) Money remaining in Settlement Fund after payments of Claim Checks

To the extent money remains in the Settlement Fund following payment of Claim Checks from the Net Settlement Fund in accordance with Section 12.2 below, up to Ten Thousand Dollars and Zero Cents (\$10,000.00) may be paid to the Settlement Administrator to defray reasonable

Notice and Administration Expenses actually incurred by the Settlement Administrator in excess of the \$115,000.00 cap.

Any remaining amount shall be distributed to the *cy pres* recipients in accordance with Section (g) below.

(f) No reversion to Defendants

There shall be no reversion of any portion of the Settlement Fund to Defendants.

(g) *Cy pres* distribution

Any amount remaining in the Settlement Fund after all other payments specified in this Agreement are made shall be distributed by the Settlement Administrator as a *cy pres* award to a *cy pres* recipient to be agreed upon by the parties and submitted to the Court for approval in the Final Approval Motion.

The Settlement Administrator is responsible for securing from the *cy pres* recipients' wiring instructions, as well as all other information necessary to make the *cy pres* distributions.

The *cy pres* distribution shall occur sixty (60) days after the void date of the latest dated Claim Check, including any checks related to a second distribution, if any.

(h) Settlement Fund Tax Status

The Settlement Administrator shall set up the account for receipt of the Settlement Fund in a manner that maximizes tax benefits, and minimizes any tax detriment, for Defendants, Class Representative, and Class Members. The Settlement Administrator shall timely make any elections and filings that are required to maintain the account in compliance with laws related to taxation. The Parties agree that any taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. Taxes and tax expenses related to the Settlement Fund shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order from the Court, and the Settlement Administrator shall be obligated to withhold from distribution any funds necessary to pay such amounts.

6. RESPONSIBILITIES OF THE SETTLEMENT ADMINISTRATOR

6.1 Representation by Class Counsel

Class Counsel represents and warrants that they have contracted, or will contract, with the Settlement Administrator to perform all of the tasks specified and assigned to it in this Agreement, within the time limits specified in this Agreement.

6.2 Information security

The Settlement Administrator shall ensure that the information that it receives from Defendants and Class Members is secured and managed in such a way as to protect the security and confidentiality of the information. Except as specifically provided in this Agreement, the

Settlement Administrator shall not disclose or disseminate any information that it receives from Defendants and Class Members without the prior written consent of all Parties.

6.3 Settlement website and toll-free telephone number

Not later than five (5) days after entry of the Preliminary Approval Order, the Settlement Administrator shall establish the website <http://www.MartinezOFACclassaction.com> and add to that website, among other things: the Settlement Notice; the Class Action Complaint in the Litigation (ECF 1); the Class Certification Order (ECF 84); the Agreement; the Preliminary Approval Motion; the Preliminary Approval Order, the Notice attached hereto as Exhibit C, and the Claim Form attached hereto as Exhibit D.

Not later than fourteen (14) days after entry of the Preliminary Approval Order, the Settlement Administrator shall establish a toll-free number for Class Members to call the Settlement Administrator with questions.

The website and the toll-free number shall be maintained while the Settlement Administrator is administering the Settlement. The internet address of the website and the toll-free number shall be included in the Settlement Notice. The Settlement Administrator shall cause to be maintained a record of activities, including logs of inquiries to the internet website, downloads, phone calls and/or mailings, and shall ensure that a running tally is kept of the number and types of materials mailed by it or downloaded from the internet website in a computerized database form. The telephone line shall be capable of providing general information, in English and in Spanish, concerning deadlines for objecting to the Settlement, and the dates of relevant Court proceedings, including the Final Approval Hearing.

6.4 Mailing of Settlement Notice

(a) Initial Mailing of Settlement Notice

Within fourteen (14) days after the entry of the Preliminary Approval Order, the Settlement Administrator shall update the addresses available for Class Members. The Settlement Administrator shall update addresses through the National Change of Addresses Database.

Within twenty-eight (28) days after the entry of the Preliminary Approval Order, the Settlement Administrator shall mail the Settlement Notice to each Class Member via First Class United States Mail, postage prepaid.

(b) Re-mailing of Settlement Notice

The address of the Settlement Administrator shall be used as the return address for the Settlement Notice. For any Settlement Notice that is returned by the USPS as undeliverable, the Settlement Administrator shall re-mail such notices to any updated address provided by the USPS. If the USPS does not provide an updated address, the Settlement Administrator shall attempt to obtain an updated address from one or more commercial search firms or databases, and shall then re-mail the notices to any such updated address.

6.5 CAFA Notice

Defendants shall be responsible for submitting the CAFA Notice to the Settlement Administrator, with accompanying exhibits. On behalf of Defendants, and in accordance with Section 2.2 above, the Settlement Administrator will mail the CAFA Notice to the appropriate federal and state officials not later than ten (10) days after the filing of this Settlement Agreement with the Court. The Settlement Administrator shall file with the Court a certification of the date upon which the CAFA Notice was served.

6.6 Processing Claims Forms

The Settlement Administrator shall receive and process Claim Forms in accordance with Section 10 below.

6.7 Payments to Class Members

The Settlement Administrator shall prepare and deliver to Class Members the Automatic Payments in accordance with Section 12.1 below, and payments for Claims in accordance with Section 12.2 below.

6.8 Reporting

The Settlement Administrator shall provide regular reports to the Parties, but no less frequently than every month, regarding the status of the mailing of the Settlement Notices to Class Members, any re-mailing of Settlement Notices, the submission and processing of Claims Forms and Requests for Exclusion, the distribution and redemption of payments to Class Members, and other activities undertaken pursuant to this Agreement.

The Settlement Administrator shall prepare for filing a declaration of mailing in connection with the Settlement Notice no later than fifteen (15) days prior to the Final Approval Hearing. The declaration will also include a summary of the Claim Forms and Requests for Exclusion received and processed.

