

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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	:	
In re	:	Chapter 11
	:	
KABBAGE, INC. d/b/a KSERVICING, et al.,	:	Case No. 22-10951 (CTG)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
	:	Obj. Deadline: March 6, 2023 at 4:00 p.m. (ET)
	:	Hearing: March 22, 2023 at 10:00 a.m. (ET)
	X	

**SUMMARY OF FIRST INTERIM FEE APPLICATION OF GREENBERG
TRAURIG, LLP, SPECIAL COUNSEL TO THE BOARD OF DIRECTORS OF
KABBAGE, INC. D/B/A KSERVICING FOR ALLOWANCE OF COMPENSATION
FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD FROM OCTOBER 3, 2022 THROUGH DECEMBER 31, 2022**

Name of Applicant:	Greenberg Traurig, LLP
Authorized to Provide Professional Services to:	Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing
Date of Retention:	November 2, 2022 (<i>nunc pro tunc</i> to October 3, 2022)
Period for Which Compensation and Reimbursement sought	October 3, 2022 through December 31, 2022 (First Interim Period)
Total compensation sought this period	\$223,096.50
Total expense reimbursement sought this period:	\$411.25
Total compensation allowed by interim order to date:	N/A
Total expenses allowed by interim order to date:	N/A
Total allowed compensation paid to date:	\$98,616.40
Total allowed expenses paid to date:	\$411.25
Blended rate in this application for all attorneys:	\$1,230.03

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.

Blended rate in this application for all timekeepers:	\$977.21
Compensation sought in this application already paid pursuant to a monthly compensation order but not yet allowed:	\$98,616.40
Expenses sought in this application already paid pursuant to a monthly compensation order but not yet allowed:	\$411.25
Number of professionals included in this application:	7
If applicable, number of professionals in this application not included in staffing plan approved by client:	N/A
If applicable, difference between fees budgeted and compensation sought for this period:	\$65,118.50 <u>less</u> than budgeted
Number of professionals billing fewer than 15 hours to the case during this period:	4
Are any rates higher than those approved and disclosed at retention? If yes, calculate and disclose the total compensation sought in this application using the rates originally disclosed in the retention application.	No

This is a(n): ☐ Monthly ☒ Interim ☐ Final Application

This Application does not include any hours incurred in connection with preparation of this Application.

SUMMARY OF MONTHLY FEE APPLICATIONS
FOR THE FIRST INTERIM PERIOD

APPLICATION	FEES REQUESTED	EXPENSES REQUESTED	FEES APPROVED	EXPENSES APPROVED	TOTAL OWED
First Monthly 10/3/22–10/31/22 D.I. 326, Filed 12/2/22 CNO: D.I. 377, Filed 12/27/22	\$84,604.00	\$411.25	\$67,683.20	\$411.25	\$16,920.80
Second Monthly 11/1/22–11/30/22 D.I. 392, Filed 12/29/22 CNO: D.I. 476, Filed 1/20/23	\$38,666.50	\$0.00	\$30,933.20	\$0.00	\$7,733.30
Third Monthly 12/1/22–12/31/22 D.I. 494, Filed 1/30/23 CNO: Deadline to object to Third Monthly Fee Application is 2/20/23 at 4:00 pm ET	\$99,826.00	\$0.00	\$0.00*	\$0.00*	\$0.00*
TOTALS:	\$223,096.50	\$411.25	\$98,616.40	\$411.25	\$24,654.10

Summary of Any Objections to Monthly Fee Application: None.

