

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA
ex rel. PAUL PIETSCHNER,

Plaintiff,

V.

KABBAGE, INC.; KATHRYN PETRALIA;
ROBERT FROHWEIN and SPENCER
ROBINSON,

Defendants.

Civil Action No.: 4:21-cv-110-SDJ

FILED UNDER SEAL
(Pursuant to 31 U.S.C. § 3730(b))

JOINT STIPULATION OF PARTIAL DISMISSAL AS TO KABBAGE, INC., ONLY

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3729–3733, and in accordance with the terms and conditions of the May 7, 2024, Settlement Agreement entered into by the United States of America, Relator Paul Pietschner (“Relator”), and KServicing Wind Down Corporation and the bankruptcy estates of Defendant Kabbage, Inc. d/b/a Kservicing (“Defendant” or “Kabbage, Inc.”) (collectively referred to as “the Parties”), the United States and Relator submit this Joint Stipulation of Partial Dismissal as to Kabbage, Inc., Only.

I. Claims on behalf of the United States

1. On May 7, 2024, the United States of America (“United States”) filed its Notice of Partial Intervention for Settlement Purposes in this action as to Kabbage, Inc. only. Docket #28.

2. Pursuant to a Settlement Agreement executed by and amongst the United States, Relator, and Defendant on May 7, 2024 (“Settlement Agreement”), the United States and Relator, by and through their respective attorneys, hereby jointly stipulate and agree, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the False Claims Act, 31

U.S.C. §§ 3729–3733, to entry of an Order: (1) as to the United States, dismissing with prejudice all claims asserted in this action on behalf of the United States against Kabbage, Inc. concerning the Covered Conduct as defined in Recital Paragraph L of the Settlement Agreement, to the extent that the Complaint in this action contains such claims; (2) as to the United States, dismissing without prejudice any other claims brought on its behalf by Relator which were asserted against Kabbage, Inc. only; and (3) as to the Relator, dismissing with prejudice, the claims alleged against Kabbage, Inc. only. The United States consents, under these terms, to the dismissal of the Complaint against Kabbage, Inc. only.

II. Relator's Claims

3. Relator stipulates that the Allowed Claim set forth in the Settlement Agreement referenced herein and that the terms and conditions described therein are fair, adequate, and reasonable under all the circumstances, that Relator will not challenge the Settlement Agreement pursuant to 31 U.S.C. § 3730(c)(2)(B), and that Relator expressly waives the opportunity for a hearing on any objection to the settlement under 31 U.S.C. § 3730(c)(2)(B) or applicable state law.

III. Request for Partial Lifting of the Seal

4. In light of the execution of the Settlement Agreement, the United States requests that the Court unseal this Joint Stipulation of Partial Dismissal as to Kabbage, Inc., Only and the proposed and signed Order of Dismissal as to Kabbage, Inc. only, so that the United States may disclose these documents to Kabbage, Inc. only. The United States respectfully requests that all other papers on file in this action remain under seal and not be made public (including, but not limited to, any applications filed by the United States for extensions of the sixty-day investigative period, any applications for partial lifting of the seal, and any orders previously entered in this matter) because in discussing the content and extent of the United States' investigation, such

papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

5. The parties respectfully request that the Court enter the attached proposed Order.

Respectfully submitted,

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