6.9 IRS Form 1099

The Settlement Administrator shall, as necessary, satisfy all reporting requirements, if any, to issue IRS Form 1099s to Class Members.

6.10 Notice and Administration Expenses

All Notice and Administration Expenses shall be paid to the Settlement Administrator from the Settlement Fund.

6.11 Provision of payment and wiring information to Defendants

(a) First payment

At least five (5) business day before filing the Preliminary Approval Motion, the Settlement Administrator shall provide to Defendants' Counsel (i) an executed IRS Form W-9 for the Settlement Administrator, as well as (ii) wiring instructions for the payment required by Section 5.1(a) above.

(b) Second payment

Within three (3) days of the time the Final Approval Motion is filed by Class Counsel, the Settlement Administrator shall provide to Defendants' Counsel wiring instructions for the payment required by Section 5.1(b) above.

7. THE SETTLEMENT NOTICE

7.1 The Settlement Notice shall be in the form of Exhibit C hereto, or in another form agreed to by the Parties that contains substantially the same information as Exhibit C hereto.

7.2 The Settlement Administrator shall be responsible for mailing the Settlement Notices in accordance with Section 6.4 above.

7.3 Each Settlement Notice shall include a Claim Form, populated with the information of the Class Member to whom it is mailed.

8. REQUESTS FOR EXCLUSION

8.1 Any Class Member who wishes to be excluded from the Settlement may request to be excluded from the Class by sending a written Request for Exclusion to the Settlement Administrator.

8.2 To be effective, any Request for Exclusion must contain the Class Member's original handwritten signature, current postal address, and a specific statement that the Class Member wishes to be excluded from the Class.

8.3 Requests for Exclusion must be postmarked no later than the date set by the Court in the Preliminary Approval Order.

8.4 In no event shall persons who purport to request exclusion from the Class as a group, on an aggregate basis, or as a class involving more than one Class Member be considered valid Requests for Exclusion. Requests for Exclusion that do not comply with any of the requirements contained in this Section are invalid.

8.5 If a Class Member submits both a Claim Form and a Request for Exclusion, the Settlement Administrator shall reach out to the Class Member at the contact information provided to determine the Class Member's intent. If the Class Member does not respond or the Settlement Administrator is otherwise not able to determine the Class Member's intent, the Claim Form will be controlling, the Request for Exclusion will be invalid, and the Class Member will be bound by the Agreement.

8.6 No later than seven (7) days after the deadline for submission of Requests for Exclusion, the Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a complete list of all persons who have properly requested exclusion from the Settlement together with copies of the Requests for Exclusion. The Settlement Administrator shall provide a recommendation as to whether it believes any Request for Exclusion is invalid. If the Parties disagree as to the validity of a Request for Exclusion, they may raise the issue with the Court at the Final Approval Hearing for ultimate determination.

9. OBJECTIONS AND REQUESTS TO APPEAR AT FINAL APPROVAL HEARING

9.1 Any Class Member who wishes to object to the Settlement or Fee Petition at the Final Approval Hearing, and/or who wishes for any objection to be considered, must file a Notice of Objection by the Objection Deadline.

(a) The Notice of Objection shall be sent by First Class United States Mail to: (i) Class Counsel; (ii) Defendants' Counsel; and (iii) the Clerk of the Court.

(b) Such objection shall be personally signed and state: the caption of the Litigation; the full name, address and telephone number of the Class Member objecting to the Settlement; a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents such Class Member wishes to be considered in support of the objection; the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or Fee Petition; any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity; the identity of all counsel representing the objector who will appear at the Final Approval Hearing; and, all relief sought.

(c) Any objector wishing to be heard at the Final Approval Hearing must also file a notice of intent to appear with the Court Clerk's office no later than ten (10) business days before the Final Approval Hearing, and must provide both Class Counsel and Defendants' Counsel with copies of the notice of intent to appear.

(d) The agreed-upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member's objections to the Settlement or Fee Petition, in accordance with such Class Member's due process rights.

(e) The Preliminary Approval Order shall further provide that persons who fail to properly or timely file their objections, along with the required information and documentation set forth above, or to serve them as provided above, shall not be heard during the Final Approval Hearing, nor shall their objections be considered by the Court.

(f) Unless otherwise allowed by law, only Class Members who object to the Settlement by the Objection Deadline and pursuant to the terms of this Section 9 may appeal any Final Judgment or ruling on the Fee Petition.

10. DAMAGES CLAIMS

In lieu of receiving an Automatic Payment, Class Members may elect to submit a Claim Form.

10.1 Claim Forms

To assert a Claim, a Class Member must submit a completed Claim Form by the Claims Submission Deadline by which such Class Members certify to the best of his or her knowledge, information, and belief that they were damaged as a result of the conduct that qualified that Class Member to be a member of the Class.

A Claim Form shall be deemed to have been submitted timely when postmarked by the USPS or other expedited mail service on or before the Claims Submission Deadline.

10.2 Processing of Claim Forms

(a) The Settlement Administrator shall receive and process all Claim Forms.

(b) The Settlement Administrator shall disallow any Claim when the Claim Form is not completed in full, or is not signed by the Class Member.

(c) The Settlement Administrator shall disallow any Claim if the person who submitted the form is not a member of the Class.

(d) With the written agreement of Class Counsel and Defendants' Counsel, the Settlement Administrator may allow a Claim Form postmarked after the Claims Submission Deadline.

10.3 Disallowed Claims

Any Class Member whose Claim Form is disallowed by the Settlement Administrator for any reason shall be sent an Automatic Payment Check pursuant to Section 12.1(a) below.