Compensation Sought in this Application Not Yet Paid: \$124,480.10

* Deadline to Object to Third Monthly Fee Application is 2/20/23 at 4:00 pm ET

Compensation By Individual

Name of Professional	Position; Date of Bar Admission; Area of Expertise	Hourly Billing Rate	Total Billed Hours	Total Compensation
Tony W. Clark	Senior Counsel; Member of Pennsylvania Bar since 1979; Member of Delaware Bar since 1982. Area of expertise: Restructuring and Bankruptcy	\$1,565.00	12.1	\$18,936.50
Brian E. Greer	Shareholder; Member of New York Bar since 1999. Area of expertise: Restructuring and Bankruptcy	\$1,125.00	8.4	\$9,450.00
David B. Kurzweil	Shareholder; Member of Georgia Bar since 1987; Member of New York Bar since 2012. Area of expertise: Restructuring and Bankruptcy	\$1,540.00	65.4	\$100,716.00
Dennis A. Meloro	Shareholder; Member of Delaware Bar since 2003. Area of expertise: Bankruptcy and Restructuring	\$1,255.00	3.4	\$4,267.00
Matthew A. Petrie	Associate; Member of Florida Bar since 2007; Member of Georgia Bar since 2020. Area of expertise: Restructuring and Bankruptcy	\$870.00	64.3	\$55,941.00
Eric J. Howe	Shareholder; Member of the Illinois Bar since 2007; Member of Minnesota Bar since 2013. Area of expertise: Bankruptcy.	\$1,050.00	2.1	\$2,205.00
Sandy Bratton	Paralegal; 27 years of experience.	\$435.00	72.6	\$31,581.00
Total:			228.3	\$223,096.50
Blended Rate:				\$1,230.03

COMPENSATION BY PROJECT CATEGORY

Task Code	Project Category	Total Hours	Total Fees
KS001	Case Administration	22.8	\$17,416.00
KS003	Employment and Fee Applications	57.3	\$43,670.00
KS005	Board and Corporate Governance	97.4	\$104,857.50
KS007	Court Hearings	50.8	\$57,153.00
Total:		228.3	\$223,096.50

EXPENSE SUMMARY

<u>Expense Category</u>	<u>Service Provider</u> (if applicable)	<u>Total Expenses</u>
Service Company Charges	CT Corporation	\$328.24
Information and Research	Lexis/Nexis	\$83.01
Total Disbursements:		\$411.25

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TRAURIG, LLP, SPECIAL COUNSEL TO THE BOARD OF DIRECTORS OF
KABBAGE, INC. D/B/A KSERVICING FOR ALLOWANCE OF COMPENSATION
FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD FROM OCTOBER 3, 2022 THROUGH DECEMBER 31, 2022**

Greenberg Traurig, LLP (“Greenberg Traurig”), special counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing (the “Board”), hereby submits its first interim application (the “Application”) for compensation and reimbursement of expenses for the period from October 3, 2022 through and including December 31, 2022 (the “Application Period”) pursuant to 11 U.S.C. §§ 330 and 331 (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 2016-2 of the Local Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), and this Court’s *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 136] (the “Interim Compensation Order”).

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.

By this Application, Greenberg Traurig seeks an interim allowance of compensation in the amount of \$223,096.50 and reimbursement of actual expenses in the amount of \$411.25 for an aggregate total of \$223,507.75 in accordance with the Interim Compensation Order. In support of the Application, Greenberg Traurig respectfully represents as follows:

BACKGROUND

1. On October 3, 2022, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Petition Date”).

2. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

3. The Debtors’ cases are being jointly administered for procedural purposes only, pursuant to an order the Court entered on October 4, 2022 [Docket No. 42].

4. On October 21, 2022, the Court entered the Interim Compensation Order.

5. On October 14, 2022, the Debtors filed the *Application of Debtors for Authority to Employ and Retain Greenberg Traurig, LLP as Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing Effective as of the Petition Date* [Docket No. 107]. On November 2, 2022, the Court entered the *Order Authorizing Debtors to Employ and Retain Greenberg Traurig, LLP as Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing Effective as of the Petition Date* [Docket No. 197].

6. On December 2, 2022, Greenberg Traurig filed the *First Monthly Application of Greenberg Traurig, LLP, as Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing, for Allowance of Compensation for Services Rendered and Reimbursement of Expenses for the Period From October 3, 2022 Through October 31, 2022* [Docket No. 326] (the

“First Monthly Fee Application”). On December 27, 2022, the Debtors filed a certificate of no objection to the First Monthly Fee Application [Docket No. 377].

