

Exhibit 5

From: Mehta, Suniti N.
Sent: Thursday, January 19, 2023 5:59 PM
To: Tsekerides, Theodore; Arthur, Candace M.
Cc: Bromley, James L.; Davidoff, Amanda Flug; Hwangpo, Natasha; Bentley, Chase; Ollestad, Jordan; Trinity Litigation
Subject: RE: KServicing/Amex

Ted, Candace,

Thank you for sharing these requests. As we've discussed, American Express is open to discussing its role in assisting KServicing with its transition plans, including the requests that you have outlined. We do not believe that all of the documentation, access, and resources that have been requested constitute information within the scope of examination under Bankruptcy Rule 2004 or that American Express is obligated under the TSA to provide all of the requested documentation, access, and resources. However, we agree that it is in the best interests of the parties to work cooperatively and that it would be helpful to meet and confer on the requests. American Express requires more information to understand what is being requested and the ultimate goal with respect to transitioning servicing. Some of these requests may require weeks or months of development or other work to accomplish and so should be discussed in the context of KServicing's broader transition plans. Based on such discussions between the parties, a more comprehensive transition plan can be developed. In addition, to the extent that the requests seek documentation that has not previously been provided to KServicing in response to prior requests, American Express will require time to investigate whether such documentation exists. In light of the steps required to scope and respond to the requests, at this time American Express cannot commit to providing all of the documentation, access, and resources requested by February 17, 2023 but is willing to discuss a realistic timeframe for assisting KServicing.

Please let us know when you are available to discuss the requests next week.

Thanks,
Suni

Suniti N. Mehta
T: (212) 558-4083 | F: (212) 558-3588
mehtas@sullcrom.com

From: Tsekerides, Theodore
Sent: Friday, January 13, 2023 4:37 PM
To: Mehta, Suniti N. ; Arthur, Candace M.
Cc: Bromley, James L. ; Davidoff, Amanda Flug ; Hwangpo, Natasha ; Bentley, Chase ; Ollestad, Jordan ; Trinity Litigation
Subject: [EXTERNAL] RE: KServicing/Amex

Please see the attached letter and schedule listing the requests. Let's discuss next week.

Thanks very much.

Weil

Theodore E. Tsekerides

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
theodore.tsekerides@weil.com
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From: Mehta, Suniti N. <mehtas@sullcrom.com>

Sent: Wednesday, January 11, 2023 2:41 PM

To: Tsekerides, Theodore <theodore.tsekerides@weil.com>; Arthur, Candace M. <Candace.Arthur@weil.com>

Cc: Bromley, James L. <bromleyj@sullcrom.com>; Davidoff, Amanda Flug <davidoffa@sullcrom.com>; Hwangpo, Natasha <Natasha.Hwangpo@weil.com>; Bentley, Chase <Chase.Bentley@weil.com>; Ollestad, Jordan <Jordan.Ollestad@weil.com>

Subject: RE: KServicing/Amex

Ted, Candace,

American Express consents to sharing the Merger Agreement, TSA, and Transfer, Assignment and Assumption Agreement with Cross River Bank.

We will come back to you on the draft protective order as soon as possible. As discussed on Friday, it would be helpful to see the list of requests that we discussed, including details about the data transfer that KServicing is interested in pursuing.

Thanks,
Suni

Suniti N. Mehta
T: (212) 558-4083 | F: (212) 558-3588
mehtas@sullcrom.com

From: Tsekerides, Theodore <theodore.tsekerides@weil.com>

Sent: Wednesday, January 11, 2023 8:27 AM

To: Arthur, Candace M. <Candace.Arthur@weil.com>

Cc: Bromley, James L. <bromleyj@sullcrom.com>; Mehta, Suniti N. <mehtas@sullcrom.com>; Davidoff, Amanda Flug <davidoffa@sullcrom.com>; Hwangpo, Natasha <Natasha.Hwangpo@weil.com>; Bentley, Chase <Chase.Bentley@weil.com>; Ollestad, Jordan <Jordan.Ollestad@weil.com>

Subject: [EXTERNAL] Re: KServicing/Amex

Actually, upon further review, the only agreement of these 3 that requires Amex's consent is the TSA.

Jim, please let us know about the TSA and also let us know if there were any comments on the proposed protective order we sent around a while back.

Thanks very much.

Theodore E. Tsekerides
Partner
Weil, Gotshal & Manges LLP
212-310-8218 Office

516-398-0510 Mobile

On Jan 10, 2023, at 7:47 PM, Arthur, Candace M. <Candace.Arthur@weil.com> wrote:

Jim, Suniti, and Amanda

We wanted to see if you had a chance to speak to your client regarding our request for consent to share the following documents with Cross River Bank:

1. The Transition Services Agreement;
2. Agreement and Plan of Merger among American Express Travel Related Services Company, Inc., Green Acquisition Merger Sub, Inc., Kabbage, Inc., Alpha Kabbage, Inc., and Fortis Advisors, LLC, dated August 16, 2020, including all exhibits and schedules thereto, as may be amended from time to time;
3. The Transfer, Assignment and Assumption Agreement between Kabbage, LLC and Alpha Kabbage;

Please advise. Subject to obtaining the requested consent we would like to provide Cross River with the documents before their 4pm deadline to object to the Disclosure Statement.

