

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

In re:

KABBAGE, INC., d/b/a KSERVICING, et al.,

Debtors.

Chapter 11

Case No. 22-10951 (CTG)
(Jointly Administered)

Related Docket No. 608

**ORDER REGARDING MOTION FOR AN ORDER PURSUANT TO
BANKRUPTCY RULE 2004 DIRECTING PRODUCTION OF DOCUMENTS
AND MATERIALS AND APPEARANCE FOR ORAL EXAMINATION**

Upon consideration of the *Motion For an Order Pursuant to Bankruptcy Rule 2004 Directing Production of Documents and Materials and Appearance for Oral Examination* (the “**Motion**”) filed by Customers Bank and any responses filed thereto; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference*, dated February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and sufficient notice of the Motion having been provided under the circumstances and in accordance with the Bankruptcy Rules and the Local Rules; and the parties having reached agreement with respect to the relief sought in the Motion; and finding just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is RESOLVED as set forth herein.
2. As promptly as possible, but in no event later than April 17, 2023, the Debtors, on behalf of themselves and the Wind Down Estates (as defined in the Amended Plan [Docket No. 627]), shall complete the transfer to Customers Bank of the files related to the servicing obligations

of the Customers Bank PPP Loans, which obligations shall be satisfied by the transfer to Customers Bank of all relevant files as described in “Phase 1” and “Phase 2” of the Statement of Work provided by the Debtors to Customers Bank on March 9, 2023, and in each case solely to the extent such files are in the possession, custody, or control of the Debtors.

3. Notwithstanding the foregoing, with respect to actions, inactions, or delays of third parties in connection with the transfer of such files by April 17, 2023, (1) such events shall not result in the Debtors or the Wind Down Estates being considered in breach of the obligations set forth in this Order, and (2) neither the Debtors nor the Wind Down Estates shall be required to incur any out of pocket expenses outside of the ordinary course of business in connection with such events. The sole recourse of any alleged breach of the obligations of the Debtors or the Wind Down Estates set forth herein shall be expressly limited to specific performance.

4. This Court shall retain jurisdiction to interpret and enforce the terms of this Order.



Dated: March 28th, 2023
Wilmington, Delaware

CRAIG T. GOLDBLATT
UNITED STATES BANKRUPTCY JUDGE