

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

	X	
	:	
In re	:	Chapter 11
	:	
KABBAGE, INC. d/b/a KSERVICING, et al.,	:	Case No. 22-10951 (CTG)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
	:	Re: Docket Nos. 466, 467 & 470
	X	

**CERTIFICATION OF COUNSEL REGARDING ORDER APPROVING
STIPULATION BY AND BETWEEN THE DEBTORS AND PAUL PIETSCHNER
DISALLOWING CERTAIN CLAIMS SOLELY FOR VOTING PURPOSES**

The undersigned hereby certifies as follows:

1. On November 30, 2022, Paul Pietschner (“**Pietschner**”) filed the following twelve (12) proofs of claim against the above-captioned debtors (collectively, the “**Debtors**”):

- i. Claim nos. 955-8 and 955-10 against Kabbage Asset Funding 2019-A LLC;
- ii. Claim nos. 952-7 and 952-8 against Kabbage Canada Holdings, LLC;
- iii. Claim nos. 953-5 and 953-6 against Kabbage Asset Securitization LLC;
- iv. Claim nos. 954-6 and 954-7 against Kabbage Asset Funding 2017-A LLC;
- v. Claim nos. 956-6 and 956-7 against Kabbage Diameter, LLC; and
- vi. Claim nos. 951-133 and 951-174 against Kabbage, Inc. d/b/a KServicing (the “**KS Claims**”).

2. On January 30, 2023, Pietschner withdrew claim nos. 953-5, 954-6, 956-6, 952-7, 955-8, and 951-133. Claim nos. 955-10, 952-8, 953-6, 954-7, and 956-7 are collectively referred to as the “**Subsidiary Claims**”. The KS Claims and the Subsidiary Claims each assert an unliquidated, contingent general unsecured claim against the applicable Debtor on account of a

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable are: Kabbage, Inc. d/b/a KServicing (3937); Kabbage Canada Holdings, LLC (N/A); Kabbage Asset Securitization LLC (N/A); Kabbage Asset Funding 2017-A LLC (4803); Kabbage Asset Funding 2019-A LLC (8973); and Kabbage Diameter, LLC (N/A). Kabbage is a trademark of American Express used under license; Kabbage, Inc. d/b/a KServicing is not affiliated with American Express. The Debtors’ mailing and service address is 925B Peachtree Street NE, Suite 383, Atlanta, GA 30309.

lawsuit filed on behalf of the United States of America by Pietschner in the United States District Court for the Eastern District of Texas, Sherman Division, Case No. 4:21-cv-110.

3. On January 19, 2023, the Court entered the *Order (I) Approving the Disclosure Statement of the Debtors, (II) Establishing Solicitation, Voting, and Related Procedures, (III) Scheduling Confirmation Hearing, (IV) Establishing Notice and Objection Procedures for Confirmation of Plan, (V) Approving Special Electronic Noticing Procedures, (VI) Approving Debtors' Proposed Cure Procedures for Unexpired Leases and Executory Contracts, and (VII) Granting Related Relief* [Docket No. 470] (the “**Disclosure Statement Order**”)² approving the Disclosure Statement, which authorized the Debtors to solicit votes to accept or reject the Plan.

4. Pursuant to the Plan, the KS Claims and the Subsidiary Claims are in Class 4 under the Plan (General Unsecured Claims).

5. Pursuant to the Disclosure Statement Order, the Tabulation Procedures authorized the Debtors “to enter into stipulations or other agreements with the holder of any Claim agreeing to the amount of a Claim for voting purposes.” Disclosure Statement Order ¶ 28; Motion ¶ 53(I).

6. The Debtors and Pietschner have engaged in discussions regarding the Subsidiary Claims and have agreed that the Subsidiary Claims shall be deemed disallowed, solely for purposes of voting on the Plan, in accordance with the Disclosure Statement Order and the terms set forth in the *Stipulation By and Between the Debtors and Paul Pietschner Disallowing Certain Claims Solely for Voting Purposes* (the “**Stipulation**”), a copy of which is attached as **Exhibit 1** to the proposed form of order (the “**Proposed Order**”) attached hereto as **Exhibit A**.³

² Capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Disclosure Statement Order or the Motion (as defined in the Disclosure Statement Order), as applicable.

³ For the avoidance of doubt, the Stipulation does not address the KS Claims and all parties' rights regarding such claims are reserved.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, at its earliest convenience.

Dated: February 14, 2023
Wilmington, Delaware

/s/ Matthew P. Milana

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