11. FEE PETITION AND SERVICE AWARD

11.1 Fee Petition

Within the time specified by Section 2.4 above, Class Counsel shall petition the Court for an award of attorneys' fees, plus reimbursement of litigation costs and expenses, in a total amount

not to exceed Two Million Two Hundred Fifty Three Thousand and Three Hundred Thirty Three Dollars and Thirty Three Cents (\$2,253,333.33).

Defendants agree not to object to or oppose Class Counsel's Fee Petition. Defendants shall have no responsibility for, or any liability with respect to, the payment of attorneys' fees and expenses to Class Counsel, and the sole source of any award of attorneys' fees or costs shall be the Settlement Fund, pursuant to the terms of this Agreement.

(a) Payment of amounts awarded for Fee Petition

Within five (5) business days after receiving the payment from Defendants required by Section 5.1(b) above, the Settlement Administrator shall pay to Class Counsel the amount awarded by the Court relating to the Fee Petition. Such payment shall be made without tax withholding.

(b) Separate consideration of Fee Petition

The Fee Petition is to be considered separately from the Court's consideration of the fairness, reasonableness, and good faith of this Agreement. The outcome of any proceeding related to the Fee Petition shall not terminate this Agreement or otherwise affect the Court's ruling on the Final Approval Motion.

11.2 Service Award

The Class Representative may, subject to Court approval, receive from the Settlement Fund a one-time Service Award of an amount not to exceed Fifteen Thousand Dollars (\$15,000.00) in consideration of his services in this matter. Any request for a Service Award shall be made as part of the Final Approval Motion.

(a) Timing of Payment

Within five (5) business days after receiving the payment from Defendants required by Section 5.1(b) above, the Settlement Administrator shall remit these funds to Class Counsel, who shall then distribute the Service Award to the Class Representative. Such payment shall be made without tax withholding.

(b) Release by Class Representative

The Class Representative agrees to the releases in Section 13 below, regardless of the amount of any Service Award approved by the Court.

12. PAYMENTS TO CLASS MEMBERS

12.1 Automatic Payments

(a) Mailing of Automatic Payment Checks

Within twenty (20) business days after receiving the payment from Defendants required by Section 5.1(b) above, the Settlement Administrator shall mail to each Class Member whose Notice

was not returned as undeliverable, who did not request to be excluded, and who did not submit a valid Claim, an Automatic Payment Check via First Class United States Mail, postage prepaid.

(b) Uncashed Automatic Payment Checks

The Automatic Payment Checks must clearly indicate that they shall be void if not presented for payment within sixty (60) days from the date of mailing.

To the extent that Automatic Payment Checks are not presented for payment by a Class Member within sixty (60) days of mailing, such checks remaining uncashed on that date shall become null and void, and any such Class Member shall have no further recourse. Provided, however, that any Class Member who timely submitted a Claim Form shall be eligible to receive a payment from the Claims Made Pool.

Any funds remaining in the Automatic Payment Pool after the Automatic Payment Checks become void shall become part of the Net Settlement Fund.

12.2 Payments for Claims

(a) Calculation of Claim Checks

Each Claimant, except those whose Claims are disallowed by the Settlement Administrator, is entitled to a Claim Payment Amount equal to a *pro rata* share of the Net Settlement Fund.

(b) Initial mailing of Claim Checks

Within forty-five (45) days after the void date of the latest dated Automatic Payment Pool Check, the Settlement Administrator shall mail to each Claimant a Claim Check in the amount of the Claim Payment Amount.

(c) Uncashed Damages Claim Checks

The Claim Checks must clearly indicate that they shall be void if not presented for payment within sixty (60) days from the date of mailing.

To the extent that Claim Checks are not presented for payment by a Claimant within sixty (60) days of mailing, such checks remaining uncashed on that date shall become null and void, and any such Claimant shall have no further recourse.

(d) Second Distribution

If any checks issued to Claimants from the Net Settlement Fund remain uncashed after the stale date referenced above – and the collective amount of those checks allows for a second distribution of at least twenty dollars (\$20) to all Claimants after further reductions in the Net Settlement Fund for additional expenses incurred by the Settlement Administrator as a result of the need for a second distribution – then the Settlement Administrator shall distribute the funds associated with those uncashed checks in equal amounts to Claimants who cashed a check from the previous distribution. The payment notices accompanying the payment check shall notify the

recipients that the checks must be cashed within sixty (60) days from the date on the enclosed check and that the enclosed check shall not be valid after that date.

12.3 Tax consequences to Class Members

Class Members shall be solely responsible for complying with any and all income tax liabilities and obligations which are or may become due or payable in connection with this Agreement and the Settlement.

The Settlement Administrator shall provide each Class Member with a notice advising him or her to seek personal tax advice regarding any tax consequences of the Settlement Fund disbursement. The notice regarding the potential tax treatment to Class Members shall be included with each disbursement to Class Members. For the avoidance of doubt, none of the Defendants, Defendants' Counsel, or Class Counsel, have made, or are making in connection with the Settlement, any representations regarding possible tax consequences relating to the Settlement Fund disbursements to Class Members, and none of the Defendants, Defendants' Counsel or Class Counsel shall be held responsible for any such tax consequences.

13. RELEASE OF CLAIMS

13.1 Class Members

Upon the Effective Date, and in exchange for the relief described in this Agreement, each Class Member who has not validly excluded himself or herself, on behalf of themselves and their respective spouses, heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors, assigns, and all those acting or purporting to act on their behalf, acknowledge full satisfaction of, and shall be conclusively deemed to have fully, finally, and forever settled, released, and discharged all the Released Parties of and from all claims, rights, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses, and attorneys' fees of any nature whatsoever arising before and up through the Effective Date, whether known or unknown, matured or unmatured, foreseen or unforeseen, suspected or unsuspected, accrued or unaccrued, which he or she ever had or now has under FCRA section 1681e(b) and state and common law analogs.

