

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

In re:	)	Chapter 11
	)	
KABBAGE, INC. d/b/a KSERVICING, <i>et al.</i> , ¹	)	Case No. 22-10951 (CTG)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	Hearing Date: January 6, 2023 at 10:00 a.m.
	)	Obj. Deadline: December 29, 2022 at 4:00 p.m.
	)	Related Docket No. 358

**MOTION OF CUSTOMER BANK FOR AUTHORIZATION TO FILE UNDER SEAL
EXHIBITS 3, 3(a), 6, 8, AND 9 TO THE DECLARATION OF ALYSSA WHITE IN
SUPPORT OF OPPOSITION OF CUSTOMER’S BANK TO DEBTOR’S MOTION FOR
AN ORDER ENFORCING THE SETTLEMENT ORDER AND SETTLEMENT
AGREEMENT BETWEEN KSERVICING AND CUSTOMERS BANK**

Customers Bank (“Customers Bank”) respectfully submits this motion (the “Motion to Seal”), pursuant to section 107(b) of the Bankruptcy Code, Fed. R. Civ. Pro. 9018, and Del. Bankr. L.R. 9018-1, seeking entry of an Order authorizing it to file under seal exhibits 3, 3(a), 6, 8, and 9 to the *Declaration of Alyssa White in Support of Opposition of Customer’s Bank to Debtor’s Motion for an Order Enforcing the Settlement Order and Settlement Agreement Between KServicing and Customers Bank* (the “Second White Declaration”). In support of this Motion to Seal, Customers Bank respectfully represents as follows:

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). Kabbage is a trademark of American Express used under license; Kabbage, Inc. d/b/a KServicing is not affiliated with American Express. The Debtors’ mailing and service address is 925B Peachtree Street NE, Suite 383, Atlanta, GA 30309.

JURISDICTION

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. §§ 1408 and 1409(a). Customers Bank confirms its consent pursuant to Del. Bankr. L. R. 9013-1(f) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 107(b), Bankruptcy Rule 9018, and Local Rule 9018-1(b).

RELIEF REQUESTED

3. On December 21, 2022, Customers Bank filed the *Second White Declaration*. Exhibits 3, 3(a), 6, 8, and 9 to the Second White Declaration contain sensitive information, such as bank account numbers, borrowers' names and loan numbers. Customers Bank files this Motion to Seal requesting that the Court grant it permission to file Exhibits 3, 3(a), 6, 8, and 9 under seal. Customers bank will file redacted versions of these exhibits without the bank account numbers, borrowers' names and loan numbers.

BASIS FOR RELIEF REQUESTED

4. Section 107(b) of the Bankruptcy Code provides this Court with the authority to issue orders that will protect entities from potential harm that may result from the disclosure of certain information. The section provides, in relevant part:

- (b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may –
 - (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information....

11 U.S.C. § 107(b). Fed. R. Bankr. P. 9018 sets forth the procedures by which a party may move for relief under section 107(b), providing that “[o]n motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information....” Del. Bankr. P. L. Rule 9018-1(b) additionally provides, in relevant part, that “[a]ny party who seeks to file documents under seal must file a motion to that effect.”.

5. As set forth above, Exhibits 3, 3(a), 6, 8, and 9 contain sensitive information such as bank account numbers, borrowers’ names and loan numbers. Accordingly, Customers Bank submits that cause exists to grant its request to seal and respectfully requests the entry of an order permitting it to file the Exhibits under seal.

CONCLUSION

WHEREFORE, Customers Bank respectfully requests the Court enter an Order substantially in the form attached hereto as **Exhibit A** granting Customers Bank authority to file Exhibits 3, 3(a), 6, 8, and 9 of the Second White Declaration under seal and granting such other and further relief as the Court may deem just and proper.

Date: December 21, 2022
Wilmington, Delaware

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