7. On December 29, 2022, Greenberg Traurig filed the *Second Monthly Application of Greenberg Traurig, LLP, as Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing, for Allowance of Compensation for Services Rendered and Reimbursement of Expenses for the Period From November 1, 2022 Through November 30, 2022* [Docket No. 392] (the “Second Monthly Fee Application”). On January 20, 2023, the Debtors filed a certificate of no objection to the Second Monthly Fee Application [Docket No. 476].

8. On January 30, 2023, Greenberg Traurig filed the *Third Monthly Application of Greenberg Traurig, LLP, as Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing, for Allowance of Compensation for Services Rendered and Reimbursement of Expenses for the Period From December 1, 2022 Through December 31, 2022* [Docket No. 494] (the “Third Monthly Fee Application”). The deadline to object to the Third Monthly Fee Application is February 20, 2023 at 4:00 p.m. ET.

9. Greenberg Traurig responds to the following questions raised in the *U.S. Trustee Program’s Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 for Attorneys in Larger Chapter 11 Cases* (the “U.S. Trustee Guidelines”):

Question	Yes	No	Additional Explanation or Clarification
Did Greenberg Traurig agree to any variations from, or alternatives to, Greenberg Traurig’s standard or customary billing rates, fees or terms for services pertaining to this engagement that were provided during the application period? If so, please explain.		X	N/A

Question	Yes	No	Additional Explanation or Clarification
If the fees sought in the Interim Fee Application as compared to the fees budgeted for the time period covered by the Interim Fee Application are higher by 10% or more, did Greenberg Traurig discuss the reasons for the variation with the client?		X	N/A
Have any of the professionals included in the Interim Fee Application varied their hourly rate based on geographic location of the bankruptcy case?		X	N/A
Does the Interim Fee Application include time for fees related to reviewing or revising time records or preparing, reviewing or revising invoices?		X	N/A
Does the Interim Fee Application include time for fees for reviewing time records to redact any privileged or other confidential information? If so, please quantify hours and fees.		X	N/A
Does the Interim Fee Application include any rate increases since retention in these cases?		X	N/A

COMPENSATION PAID AND ITS SOURCE

10. No agreement or understanding exists between GT and any third person for the sharing of compensation, except as allowed by Section 504(b) and Bankruptcy Rule 2016 with respect to sharing of compensation between and among partners at GT. All services for which compensation is requested hereunder were rendered at the request of and solely on behalf of the Board and not on behalf of any other entity.

SUMMARY OF SERVICES RENDERED

11. This Application is the first interim fee application filed by Greenberg Traurig in these chapter 11 cases. In connection with the professional services described below, by this Application, Greenberg Traurig seeks compensation in the amount of \$223,507.75 for the Application Period.

12. The majority of services rendered by Greenberg Traurig during the Application Period as special counsel to the Board are summarized below. Moreover, each of the following are

set forth in the invoices attached as **Exhibits A** to the First, Second, and Third Monthly Fee Applications, which include: (i) a description of the Professional performing the services; (ii) the date the services were performed; (iii) a detailed description of the nature of the services and the related time expended; and (iv) a summary of the fees and hours of each Professional listed by project category (which applicable categories are set forth below). Summarily, Greenberg Traurig rendered the following services during the Application Period as special counsel to the Board:

a) Case Administration (KS001)

Fees: \$17,416.00 Hours: 22.80

This category includes services relating to the general administration of these cases, including without limitation, reviewing case background, case status, and maintaining a calendar of important dates.

b) Employment and Fee Applications (KS003)

Fees: \$43,670.00 Hours: 57.30

This category includes services relating to drafting, reviewing, revising, finalizing and filing Greenberg Traurig's retention application and addressing questions and comments from the United States Trustee regarding Greenberg Traurig's retention application. This category also includes services relating to drafting, reviewing, revising and finalizing Greenberg Traurig's first, second and third monthly fee applications.

c) Board and Corporate Governance (KS005)

Fees: \$104,857.50 Hours: 97.4

This category includes services relating to reviewing materials and presentations prepared for the Board, attending meetings of the Board, reviewing minutes of meetings of the Board, and monitoring case pleadings and important deadlines for the Board.

d) Court Hearings (KS007)

Fees: \$57,153.00 Hours: 50.8

This category includes services relating to preparing for and attending hearings.