Class Members acknowledge that they may subsequently discover facts that supplement, or are in addition to, those facts that they or Class Counsel now believe to be true with respect to this Litigation or the released claims. Nonetheless, the Class Members intend to fully, finally, and forever settle and release those claims, without regard to whether they subsequently discover additional or different facts. **Class Members and Class Counsel understand and acknowledge the significance of this waiver of California Civil Code § 1542 and/or any other applicable federal or state law relating to limitations on releases with respect to the released claims.**

13.2 Class Representative

Upon the Effective Date, and in exchange for the relief described in this Agreement, the Class Representative hereby releases and forever discharges the Released Parties from any and all claims, actions, and causes of action, including claims for attorneys' fees, asserted or which could have been asserted as of the Effective Date, or which now exist or might arise out of any duties or

obligations owed by Defendants to Class Representative, as of the Effective Date. This release includes all claims, whether known or unknown, asserted or unasserted, which Class Representative may currently have against the Released Parties, or that may arise in the future up to and including the Effective Date.

14. MODIFICATION BY COURT

This Agreement, and the Settlement, shall be null and void if the Court requires changes to the Agreement that substantively alter the Parties' rights or duties before approving the Settlement. Provided, however, that the Parties, in their sole discretion, can consent to modify this Agreement, in accordance with Section 15.10 below, to be consistent with any modifications requested or required by the Court.

15. MISCELLANEOUS PROVISIONS

15.1 Cooperation between the Parties; Further acts

The Parties shall cooperate in good faith and shall use their best efforts to obtain the Court's approval of this Agreement and all of its terms. The Parties shall work together, diligently and in good faith, to obtain expeditiously a Preliminary Approval Order, Final Approval Order, and Final Judgment and dismissal.

15.2 Admissibility of Agreement

This Agreement shall not be offered or be admissible in evidence in any action or proceeding except: (1) the hearings necessary to obtain and implement Court approval of this Settlement; and (2) any hearing to enforce the terms of this Agreement or any related order in the Litigation.

15.3 Entire agreement

This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties (including the Parties' settlement term sheet) shall be deemed merged into this Agreement.

15.4 Binding effect

This Agreement shall apply to and be binding upon and shall inure to the benefit of the Parties hereto, the Released Parties, and Class Counsel, as well as their respective successors, heirs and assigns. The Parties acknowledge it is their intent to consummate this Agreement and agree to cooperate to the extent reasonably necessary to effect and implement all terms and conditions of the Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of the Agreement.

15.5 Arms' length transaction; Materiality of terms

The Parties have negotiated all the terms and conditions of this Agreement at arm's length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement.

15.6 Captions

The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

15.7 Construction

The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.

15.8 Governing law

This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of Connecticut, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.

15.9 Continuing Jurisdiction

The Court shall retain jurisdiction over the interpretation and implementation of this Agreement.

15.10 Waivers, modifications, and amendments to be in writing

No waiver, modification or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement and the Settlement, shall be valid or binding unless in writing, signed by or on behalf of all Parties, and then only to the extent set forth in such written waiver, modification or amendment, subject to any required Court approval. Any failure by any Party to insist upon the strict performance by the other Party or Parties of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

15.11 Notices

Any notice or other formal communication required or permitted to be delivered under this Agreement shall be in writing and sent by First Class United States mail to counsel for the Party to whom the notice is directed at the following addresses:

If to Defendants: Troutman Pepper Hamilton Sanders LLP
222 Central Park Ave, Suite 2000
Virginia Beach, VA 23462
Attention: David M. Gettings, Esq.

If to Plaintiffs: Francis Mailman Soumilas, P.C.
1600 Market Street, Suite 2510
Philadelphia, PA 19103
Attention: James A. Francis, Esq.

15.12 Authorization of counsel

Class Counsel, on behalf of the Class, are expressly authorized by Class Representative and the Class Members to take all appropriate action required or permitted to be taken by the Class pursuant to the Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Agreement on behalf of the Class that they deem necessary or appropriate.

Each attorney or other person executing the Agreement on behalf of any Party hereto hereby warrants that such attorney or other person has the full authority to do so.

15.13 Counterparts

The Parties may execute this Agreement in counterparts, and execution in counterparts shall have the same force and effect as if all Parties had signed the same instrument.

15.14 Signatures

Any signature made and transmitted by facsimile, email, PDF or other electronic methods for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the Party whose counsel transmits the signature page by such electronic means.

15.15 Termination

Defendants' willingness to settle this Litigation on a class action basis is dependent upon achieving finality in this Litigation and the desire to avoid the expense of this and other litigation. Consequently, Defendants have the right to terminate this Agreement, declare it null and void, and have no further obligations under this Agreement to the Class Representative or Class Members if any of the following conditions subsequent occurs:

- a) The Parties fail to obtain and maintain Preliminary Approval consistent with the provisions of this Agreement;
- b) More than 150 individuals opt out of the proposed Class;
- c) The Court fails to enter a Final Approval Order consistent with the provisions of this Agreement;
- d) The Agreement, or the Final Approval Order, is not upheld on appeal, including review by the United States Supreme Court;
- e) The Class Representative or Class Counsel commit a material breach of the Agreement before entry of the Final Approval Order; or
- f) The Effective Date does not occur for any reason, including but not limited to the entry of an order by any court that would require either material modification or termination of the Agreement.

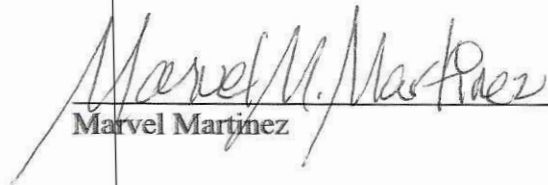
The failure of the Court or any appellate court to approve in full the Fee Petition shall not be grounds for the Class Representative, the Class, or Class Counsel to cancel or terminate this Agreement. The failure of the Court or any appellate court to approve in full the request of the Class Representative for his Service Award shall not be grounds for the Class Representative, the Class, or Class Counsel to cancel or terminate this Agreement.

