

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

In re

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

Debtors.¹

Chapter 11
Case No. 22-10951 (CTG)
(Jointly Administered)

Hearing Date:
March 22, 2023, at 1:00 p.m. ET

Objection Deadline:
March 15, 2023, at 4:00 p.m. ET

Re: Dkt. Nos. 622, 624, 648

SECOND AMENDED NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that on March 8, 2023, Cross River Bank and Customers Bank (together, “Movants”), filed the *Joint Motion of Cross River Bank and Customers Bank for an Order, Pursuant to Section 105(a) of the Bankruptcy Code, Bankruptcy Rule 2004, and Local Bankruptcy Rule 2004-1, Authorizing and Directing the Examination of American Express Kabbage Inc.* (the “Motion”) (Dkt. No. 622) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

PLEASE TAKE FURTHER NOTICE that on March 10, 2023, the Court issued the *Order Denying Motion to Shorten Notice and Objection Periods for Joint Motion of Cross River Bank and Customers Bank for an Order, Pursuant to Section 105(a) of the Bankruptcy Code, Bankruptcy Rule 2004, and Local Bankruptcy Rule 2004-1, Authorizing and Directing the Examination of American Express Kabbage Inc.* (Dkt. No. 648) (the “Order”). Pursuant to the Order, any objections or responses to the relief requested in the Motion, if any, must be made in writing and filed with the Court on or before **March 15, 2023 at 4:00 p.m. (prevailing Eastern Time)**.

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) (collectively, the “Debtors”).

PLEASE TAKE FURTHER NOTICE that Court has scheduled a hearing concerning the Motion, before The Honorable Craig T. Goldblatt at the Court, 824 North Market Street, 3rd Floor, Courtroom 7, Wilmington, Delaware 19801 on **March 22, 2023 at 1:00 p.m. (prevailing Eastern Time).**

PLEASE TAKE FURTHER NOTICE THAT, IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: March 10, 2023
Wilmington, Delaware

Respectfully submitted,

**BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP**

/s/ Gregory W. Werkheiser
Gregory W. Werkheiser (No. 3553)
1313 N. Market Street, Suite 1201
Wilmington, Delaware 19801
Telephone: (302) 442-7010
Facsimile: (302) 442-7012
gwerkheiser@beneschlaw.com

-and-

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

Susheel Kirpalani (admitted *pro hac vice*)
Isaac Nesser (admitted *pro hac vice*)
51 Madison Avenue, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7000
susheelkirpalani@quinnemanuel.com
isaacnesser@quinnemanuel.com

Erika Morabito (admitted *pro hac vice*)
1300 I Street NW, Suite 900
Washington, D.C. 20005
Telephone: (202) 538-8000
erikamorabito@quinnemanuel.com

Matthew R. Scheck (admitted *pro hac vice*)
300 West 6th Street, Suite 2010
Austin, TX 78701
Telephone: (737) 667-6100
matthewscheck@quinnemanuel.com

Counsel to Cross River Bank

Sullivan Hazeltine Allinson LLP

/s/ William A. Hazeltine
William D. Sullivan (No. 2820)
William A. Hazeltine (No. 3294)
919 N. Market Street, Suite 420
Wilmington, Delaware 19801
Telephone: (302) 428-8191
Facsimile: (302) 428-8195
whazeltine@sha-llc.com

-and-

HOLLAND & KNIGHT LLP

John J. Monaghan (admitted *pro hac vice*)
Jeremy M. Sternberg (admitted *pro hac vice*)
Lynne B. Xerras
10 St. James Avenue
Boston, MA 02116
Telephone: 617-523-2700
Facsimile: 617-523-685
john.monaghan@hklaw.com
jeremy.sternberg@hkaw.com
lynne.xerras@hklaw.com

Counsel to Customers Bank

CERTIFICATE OF SERVICE

I, Gregory W. Werkheiser, hereby certify that on March 10, 2023, the foregoing *Second Amended Notice of Motion and Hearing* was served via CM/ECF on all parties registered to receive notices in this case and on the parties listed below via email:

Rosa Sierra-Fox
Office of the United States Trustee
U. S. Department of Justice
844 King Street, Suite 2207
Lockbox #35
Wilmington, DE 19801
rosa.sierra@usdoj.gov

William A. Hazeltine, Esq.
SULLIVAN HAZELTINE ALLINSON LLC
919 North Market Street
Suite 420
Wilmington, DE 19801
whazeltine@sha-llc.com

Ray C. Schrock, Esq.
Candace Arthur, Esq.
Natasha S. Hwangpo, Esq.
Chase Bentley, Esq.
WEIL, GOTSHAL & MANGES, LLP
767 Fifth Avenue
New York, NY 10153-0119
ray.schrock@weil.com
candace.arthur@weil.com
natasha.hwangpo@weil.com
chase.bentley@weil.com

Amanda R. Steele, Esq.
Zachary I. Shapiro, Esq.
Matthew P. Milana, Esq.
Daniel J. DeFranceschi, Esq.
RICHARDS, LAYTON AND FINGER
920 N. King Street
Wilmington, DE 19801
steele@rlf.com
Shapiro@rlf.com
milana@rlf.com
defranceschi@rlf.com

John J. Monaghan, Esq.
Jeremy M. Sternberg, Esq.
Lynne B. Xerras
HOLLAND & KNIGHT LLP
10 St. James Avenue, 11th Floor
Boston, MA 02116
john.monaghan@hkklaw.com
jeremy.sternberg@hkklaw.com
lynn.xerras@hkklaw.com

Derek C. Abbott, Esq.
Jonathan M. Weyand, Esq.
MORRIS, NICHOLS, ARSHT & TUNNELL
LLP
1201 North Market Street
16th Floor
Wilmington, DE 19801
dabbott@morrisnichols.com
jweyand@morrisnichols.com

James L. Bromley, Esq.
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004-2498
bromleyj@sullcrom.com

Amanda Flug Davidoff, Esq.
SULLIVAN & CROMWELL LLP
1700 New York Avenue, N.W. Suite 700
Washington, DC 20006-5215
davidoffa@sullcrom.com

/s/ Gregory W. Werkheiser
Gregory W. Werkheiser (No. 3553)