SUMMARY OF EXPENSES

13. During the Application Period, Greenberg Traurig incurred or disbursed actual and necessary costs and expenses related to these cases in the aggregate amount of \$411.25. Greenberg Traurig seeks reimbursement of actual expenses in the amount of \$411.25. The expenses incurred include service company charges and research charges. A detailed description of the necessary costs and expenses incurred by Greenberg Traurig is attached as **Exhibit B** to the First Monthly Fee Application.

14. Pursuant to Local Rule 2016-2, Greenberg Traurig represents as follows with regard to its charges for actual and necessary costs and expenses incurred during the Application Period, if any:

- a. Copy Charges were \$0.10 per page (\$0.80 for color copies), which charges are reasonable and customary in the legal industry and represents the costs of copy material, acquisition, maintenance, storage, and operation of copy machines, together with a margin for recovery of related expenditures. In addition, Greenberg Traurig often utilizes outside copier services for high volume projects, and this Application seeks the recovery of those costs, if applicable;
- b. Incoming facsimiles are not billed;
- c. Out-going facsimiles are billed at the rate of \$0.25 per page. The cost represents operator time, maintaining several dedicated facsimile telephone lines, supplies and equipment, and includes a margin for recovery of related expenditures;
- d. Toll telephone charges are not billed; and

- e. Computer assisted legal research charges are billed at actual costs.

VALUATION OF SERVICES

15. Greenberg Traurig expended a total of 228.30 hours in connection with this matter during the Application Period. The nature of the work performed by the Professionals is detailed in **Exhibit A** of the First, Second, and Third Monthly Fee Applications. The hourly rates contained therein are Greenberg Traurig's normal hourly rates for work of this character.

16. In accordance with the factors enumerated in Section 330 of the Bankruptcy Code, the amounts requested herein for compensation and expense reimbursement are fair and reasonable given (a) the complexity of these cases, (b) the time expended by the attorneys and paraprofessionals at Greenberg Traurig, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the costs of comparable services other than in a case under this title.

17. Greenberg Traurig hereby certifies that (i) it has reviewed the requirements of Local Rule 2016-2 and (ii) this Application complies with such rule.

18. Greenberg Traurig has provided a copy of this Application to the Notice Parties (as defined in the Interim Compensation Order).

[Remainder of page intentionally left blank.]

CONCLUSION

WHEREFORE, Greenberg Traurig respectfully requests that (a) it be allowed compensation in the amount of \$223,096.50 for professional services rendered and reimbursement of expenses in the amount of \$411.25 for the Application Period; (b) the Court authorize the Debtors to pay Greenberg any unpaid portion for the Application Period on an interim basis; and (c) the Court grant such other and further relief deemed appropriate under the circumstances.

Dated: February 14, 2023
Wilmington, Delaware

Respectfully submitted,

GREENBERG TRAURIG, LLP

/s/ Dennis A. Meloro

Anthony W. Clark (DE Bar No. 2051)

Dennis A. Meloro (DE Bar No. 4435)

222 Delaware Avenue, Suite 1600

Wilmington, Delaware 19801

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- and -

David B. Kurzweil (admitted *pro hac vice*)

Matthew A. Petrie (admitted *pro hac vice*)