If the Agreement is not finally approved, is not upheld on appeal, or is otherwise terminated for any reason, then the Agreement and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any Party and shall not be deemed or construed to be an admission or confession by any Party of any fact, matter, or proposition of law; and all Parties shall stand in the same procedural position as if the Agreement had not been negotiated, made, or filed with the Court.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto have caused this Settlement Agreement and Release to be executed as of the date written below.

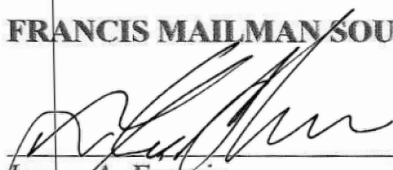
Dated: November 8, 2023



Marvel Martinez

FRANCIS MAILMAN SOUMILAS, P.C.

Dated: November 8, 2023

By: 

James A. Francis
John Soumilas
Lauren KW Brennan
Attorneys for Plaintiff and Class Members

Dated: _____, 2023

Xactus, LLC d/b/a Avantus successor in interest to certain assets of Avantus, LLC

By: _____

Its: _____

TROUTMAN PEPPER HAMILTON SANDERS LLP

Dated: _____, 2023

By: _____
David M. Gettings
Attorneys for Defendants

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto have caused this Settlement Agreement and Release to be executed as of the date written below.

Dated: _____, 2023

Marvel Martinez

FRANCIS MAILMAN SOUMILAS, P.C.


Dated: _____, 2023

By: _____

James A. Francis
John Soumilas
Lauren KW Brennan
Attorneys for Plaintiff and Class Members

Dated: November 8th, 2023

Xactus, LLC d/b/a Avantus successor in interest to certain assets of Avantus, LLC

By: 
8ABCB87CC860436...

Its: General Counsel

TROUTMAN PEPPER HAMILTON SANDERS LLP

Dated: November 8, 2023

By: 

David M. Gettings

Attorneys for Defendants

EXHIBIT A – PROPOSED FINAL APPROVAL ORDER

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

MARVEL MARTINEZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

AVANTUS, LLC, and Xactus, LLC, d/b/a
Avantus, as successor in interest to certain assets
of Avantus, LLC,

Defendants.

Civil Action No. 3:20-cv-1772-JCH

FINAL APPROVAL ORDER

This matter, having come before the Court on the Plaintiff Marvel Martinez’s motion for Final Approval of the proposed class action Settlement with Defendants Avantus, LLC and Xactus, LLC d/b/a Avantus as successor in interest to certain assets of Avantus, LLC; the Court having considered all papers filed and arguments made with respect to the Settlement, and having entered a Preliminary Approval Order on [REDACTED], 2023 (ECF [REDACTED]); and the Court, being fully advised in the premises, finds that:

A. As set forth in the Court’s Class Certification Order (ECF 84) and Preliminary Approval Order, this action satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23(a) and (b)(3).

B. Notice to the Class required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Settlement Notice Plan approved by the Preliminary Approval Order. That Settlement Notice Plan, which provided notice

by mail and website in an adequate and sufficient manner, constitutes the best notice practicable under the circumstances, and satisfies Rule 23(e) and the due process guarantees of the U.S. Constitution.

C. Notification of this settlement to the appropriate federal and state officials pursuant to the Class Action Fairness Act (“CAFA”) was timely provided. The Court has reviewed such CAFA Notice and finds that the notice complies fully with the applicable requirements of CAFA.

D. Class Representative and Class Counsel have adequately represented the Class.

E. The Settlement was arrived at as a result of arms-length negotiations conducted in good faith by counsel for the Parties, including a mediation with an experienced neutral, and is supported by the Class Representative.

E. The Settlement is fair, reasonable and adequate to members of the Class in light of the complexity, expense, and duration of litigation, the effectiveness of the proposed method of distributing relief to the Class, the terms and timing of any award of attorneys’ fees, and the risks involved in establishing liability and damages, and in maintaining the class action through trial and appeal.

F. The Settlement treats Class Members equitably relative to each other.

F. The relief provided under the Settlement constitutes fair value given in exchange for the releases of claims against the Released Parties.

G. The people listed on Exhibit [REDACTED] to the Final Approval Motion (ECF [REDACTED]) have validly excluded themselves from the Class and shall not be bound by the Settlement.

H. It is in the best interests of the Parties and the Class Members, and consistent with principles of judicial economy, that this Court shall retain jurisdiction over the interpretation, implementation, and performance of the Settlement and this Final Approval Order.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. The Settlement submitted by the Parties is finally approved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable and adequate and in the best interests of the Class Members. Any objections have been considered and are hereby overruled.

2. The Parties are directed to consummate the Agreement in accordance with its terms.

3. This action is hereby dismissed on the merits with prejudice, and without an award of costs or fees to any party.

4. Pursuant to the releases contained in Section 13 of the Agreement, the claims of the Class Representative and the Class Members are compromised, settled, released, discharged, and dismissed with prejudice by virtue of these proceedings and this Final Approval Order. The Plaintiff, Class Members, and their successors and assigns are permanently barred and enjoined from instituting or prosecuting, either individually or as a class, or in any other capacity, any of the released claims against any of the Released Parties, as set forth in the Agreement.

5. Without affecting the finality of this judgment, the Court hereby reserves and retains jurisdiction over the interpretation, implementation, and performance of the Settlement and this Final Approval Order.

6. Upon consideration of Class Counsel's Fee Petition, the Court has entered a separate order awarding reasonable fees and expenses, from the Settlement Fund, in an amount as set forth in that order.

