

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re

KServicing Wind Down Corp., *et al.*,¹

Post-Confirmation Debtors.

Chapter 11

Case No. 22-10951 (CTG)

(Jointly Administered)

Re: Docket Nos. 998, 999, 1000

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF (I) KSERVICING WIND DOWN CORP.'S OBJECTION TO THE JUNEAU GROUP'S CLAIMS; (II) KSERVICING WIND DOWN CORP.'S OBJECTION TO CLAIM NOS. 95 AND 149; AND (III) KSERVICING WIND DOWN CORP.'S OBJECTION TO THE WIGGINS CLAIM

The above captioned post-confirmation debtors (collectively, “**KS Wind Down**”) hereby request that the Court take judicial notice of the following documents in support of (i) *KServicing Wind Down Corp.’s Objection to the Juneau Group’s Claims* (“**Juneau Group Objection**”); (ii) *KServicing Wind Down Corp.’s Objection to Claim Nos. 95 and 149* (“**Class Action Objection**”); and (iii) *KServicing Wind Down Corp.’s Objection to the Wiggins Claim* (“**Wiggins Objection**” and together with the Juneau Group Objection and the Class Action Objection, the “**Objections**”).²

¹ The post-confirmation debtors in these chapter 11 cases, along with the last four digits of each debtor’s federal tax identification number, as applicable, are: KServicing Wind Down Corp. (f/k/a Kabbage, Inc. d/b/a KServicing) (3937); KServicing Wind Down Canada Holdings LLC (f/k/a Kabbage Canada Holdings, LLC) (N/A); KServicing Wind Down Asset Securitization LLC (f/k/a Kabbage Asset Securitization LLC) (N/A); KServicing Wind Down Asset Funding 2017-A LLC (f/k/a Kabbage Asset Funding 2017-A LLC) (4803); KServicing Wind Down Asset Funding 2019-A LLC (f/k/a Kabbage Asset Funding 2019-A LLC) (8973); and KServicing Wind Down Diameter LLC (f/k/a Kabbage Diameter, LLC) (N/A). The Debtors’ mailing and service address is KServicing Wind Down Corp. c/o Resolute Commercial Services, 6750 E. Camelback Road, Suite 103, Scottsdale, AZ 85251.

² Capitalized terms used but not defined herein shall have the meanings given to them in the respective Objection.

A. Juneau Group Objection

1. On December 18, 2023, KS Wind Down was sent a copy of a complaint and civil summons filed on February 21, 2023 in the State Court of Georgia for Hall County, relating to an action captioned *In re the Juneau Group, LLC v. American Express International d/b/a Kabbage, Inc and/or KServicing*. In support of the Juneau Objection, KS Wind Down requests that the Court take judicial notice of:

- *Civil Summons and Complaint*, dated February 21, 2023, attached as **Exhibit 1**.

B. Class Action Objection

2. On March 30, 2022, Jason Carr, Vicki LeMaster, Edward Ford Services LLC, Carlton Morgan, 365 Sun LLC, and Candice Worthy (together, the “**Representative Plaintiffs**”) filed a complaint (the “**Complaint**”) commencing the Class Action in the Northern District of Georgia. The case was administered under Case No. 22-01249. In support of the Class Objection, KS Wind Down requests that the Court take judicial notice of:

- *Class Action Complaint* dated March 30, 2022, ECF No. 1, attached as **Exhibit 2**;
- *Defendant Kabbage, Inc., d/b/a KServicing’s Motion to Dismiss and Request for Oral Argument and Memorandum of Law in Support of its Motion to Dismiss*, dated May 31, 2022, ECF Nos. 12, 12-1, attached as **Exhibit 3**;
- *Plaintiff’s Opposition to Defendant’s Motion to Dismiss and Request for Oral Argument*, dated July 11, 2022, ECF No. 18, attached as **Exhibit 4**;
- *Defendant Kabbage, Inc., d/b/a KServicing’s Reply in Further Support of its Motion Dismiss*, dated July 25, 2022, ECF No. 20, attached as **Exhibit 5**;
- *Order*, ECF 22, dated March 31, 2023, attached as **Exhibit 6**; and
- A copy of the Class Action ECF Docket, attached as **Exhibit 7**.

C. Wiggins Claim Objection

3. On February 24, 2021, the United States Attorney filed a criminal indictment against Wiggins. The criminal case is proceeding in the United States Court for the Southern District of Texas under the Case No. 21-cr-00066. In support of the Wiggins Objection, KS Wind Down requests that the Court take judicial notice of:

- *Criminal Indictment*, dated February 24, 2021, ECF No. 1, attached as **Exhibit 8**.

4. On September 23, 2022, Wiggins filed a complaint (“**Complaint**”) in the United States District for the Southern District of Texas against American Express Kabbage Inc., Kabbage, Inc., K-Servicing, Inc., Radius Intelligence, AWS, and American Express Company proceeding under the Case No. 4:22-CV-03302 (“**Civil Case**”). I have reviewed the Complaint and other pleadings in the Civil Case. In support of the Wiggins Objection, KS Wind Down requests that the Court take judicial notice of:

- *Complaint*, dated September 23, 2022, ECF No. 1, attached as **Exhibit 9**;
- *Order of Dismissal*, dated March 30, 2023, ECF No. 24, attached as **Exhibit 10**;
- A copy of the Civil Case ECF Docket, attached as **Exhibit 11**.

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For the reasons above, the KS Wind Down respectfully requests judicial notice of each of the attached and above referenced documents.

Dated: December 28, 2023

MORRIS JAMES LLP

/s/ Brya M. Keilson

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