3333 Piedmont Road, NE, Suite 2500

Atlanta, Georgia 30305

Telephone: (678) 553-2259

Email: kurzweild@gtlaw.com

petriem@gtlaw.com

*Special Counsel to the Board of Directors of
Kabbage, Inc. d/b/a KServicing*

EXHIBITS A – C

PLEASE TAKE NOTICE that in compliance with the *U.S. Trustee Program’s Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 for Attorneys in Larger Chapter 11 Cases* (the “U.S. Trustee Guidelines”), attached hereto as **Exhibit A** is a copy of the budget and staffing plan agreed to between the above-captioned debtors and debtors in possession and Greenberg Traurig, LLP (“Greenberg Traurig”) for the period of October 3, 2022 through and including December 31, 2022 (the “First Interim Period”). A chart comparing the total hours spent and the hours budgeted for each task code for the First Interim Period is attached hereto as **Exhibit B**.

PLEASE TAKE FURTHER NOTICE that attached hereto as **Exhibit C** are Greenberg Traurig’s customary and comparable compensation disclosures.

Dated: February 14, 2023
Wilmington, Delaware

Respectfully submitted,

GREENBERG TRAURIG, LLP

/s/ Dennis A. Meloro

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**CERTIFICATION OF DENNIS A. MELORO IN SUPPORT OF
FIRST INTERIM FEE APPLICATION OF GREENBERG TRAURIG, LLP**

I, David Kurzweil, hereby declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury as follows:

1. I am a Shareholder at Greenberg Traurig, LLP (“Greenberg Traurig”), which maintains offices for the practice of law at 222 Delaware Avenue, Suite 1600, Wilmington, Delaware 19801. I am an attorney-at-law, duly admitted and in good standing to practice in the State of Delaware.

2. I make this certification regarding the *First Interim Fee Application of Greenberg Traurig, LLP, as Special Counsel to the Board of Directors of Kabbage, Inc. d/b/a KServicing for Allowance of Compensation for Services Rendered and Reimbursement of Expenses for the Period from October 3, 2022 through December 31, 2022* (the “Interim Fee Application”) to certify to

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certain matters addressed in the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 136] (the “Interim Compensation Order”).

3. Specifically, I have reviewed the Interim Fee Application, including each monthly fee application relating to the period from October 3, 2022 through and including December 31, 2022 (the “Interim Fee Period”), and I hereby certify that such applications comply with the Interim Compensation Order and the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the District of Delaware. In addition, I hereby certify that, in accordance with the Interim Compensation Order, and in connection with preparing the Interim Fee Application, Greenberg Traurig has made a reasonable effort to comply with the *U.S. Trustee Program’s Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 for Attorneys in Larger Chapter 11 Cases* (the “U.S. Trustee Guidelines”). To that end, Greenberg Traurig specifically responds to certain questions identified in the U.S. Trustee Guidelines as follows:

- **Question 1:** Did Greenberg Traurig agree to any variations from, or alternatives to, Greenberg Traurig’s standard or customary billing rates, fees or terms for services pertaining to this engagement that were provided during the application period? If so, please explain.
 - **Answer:** No.
- **Question 2:** If the fees sought in the Interim Fee Application as compared to the fees budgeted for the time period covered by the Interim Fee Application are higher by 10% or more, did Greenberg Traurig discuss the reasons for the variation with the client?
 - **Answer:** Not Applicable.

- **Question 3:** Have any of the professionals included in the Interim Fee Application varied their hourly rate based on geographic location of the bankruptcy case?
 - **Answer:** No.
- **Question 4:** Does the Interim Fee Application include time for fees related to reviewing or revising time records or preparing, reviewing or revising invoices?
 - **Answer:** No.
- **Question 5:** Does the Interim Fee Application include time for fees for reviewing time records to redact any privileged or other confidential information? If so, please quantify hours and fees.
 - **Answer:** No.
- **Question 6:** Does the Interim Fee Application include any rate increases since retention in these cases?
 - **Answer:** No.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Dated: February 14, 2023

Respectfully submitted,

GREENBERG TRAURIG, LLP

/s/ Dennis A. Meloro

Dennis A. Meloro (DE Bar No. 4435)

222 Delaware Avenue, Suite 1600

Wilmington, Delaware 19801

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