7. Upon consideration of the application for a Service Award, Class Representative Marvel Martinez is awarded the sum of fifteen thousand dollars (\$15,000.00) from the Settlement Fund in consideration of the valuable service he has performed for and on behalf of the Class.

8. All Class Members shall be bound by all of the terms, conditions and obligations of the Agreement, and all determinations and judgments in the Litigation concerning the Settlement.

9. Neither the Settlement, nor any of its terms or provisions, nor any of the negotiations or proceedings connected with it, shall be construed as an admission or concession by any party of the truth of any allegation in the Litigation or of any liability, fault or wrongdoing of any kind.

6. Final Judgment is hereby entered in this action, consistent with the terms of the Agreement.

BY THE COURT:

Dated: _____

HON. JANET C. Hall
UNITED STATES DISTRICT JUDGE

EXHIBIT B – PROPOSED PRELIMINARY APPROVAL ORDER

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

MARVEL MARTINEZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

AVANTUS, LLC, and Xactus, LLC, d/b/a
Avantus, as successor in interest to certain assets
of Avantus, LLC,

Defendants.

Civil Action No. 3:20-cv-1772-JCH

ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT

The Court, having reviewed the Agreement entered into by the Parties, hereby orders that:

1. The Court has considered the proposed Settlement of the Class Claims asserted by the Class of persons certified by the Class Certification Order entered January 5, 2023 (ECF 84), and modified as follows to reflect a firm end date:

All persons residing in the United States and its Territories about whom Defendants sold a consumer report to a third party that included any OFAC record where there is not a match between the date of birth, address, or social security number of the subject of the report and the corresponding person on the SDN list—using its proprietary UltraAMPS OFAC product, during the period beginning July 6, 2020 and ending February 28, 2023.

2. By the Class Certification Order, the Court has already ruled that the prerequisites to a class action under Fed. R. Civ. P. 23(b)(a) and (b)(3) have been satisfied, including as to the modified class definition.

3. The Agreement entered into between the Plaintiff Marvel Martinez and Defendants Avantus, LLC and Xactus, LLC d/b/a Avantus as successor in interest to certain assets of Avantus, LLC, appears, upon preliminary review, to be fair, reasonable, and adequate to the Class. Accordingly, the Settlement is preliminarily approved, pending a Final Approval Hearing as provided for herein.

4. The Court has appointed Plaintiff Marvel Martinez as Class Representative and the law firms of Francis Mailman Soumilas, P.C. as Class Counsel.

5. The Court appoints [REDACTED] as Settlement Administrator.

6. The Court will hold a Final Approval Hearing pursuant to Fed. R. Civ. P. 23(e) on [REDACTED], 2024 in the United States District Court, Courtroom 1, 141 Church Street, New Haven, CT 06510 at [REDACTED].m. for the following purposes:

- a. To determine whether the proposed Settlement is fair, reasonable and adequate and should be granted Final Approval by the Court;
- b. To determine whether a Final Judgment should be entered dismissing the claims of the Class, with prejudice;
- c. To consider the Fee Petition by Class Counsel for an award of attorneys' fees and expenses;
- d. To consider the request for a Service Award to the Class Representative; and
- e. To rule upon other such matters as the Court may deem appropriate.

7. Within ten (10) business days of the entry of this Preliminary Approval Order, Defendants shall transfer the sum of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to the Settlement Administrator to create the Settlement Fund.

8. Upon entry of this Preliminary Approval Order, the Settlement Administrator shall proceed with the Settlement Notice Plan. The Court finds that the Settlement Notice Plan set forth in the Agreement fully satisfies the requirements of Fed. R. Civ. P. 23 and the due process guarantees of the U.S. Constitution, constitutes the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

9. A Class Member may submit a Request for Exclusion from the Settlement.

a. To make a valid Request for Exclusion, the Class Member must submit a written request to the Settlement Administrator containing:

- i. the Class Member's original handwritten signature;
- ii. the Class Member's current postal address;
- iii. a specific statement that the Class Member wishes to be excluded from the Class.

b. Requests for Exclusion must be postmarked no later than sixty (60) days after the date notice is mailed by the Settlement Administrator.

c. In no event shall persons who purport to request exclusion from the Class as a group, on an aggregate basis or as a class involving more than one Class Member, be considered valid Requests for Exclusion.

10. A Class Member may object to the Settlement.

a. To exercise this objection right, the Class Member must provide a Notice of Objection via First Class United States Mail to the Clerk of Court, Class Counsel, and Defendants' Counsel. The Notice of Objection must be postmarked no later than the Objection Deadline.

- b. For an objection to be considered by the Court, such objection shall be personally signed and state:
- i. The caption of the Litigation;
 - ii. The full name, address and telephone number of the Class Member objecting to the Settlement;
 - iii. A detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with any documents such Class Member wishes to be considered in support of the objection;
 - iv. The identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or Fee Petition;
 - v. Any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector’s counsel and any other person or entity;
 - vi. The identity of all counsel representing the objector who will appear at the Final Approval Hearing; and,
 - vii. All relief sought.
- c. Any objector wishing to be heard at the Final Approval Hearing must, no later than ten (10) business days before that hearing, file a notice of intent to appear with the Court Clerk’s office, and must provide both Class Counsel and Defendants’ Counsel with copies of the notice of intent to appear.

d. The right to object must be exercised individually by an individual Class Member, not as a member of a group and, except in the case of a deceased or incapacitated Class Member, not by the act of another person acting or purporting to act in a representative capacity.

11. Class Counsel shall file any Fee Petition supporting its request for attorneys' fees and costs no later than ten (10) days before the Objection Deadline.

12. All briefs, memoranda, petitions and affidavits to be filed in support of Final Approval of the Settlement and for a Service Award to the Class Representative shall be filed not later than twenty (20) days before the Final Approval Hearing.

