

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): **April 13, 2023 (April 12, 2023)**

SmileDirectClub, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-39037
(Commission
File Number)

83-4505317
(IRS Employer
Identification No.)

414 Union Street
Nashville, Tennessee
(Address of Principal Executive Offices)

37219
(Zip Code)

(800) 848-7566
(Registrant's telephone number, including area code)

Not applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425).
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12).
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b)).
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c)).
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Securities registered pursuant to Section 12(b) of the Exchange Act:

<u>Title of each class</u>	<u>Trading symbol</u>	<u>Name on each exchange on which registered</u>
Class A common stock, par value \$.0001 per share	SDC	The NASDAQ Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 8.01. Other Events.

On April 12, 2023, SmileDirectClub, Inc. (the “Company”) entered into a stock purchase agreement (the “Stock Purchase Agreement”) with a certain investor (the “Purchaser”), pursuant to which the Company issued to the Purchaser 600,000 shares (the “Shares”) of the Company’s Class A common stock, par value \$0.0001 per share.

On January 9, 2023, the Company’s wholly-owned subsidiary, SmileDirectClub, LLC, entered into an agreement with the Purchaser, pursuant to which we agreed to buy all of the Purchaser’s rights, title and interest in certain assets. On April 12, 2023, the parties desired to amend the agreement with the Purchaser (the “Amendment”). As consideration for the Amendment, the Company agreed to issue the Shares to the Purchaser.

The Shares are being issued pursuant to the Company’s registration statement on Form S-3 (File No. 333-267370), as amended, which was declared effective by the Securities and Exchange Commission on October 4, 2022, a base prospectus dated October 4, 2022 and a prospectus supplement dated April 13, 2023.

The Stock Purchase Agreement contains customary representations, warranties and covenants made by the Company. The representations, warranties and covenants contained in the Stock Purchase Agreement were made only for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to the Stock Purchase Agreement, and may be subject to limitations agreed upon by the contracting parties.

A copy of the opinion of Foley & Lardner LLP, counsel to the Company, relating to the validity of the issuance of the Shares is filed with this Current Report on Form 8-K as Exhibit 5.1.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
5.1	Opinion of Foley & Lardner LLP.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

SMILEDIRECTCLUB, INC.

By: /s/ Troy Crawford
Troy Crawford
Chief Financial Officer

Date: **April 13, 2023**

April 13, 2023

SmileDirectClub, Inc.
414 Union Street
Nashville, Tennessee, 37219

Ladies and Gentlemen:

We have acted as counsel to SmileDirectClub, Inc., a Delaware corporation (the “Company”), in connection with the Company’s issuance of 600,000 shares of the Company’s Class A common stock, par value \$0.0001 per share (the “Shares”), pursuant to (i) that certain Stock Purchase Agreement, dated April 12, 2023 (the “Stock Purchase Agreement”), by and between the Company and a certain investor (the “Purchaser”), (ii) certain agreements between the Company and the Purchaser related to the purchase by the Company of certain assets of the Purchaser (collectively with the Stock Purchase Agreement, the “Transaction Documents”), and (iii) the Company’s Registration Statement on Form S-3 (File No. 333-267370), filed with the Securities and Exchange Commission (the “Commission”) on September 9, 2022 (the “Registration Statement”) and which became effective on October 4, 2022, the base prospectus filed as part of the Registration Statement, dated October 4, 2022 (the “Base Prospectus”), and the final prospectus supplement dated April 13, 2023 (together with the Base Prospectus, the “Prospectus”).

In connection with our representation, we have examined: (i) the Transaction Documents, (ii) the Registration Statement and the Prospectus, (iii) the Amended and Restated Certificate of Incorporation of the Company, (iv) the Amended and Restated Bylaws of the Company, and (v) the proceedings and actions taken by the Board of Directors of the Company to authorize and approve the transactions contemplated by the Transaction Documents, the execution and delivery of the Transaction Documents, and the issuance of the Shares (the “Board Resolutions”). We have also considered such matters of law and of fact, including the examination of originals or copies, certified or otherwise identified to our satisfaction, of such records and documents of the Company, certificates of officers, directors and representatives of the Company, certificates of public officials, and such other documents as we have deemed appropriate as a basis for the opinions set forth below. In our examination of the above-referenced documents, we have assumed the genuineness of all signatures, the authenticity of all documents, records, certificates, and instruments submitted to us as originals and the conformity with the originals of all documents, records, certificates, and instruments submitted to us as copies. In addition, in expressing the opinion set forth below, we have assumed that the Company will issue the Shares in accordance with the Board Resolutions.

Our opinions expressed herein are limited to the General Corporation Law of the State of Delaware, and we express no opinion as to the laws of any other jurisdiction.

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FOLEY & LARDNER LLP

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Based upon, subject to and limited by the foregoing, we are of the opinion that, upon the issuance of the Shares pursuant to the terms of the Transaction Documents and the receipt by the Company of the consideration for the Shares pursuant to the terms of the Transaction Documents, the Shares will be validly issued, fully paid, and nonassessable.

This opinion is issued as of the date hereof, and we assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the opinion expressed herein after the date hereof. This opinion is limited to the matters set forth herein, and no other opinion should be inferred beyond the matters expressly stated.

We consent to the filing of this opinion in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933, as amended (the "Securities Act"), as Exhibit 5.1 to the Company's Current Report on Form 8-K filed with the Commission on the date hereof, to the incorporation by reference of this opinion into the Registration Statement and the Prospectus and to the references to our firm therein. In giving our consent, we do not admit that we are "experts" within the meaning of Section 11 of the Securities Act or within the category of persons whose consent is required by Section 7 of the Securities Act.

Very truly yours,
/s/ Foley & Lardner LLP