Best
Candace

Candace M. Arthur
Partner

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candace.arthur@weil.com
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From: Bromley, James L. <bromleyj@sullcrom.com>
Sent: Friday, January 6, 2023 1:03 PM
To: Arthur, Candace M. <Candace.Arthur@weil.com>
Cc: Tsekerides, Theodore <theodore.tsekerides@weil.com>; Mehta, Suniti N. <mehtas@sullcrom.com>; Davidoff, Amanda Flug <davidoffa@sullcrom.com>; Hwangpo, Natasha <Natasha.Hwangpo@weil.com>; Bentley, Chase <Chase.Bentley@weil.com>
Subject: RE: [EXTERNAL] Re: KServicing/Amex

I can speak between 2:30 and 4

James L. Bromley
T: (212) 558-4923 | F: (212) 291-3588 | C: (973) 901-6898
bromleyj@sullcrom.com

From: Arthur, Candace M. <Candace.Arthur@weil.com>
Sent: Friday, January 6, 2023 12:24 PM

To: Bromley, James L. <bromleyj@sullcrom.com>

Cc: Tsekerides, Theodore <theodore.tsekerides@weil.com>; Mehta, Suniti N. <mehtas@sullcrom.com>; Davidoff, Amanda Flug <davidoffa@sullcrom.com>; Hwangpo, Natasha <Natasha.Hwangpo@weil.com>; Bentley, Chase <Chase.Bentley@weil.com>

Subject: RE: [EXTERNAL] Re: KServicing/Amex

Jim

Thank you for the flexibility. Would this afternoon work for you? Perhaps between 2-4?

Candace M. Arthur
Partner

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From: Bromley, James L. <bromleyj@sullcrom.com>

Sent: Thursday, January 5, 2023 6:06 PM

To: Arthur, Candace M. <Candace.Arthur@weil.com>

Cc: Tsekerides, Theodore <theodore.tsekerides@weil.com>; Mehta, Suniti N. <mehtas@sullcrom.com>; Davidoff, Amanda Flug <davidoffa@sullcrom.com>; Hwangpo, Natasha <Natasha.Hwangpo@weil.com>; Bentley, Chase <Chase.Bentley@weil.com>

Subject: RE: [EXTERNAL] Re: KServicing/Amex

Sure

From: Arthur, Candace M. <Candace.Arthur@weil.com>

Date: Thursday, Jan 05, 2023 at 5:31 PM

To: Bromley, James L. <bromleyj@sullcrom.com>

Cc: Tsekerides, Theodore <theodore.tsekerides@weil.com>, Mehta, Suniti N. <mehtas@sullcrom.com>, Davidoff, Amanda Flug <davidoffa@sullcrom.com>, Hwangpo, Natasha <Natasha.Hwangpo@weil.com>, Bentley, Chase <Chase.Bentley@weil.com>

Subject: Re: [EXTERNAL] Re: KServicing/Amex

Jim

We are in striking distance of resolving a contested matter that is scheduled for hearing tomorrow. Is it possible to reschedule our call for tomorrow?

Candace M. Arthur

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On Jan 4, 2023, at 9:38 PM, Bromley, James L. <bromleyj@sullcrom.com> wrote:

Ok

From: Arthur, Candace M. <Candace.Arthur@weil.com>

Date: Wednesday, Jan 04, 2023 at 9:32 PM

To: Bromley, James L. <bromleyj@sullcrom.com>

Cc: Tsekerides, Theodore <theodore.tsekerides@weil.com>, Mehta, Suniti N. <mehtas@sullcrom.com>, Davidoff, Amanda Flug <davidoffa@sullcrom.com>, Hwangpo, Natasha <Natasha.Hwangpo@weil.com>, Bentley, Chase <Chase.Bentley@weil.com>

Subject: Re: [EXTERNAL] Re: KServicing/Amex

Jim

Let's shoot for 6:30. We will circulate a dial-in.

Candace M. Arthur

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On Jan 4, 2023, at 11:36 AM, Bromley, James L. <bromleyj@sullcrom.com> wrote:

Ted,

Thanks for getting back to me so quickly. I am in depositions tomorrow until 5:30. I can talk after that if it works for you.

Jim

From: Tsekerides, Theodore <theodore.tsekerides@weil.com>

Date: Wednesday, Jan 04, 2023 at 11:09 AM

To: Bromley, James L. <bromleyj@sullcrom.com>

Cc: Mehta, Suniti N. <mehtas@sullcrom.com>, Davidoff, Amanda Flug <davidoffa@sullcrom.com>, Arthur, Candace M. <Candace.Arthur@weil.com>, Hwangpo, Natasha

<Natasha.Hwangpo@weil.com>, Bentley, Chase

<Chase.Bentley@weil.com>

Subject: [EXTERNAL] Re: KServicing/Amex

Thanks Jim. We agree it would make a lot of sense to discuss. Would you happen to have any availability tomorrow?

Much appreciated.

Theodore E. Tsekerides

Partner

Weil, Gotshal & Manges LLP

212-310-8218 Office

516-398-0510 Mobile

On Jan 4, 2023, at 10:33 AM, Bromley, James L.

<bromleyj@sullcrom.com> wrote:

Ted,

Hope you enjoyed the holidays. We understand that KServicing has approached American Express about options for ongoing loan servicing following bankruptcy. It would be helpful to find a time to discuss the current status of your investigation with respect to the bankruptcy and American Express, in order to facilitate a conversation about options for loan servicing and American Express's role. Please let us know if you have availability this week or early next week to discuss.

Best regards,

Jim

James L. Bromley

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****This is an external message from:**
theodore.tsekerides@weil.com **

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