13. The Court retains exclusive jurisdiction over this action to consider all further matters arising out of or connected with the Settlement.

BY THE COURT:

Dated: _____

HON. JANET C. Hall
UNITED STATES DISTRICT JUDGE

EXHIBIT C – PROPOSED NOTICE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

MARVEL MARTINEZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

AVANTUS, LLC, and Xactus, LLC, d/b/a
Avantus, as successor in interest to certain assets
of Avantus, LLC,

Defendants.

Civil Action No. 3:20-cv-1772-JCH

YOU ARE A MEMBER OF A CLASS ACTION

READ THIS NOTICE CAREFULLY

A federal court authorized this notice. This is not a solicitation from a lawyer.

Plaintiff Marvel Martinez filed a class action lawsuit against Defendants Avantus, LLC and Xactus, LLC, successor in interest to certain assets of Avantus, LLC (“Defendants”) alleging that Defendants failed to maintain reasonable procedures to assure the “maximum possible accuracy” of information associated with consumers, in claimed violation of the Fair Credit Reporting Act, or “FCRA.” On January 5, 2023, the Court ordered that the case should proceed as a class action. The parties later reached a settlement that resolves the claims of the following people (the “Class”):

All persons residing in the United States and its Territories about whom Defendants sold a consumer report to a third party that included any OFAC record where there is not a match between the date of birth, address, or social security number of the subject of the report and the corresponding person on the SDN list, using its proprietary UltraAMPS OFAC product, during the period beginning July 6, 2020 and ending February 28, 2023.

According to records maintained by Defendants, you meet this definition.

The settlement will provide a settlement fund of \$6,760,000.00 to pay people who are members of the Class. Lawyers for the Class will ask the Court for up to one-third of the settlement fund—as fees and expenses for investigating the facts, litigating the case, and negotiating the settlement—and for \$15,000 to be paid to the Class Representative, Marvel Martinez, for his services to the Class.

EXHIBIT C – PROPOSED NOTICE

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT: YOU CAN DO ONE OR MORE OF THE FOLLOWING	
DO NOTHING	Receive a payment of \$100.00.
FILE A CLAIM	If you incurred damages as a result of the Defendants’ alleged violations of the law, you may choose, <u>instead of the automatic</u> payment of \$100.00, to file a claim for damages. By filing a claim, you will receive a higher cash payment described more fully below.
OBJECT	Write to the Court about why you don’t like the settlement.
REQUEST EXCLUSION	Ask to be excluded from the settlement. You will not release any claims, or receive any payments from the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.

These rights and options—and the deadlines to exercise them—are explained in this Notice. The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

Basic Information

1. What is contained in this notice package?

This package explains the lawsuit, the settlement, your legal rights, what benefits are available to you as a member of the certified Class, and how to get them.

You have a right to know about a proposed settlement of this class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves the settlement, and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the settlement allows.

The Court in charge of the case is the United States District Court for the District of Connecticut. This class action is captioned as *Martinez v. Avantus, LLC*. The person who sued is called the Plaintiff, and the companies he sued are called the Defendants.

2. What is this lawsuit about?

The lawsuit claimed that Defendants failed to comply with the federal Fair Credit Reporting Act by reporting records from the U.S. Department of Treasury’s Office of Foreign Assets Control or

EXHIBIT C – PROPOSED NOTICE

“OFAC” list on credit reports of consumers who had applied for mortgage financing. Defendants deny that they did anything wrong. The Class Action Complaint and other pertinent documents are available on the website: <http://www.MartinezOFACclassaction.com/>

3. Why is this a class action?

In a class action, one or more people called the Class Representative (in this case Marvel Martinez), sue on behalf of people who have similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members. The Honorable U.S. District Judge Janet C. Hall is in charge of this class action.

4. Why is there a settlement?

The Court entered an Order certifying a Class, but did not decide in favor of the Plaintiff or the Defendants.

There was no trial. Instead, both sides agreed to a settlement after vigorous pre-trial litigation, including a mediation session with an experienced mediator, Rodney Max. By reaching a settlement agreement (available at <http://www.MartinezOFACclassaction.com/>), the parties avoid the cost of a trial, and the people affected will get compensation. The Class Representative and the attorneys think the settlement is best for all Class Members.

The Certified Class and Subclass

5. Why am I am part of the settlement?

Everyone who meets this description is a Class Member:

All persons residing in the United States and its Territories about whom Defendants sold a consumer report to a third party that included any OFAC record where there is not a match between the date of birth, address, or social security number of the subject of the report and the corresponding person on the SDN list, using its proprietary UltraAMPS OFAC product, during the period beginning July 6, 2020 and ending February 28, 2023.

According to records maintained by Defendants, you fit this description.

The Settlement Benefits — What You Get

6. What does the settlement provide?

The settlement agreement provides that Defendants will pay the sum of \$6,760,000.00 into a settlement fund.

EXHIBIT C – PROPOSED NOTICE

The settlement fund will be used to make automatic payments of \$100.00 to each Class Member without the need to file a claim. In addition, part of the settlement fund will be used to pay higher payments for each Class Member who completes and submits the Claim Form accompanying this Notice.

Subject to the approval of the Court, the settlement fund shall also be used to pay a service award to the Class Representative in the amount of \$15,000.00, and Class Counsel’s fees and expenses not to exceed one-third of the settlement fund. The settlement fund shall also be used to pay the costs of notice and settlement administration.

