

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

In re: KABBAGE, INC. d/b/a KSERVICING, <i>et al.</i> , ¹ Debtors.	Chapter 11 Case No. 22-10951 (CTG) (Jointly Administered) Obj. Deadline: August 15, 2023 at 4:00 p.m. (ET) Hearing Date: August 22, 2023 at 1:00 p.m. (ET)
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**MOTION OF POST-CONFIRMATION DEBTORS, FOR AN ORDER TERMINATING
OMNI AGENT SOLUTIONS, INC. AS CLAIMS AND NOTICING AGENT EFFECTIVE
JULY 26, 2023 AND DIRECTING DELIVERY OF CLAIMS AND CLAIMS RECORDS**

The post-confirmation Debtors (the “Post-Confirmation Debtors”), operating the Wind Down Estates as defined in, and under the terms of, the *Amended Joint Chapter 11 Plan of Liquidation of Kabbage, Inc. (d/b/a KServicing) and Its Affiliated Debtors*, dated March 9, 2023 [Docket No. 627] (as amended, modified, or supplemented the “Plan”), respectfully request the entry of an Order terminating Omni Agent Solutions, Inc. (“Omni”) as claims and noticing agent, effective as of July 26, 2023² (the “Termination Date”), and in support thereof, the Post Confirmation Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

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). The Debtors’ mailing and service address is 925B Peachtree Street NE, Suite 383, Atlanta, GA 30309.

² Effective July 26, 2023, Stretto, Inc. has been employed by the Post-Confirmation Debtors.

The Debtors confirm their consent, pursuant to Rule 7008 of the Bankruptcy Rules and Rule 9013-1(f) of the Local Rules, 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. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On October 3, 2022 (the “Petition Date”), the above-captioned debtors (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Court.

4. On the Petition Date, the Debtors filed a motion to employ Omni as their claims and noticing agent pursuant to 11 U.S.C. § 105(a) and 28 U.S.C. § 156(c) [Docket No. 4] (the “Motion to Employ”). By the Motion to Employ, the Debtors sought an entry of an order authorizing them to retain and employ Omni to, inter alia, (i) serve as the Court’s notice agent to mail notices to the estates’ creditors and parties in interest; (ii) provide computerized claims, objection and balloting database services; (iii) provide expertise, consultation and assistance in claim and ballot processing and other administrative information; and (iv) provide disbursement services.

5. On October 6, 2022, the Court entered an Order granting the Motion to Employ [Docket No. 69] (the “Omni Employment Order”). In addition to approving Omni’s employment as claims and noticing agent for the Debtors’ estates, the Omni Employment Order provided, among other things,

ORDERED, that the Omni shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these Chapter 11 Cases and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim (if any), and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

Omni shall not cease providing claims processing services during these Chapter 11 Cases for any reason, including nonpayment, without an order of this Court; provided, however, that Omni may seek such an order on expedited notice by filing a request with this Court with notice of such request to be served on the Debtors, the Office of the United States Trustee, and any official committee of creditors appointed in these cases.

After entry of an order terminating Omni's services as the Claims and Noticing Agent, upon the closing of these Chapter 11 Cases, or for any other reason, Omni shall be responsible for preparing all proofs of claim to be archived with the Federal Archives Record Administration, if applicable.

6. On October 26, 2022, the Court entered an Order setting November 30, 2022 (the "Bar Date") as the last day for creditors to file proofs of claim (and April 3, 2023 as the last day for governmental units to file proofs of claim) [Docket No. 169].

7. On March 9, 2023, the Debtors filed the Plan, and on March 15, 2023, this 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].

8. On June 20, 2023 the Plan became effective. *See* Docket No. 870, *Notice of (I) Entry of Order Confirming Amended Joint Chapter 11 Plan of Liquidation of Kabbage, Inc. (d/b/a KServicing) and its Affiliated Debtors and (II) Effective Date*.

RELIEF REQUESTED

9. The Post-Confirmation Debtors have determined, after consultation with Omni that, in light of the status of the case — including the fact that the Plan is confirmed and has gone effective and all bar dates in the case have long since passed — it is appropriate to terminate Omni's engagement at this time.

10. The Post-Confirmation Debtors intend to pay Omni promptly after receipt of invoices from Omni.

11. The Post-Confirmation Debtors understand that Omni will turn over all documents relating to the proofs of claims or requests for payment of administrative expenses filed on behalf of the creditors to Stretto, Inc. (“Stretto”) and to such other entity (if any) as the Clerk of the Court may direct. Omni will also transmit all official claims register information, together with an up-to-date mailing list for all creditors, including entities that have filed a proof of claim, a record of all transfers of claims, and other information require to be maintained by Omni pursuant to the Order granting the Motion to Employ. Omni will also provide two (2) flash drives or a secure electronic mail transfer containing all imaged claims and an .xls file of claims information.

WHEREFORE, the Post-Confirmation Debtors, respectfully request that this Court enter an Order, a copy of which is attached as **Exhibit A**: (i) authorizing the termination of Omni as claims, noticing and balloting agent, effective July 26, 2023; (ii) directing Omni to turn over to Stretto, or such entity as the Clerk of the Court may direct, and the Post-Confirmation Debtors on or before August 25, 2023, those items set forth in paragraph 11 above; and (iii) granting such order and further relief as is just.

Dated: July 26, 2023

MORRIS JAMES LLP

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