IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: **KABBAGE, INC. d/b/a KSERVICING**, *et al.*,[1] Debtors.	Chapter 11 Case No. 22-10951 (CTG) (Jointly Administered)

CERTIFICATION OF COUNSEL SUBMITTING PROPOSED ORDER APPROVING SECOND STIPULATION TO EXTEND THE UNITED STATES' DEADLINE TO FILE A COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

The United States of America (the "**United States**") hereby certifies as follows:

1. On October 3, 2022 (the "**Petition Date**"), the above-captioned debtors and debtors-in-possession (collectively, the "**Debtors**" and together with the United States, the "**Parties**") filed their voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**").

2. On November 10, 2022, the meeting of creditors pursuant to 11 U.S.C. § 341 was scheduled and conducted (the "**341 Meeting**").

3. Pursuant to Rule 4007(c) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), a party in interest may file a complaint under 11 U.S.C. § 523(c) within sixty days after the first date set for the 341 Meeting.

[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) (the "Company"); 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.

4. Accordingly, the deadline by which to file a complaint under 11 U.S.C. § 523(c) was January 9, 2023 (the "**Nondischargeability Deadline**"), or such later date as may be ordered by the Court.

5. On January 6, 2023, the United States filed a *Certification of Counsel Submitting Proposed Order Approving Stipulation to Extend the United States' Deadline to File a Complaint to Determine Dischargeability of Debt* [Docket No. 426]. The Court approved the order attached thereto, which extended the Nondischargeability Deadline for the United States to May 9, 2023 [Docket No. 429]. The Nondischargeability Deadline as to the United States has not expired as of the filing of this Certification of Counsel and accompanying stipulation and proposed order.

6. On March 15, 2023, the Court entered the *Order Confirming Amended Joint Chapter 11 Plan of Liquidation of Kabbage, Inc. (d/b/a KServicing) and Its Affiliated Debtors* [Docket No. 680] (the "**Confirmation Order**"), thereby confirming the *Amended Joint Chapter 11 Plan of Liquidation of Kabbage, Inc. (d/b/a KServicing) and Its Affiliated Debtors* [Docket No. 627] (the "**Plan**"). The Plan and the Confirmation Order provide that "[n]othing in the Plan or Confirmation Order shall . . . grant the Debtors a discharge pursuant to section 1141(d) of the Bankruptcy Code." *See* Confirmation Order ¶ 32; Plan § 10.3(f).

7. The Plan contemplates that the Debtors will complete their wind down, liquidate their remaining assets and distribute such assets to their creditors.

8. The effective date of the Plan (the "**Effective Date**") has yet to occur. The Debtors expect the Effective Date to occur in the near term.

9. To the extent that the filing of a dischargeability complaint under 11 U.S.C. § 523(c) may be necessary, the United States seeks an extension of the Nondischargeability Deadline through and including August 7, 2023.

10. The Parties agree that nothing in this Certification of Counsel, accompanying stipulation, or proposed order constitutes a determination that section 523(c) of the Bankruptcy Code or Bankruptcy Rule 4007(c) apply, or that any deadline exists to seek a determination of dischargeability under section 1141(d)(6) of the Bankruptcy Code.

11. Nevertheless, out of an abundance of caution since the Effective Date is projected to occur after the current Nondischargeability Deadline for the United States, the Parties have entered into a *Second Stipulation to Extend the United States' Deadline to File a Complaint to Determine Dischargeability of Debt* (the "**Stipulation**"),[2] a copy of which is attached as **Exhibit 1** to the proposed order attached hereto as **Exhibit A** (the "**Proposed Order**").

12. The Stipulation has been circulated to the Office of the United States Trustee for the District of Delaware, and it does not object to the Debtors' entry into the Stipulation.

WHEREFORE, the Parties respectfully request that the Court enter the Proposed Order at its earliest convenience without further notice or a hearing.

Dated: May 8, 2023

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/s/ Alastair M. Gesmundo
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[2] Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Stipulation.

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