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. ____**

ORDER GRANTING 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 Directing Production of Responses 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 a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and the Court having found and determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, and finding just cause for the relief granted therein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

2. The Debtors shall produce the documents and materials requested in Exhibit A to the Motion within ten [10] days after the entry of this Order.

3. Customers Bank is authorized to examine the Debtors' employees Donna Evans and Jason Dods in connection with the topics listed in Exhibit A to the Motion (and attached hereto), and Debtors shall produce them for deposition at a time and place to be agreed upon not later than twenty [20] days after the entry of this Order.

4. Debtors shall produce additional witnesses necessary to fully address the topics on Exhibit A, to the extent Donna Evans and Jason Dobs are unable to adequately address them, within thirty [30] days after the entry of this Order.

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

EXHIBIT A

I. Document Requests

1. All documents constituting the loan files of Customers Bank borrowers serviced by the Debtor, including without limitation applications, tax forms, resolution to borrower forms, notes, and supporting borrower documents.

2. All documents constituting the servicing file(s) for Customers Bank borrowers serviced by the Debtor.

3. All documents evidencing communications between the Debtor and Customers Bank borrowers, including without limitation emails and recorded calls and billing and payment information for loans with a remaining balance.

4. All documents evidencing fraud reviews performed by the Debtor with respect to Customers Bank borrowers, including without limitation Know Your Customer ("KYC") and/or Know Your Business ("KYB") investigations made by the Debtor regarding Customers Bank borrowers, incident reports and associated narratives, questionable activity reports, fraud flag categories and flag explanations, and results of screening procedures (such as Threatmetrix, Lexis/Nexis, Experian, GIAC).

5. All documents evidencing borrower payments, including without limitation ACH detail for payments.

6. All documents evidencing SBA guaranty purchase submissions and underlying eligibility documents and transcript assignment forms.

7. All documents regarding forgiveness applications submitted to the SBA for Customers Bank borrowers, including without limitation the data extract from the Biz2Credit platform.

8. All documents evidencing which Customers Bank loans are impacted by the SBA's "excess loan amount" hold, including without limitation reports with loan level detail on actions taken by Kabbage on the "excess loan amount issue."

9. All documents evidencing communications with the SBA regarding processing forgiveness and/or guaranty on loans with an "excess loan amount" issue, including without limitation any SBA requirements for processing forgiveness and guaranty on the "excess loan" population.

10. All documents evidencing third party audit and governance requirements and communications with respect to the Debtor's servicing of the Customers Bank loans.

11. All plans, timelines, or statements of work regarding the transition of servicing from the Debtor to Customers Bank.

II. <u>Deposition Topics</u>

1. The documents requested above.

2. The location, transfer status, technical specifications, and transferability of the data: (a) necessary to transfer the loan servicing to Customers Bank; and (b) requested by Customers Bank from the Debtor to effect the transfer of loan servicing to Customers Bank.