No portion of the settlement fund shall revert to Defendants. The settlement provides that uncashed checks shall be paid to a non-profit organization to be approved by the Court. More details on all of the settlement benefits are set forth in the settlement agreement which is available at <http://www.MartinezOFACclassaction.com/>

7. When would I get my payment?

The Court will hold a Fairness Hearing on [REDACTED], 2024 in United States District Court, Courtroom 1, 141 Church Street, New Haven, CT 06510 [REDACTED].m. to decide whether to approve the settlement. If Judge Hall approves the settlement after that, there may be appeals. It’s always uncertain what the outcome of any appeals will be, and resolving them can take time, perhaps more than a year. **Please be patient.**

The Lawyers Representing You

8. Do I have a lawyer in this case?

The law firm of Francis Mailman Soumilas, P.C. in Philadelphia, Pennsylvania, represents you and other Class Members. The contact information for the law firm is:

FRANCIS MAILMAN SOUMILAS, P.C.
1600 Market Street, Suite 2510
Philadelphia, PA 19103
Tel: (215) 735-8600 or 1-877-735-8600
avantussettlement@consumerlawfirm.com

These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

9. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment to them of up to one-third of the settlement fund for attorneys’ fees and expenses. The attorneys’ fees would pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. The Court may award less than this amount. Defendants have agreed not to oppose the request for fees and expenses, up

EXHIBIT C – PROPOSED NOTICE

to one-third of the settlement fund. The costs of sending notice and administering the settlement will also be paid from the settlement fund.

Requesting Exclusion

10. How do I ask to be excluded from the settlement?

You may exclude yourself from the lawsuit and the Settlement by contacting the Settlement Administrator at:

Martinez v. Avantus
c/o [Settlement Administrator]

All exclusion requests must be sent no later than [DATE]. If you timely request exclusion from the settlement, you will be excluded from the settlement, you will not be bound by any judgment in the lawsuit, and you will not be precluded from prosecuting any timely claim you may have against Defendants based on the conduct complained of in the lawsuit. You will not receive any payments from the settlement fund.

Objecting to the Settlement

You can tell the Court that you don't agree with the settlement or some part of it.

11. How do I tell the Court that I don't like the settlement?

As a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the settlement in *Martinez v. Avantus*. Be sure to include your full name, address and telephone number; the reasons you object to the settlement; whether you plan to come to the Fairness Hearing and whether you (or anyone else) want to speak; if you have a lawyer (who is not one of the lawyers for the Class), the name of the lawyer(s) representing you; and if they exist, any agreements or documents relating to your objection or the process of objecting.

Mail the objection to the three different places shown here, postmarked no later than **Month 00, 0000**:

<p><u>COURT</u> Clerk of the Court District of Connecticut U.S. Courthouse 141 Church Street New Haven, CT 06510</p>	<p><u>CLASS COUNSEL</u> Francis Mailman Soumilas, P.C. 1600 Market Street, Suite 2510 Philadelphia, PA 19103 Attention: James A. Francis, Esq.</p>	<p><u>DEFENDANTS' COUNSEL</u> Troutman Pepper Hamilton Sanders LLP 222 Central Park Ave, Suite 2000 Virginia Beach, VA 23462 Attention: David M. Gettings, Esq.</p>
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The Court's Fairness Hearing

EXHIBIT C – PROPOSED NOTICE

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

12. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at [REDACTED] .m. on [REDACTED], 2024, in United States District Court, Courtroom 1, 141 Church Street, New Haven, CT 06510.

At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and whether the requested payments to Class Counsel and Class Representative are proper. If there are objections, the Court will consider them. Judge Hall will also listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

13. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Hall may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

14. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. If you plan to speak at the hearing because you don't like the settlement, you must send a letter as described in Section **Error! Reference source not found..** You must also file a notice of intent to appear at the hearing with the Court Clerk's office no later than **Month 00, 0000**. You must send copies of the notice to both Class Counsel and Defendants' counsel at the addresses provided in Section **Error! Reference source not found..**

If You Do Nothing

15. What happens if I do nothing at all?

If you do nothing, and if the Court approves the settlement, you will still receive the \$100.00 automatic payment.

Getting More Information

16. How do I get more information?

This notice summarizes the proposed settlement. More details—including the settlement agreement, the Class Action Complaint, answers to common questions, plus other information to help you understand the settlement—are available at [www. MartinezOFACclassaction.com](http://www.MartinezOFACclassaction.com).

EXHIBIT D

First Name M.I. Last Name
Street Address 1
Street Address 2
City, ST Zip Code

CLAIM FORM

COMPLETE THIS FORM TO OBTAIN A HIGHER CASH PAYMENT, AS DESCRIBED IN THE SETTLEMENT NOTICE.

I HEREBY CERTIFY AS FOLLOWS:

1. I AM THE PERSON IDENTIFIED ABOVE.
2. THE ADDRESS INFORMATION SET FORTH ABOVE IS CORRECT, OR MY CURRENT ADDRESS IS: _____.
3. MY TELEPHONE NUMBER IS _____ AND MY E-MAIL ADDRESS IS _____.
4. TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, I LOST OR WAS DELAYED IN OBTAINING CREDIT AS A RESULT OF THE CONDUCT THAT IS THE BASIS FOR THE CLASS CLAIMS ASSERTED AGAINST DEFENDANTS IN THIS LAWSUIT.

SIGN BELOW TO VERIFY THAT THE INFORMATION YOU ARE SUPPLYING IS CORRECT.

Signature

Printed Name

Date: _____

NOTE: THIS CLAIM FORM WILL NOT BE VALID WITHOUT YOUR SIGNATURE. YOU MUST ALSO CERTIFY THAT THE ADDRESS LISTED ABOVE IS CORRECT, OR PROVIDE YOUR CURRENT ADDRESS. IF YOU SUBMIT THE FORM WITHOUT THAT INFORMATION, YOU WILL NOT RECEIVE A HIGHER CASH PAYMENT FROM THE SETTLEMENT FUND. You will still be eligible to receive a lower automatic payment.

THIS CLAIM FORM MUST BE RETURNED TO THE FOLLOWING ADDRESS NO LATER THAN [REDACTED], 2023]:

Settlement Administrator
Address