

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

PROOF OF CLAIM

FILED  
JACKSONVILLE, FLORIDA  
MAY 17 2010

CLERK, U. S. BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.

THIS SPACE IS FOR COURT USE ONLY

Check this box to indicate that this claim amends a previously filed claim.

Claim Number (if known):

Filed on: \_\_\_\_\_

In re: TAYLOR, BEAN & WHITAKER MORTGAGE CORP.

Case Number: 3:09-bk-07047-JAF

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Name of Creditor and Address: the person or other entity to whom the debtor owes money or property  
If necessary, please cross out pre-printed address and write in change of address.

21836931022604  
JEFF SCHEPP INC DBA TARPON BAY CONSTRUCTION  
MATTHEW S TOLL ESQ  
202 S DEL PRADO BLVD  
CAPE CORAL, FL 33990

Creditor Telephone Number (339) 574-7442  Check box if address is where Notice is to be sent.

Name and address where payment should be sent (if different from above):

Check this box if you are the debtor or trustee in this case.

Payment Telephone Number ( )

1. AMOUNT OF CLAIM AS OF DATE CASE FILED \$ 42,305.00

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.  
If all or part of your claim is entitled to priority, complete item 5.

Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. BASIS FOR CLAIM:

Mediated Settlement Agreement

(See instructions #2 and #3a on reverse side.)

3. LAST FOUR DIGITS OF ANY NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR:

3a. Debtor may have scheduled account as:

4. SECURED CLAIM (See instruction #4 on reverse side.)

Secured Claim Amount: \$ 42,305.00

DO NOT include the priority portion of your claim here.

Check the appropriate box if your claim is secured by a lien on property or a right of set off and provide the requested information

Unsecured Claim Amount: \$

Nature of property or right of setoff:

Describe:

Real Estate  Motor Vehicle  Other

Value of Property: \$

Annual Interest Rate: %

Amount of arrearage and other charges as of the date case filed included in secured claim,

CLAIM FILED

JACKSONVILLE, FLORIDA

Basis for Perfection:

5. PRIORITY CLAIM

Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Unsecured Priority Claim Amount: \$

Include ONLY the priority portion of your unsecured claim here.

You MUST specify the priority of the claim:

- Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
- Wages, salaries, or commissions (up to \$10,950\*), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).
- Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).

- Up to \$2,425\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a) ( ).

\* Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

6. CREDITS: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. SUPPORTING DOCUMENTS: Attach redacted copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of evidence of perfection of a security interest. (See definition of "redacted" on reverse side.) If the documents are not available, please explain.

DATE-STAMPED COPY To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

The original of this completed proof of claim form must be sent by mail, hand, courier or overnight delivery (facsimile, telecopy or other electronic means NOT accepted), so that it is actually received on or before 5:00 p.m. prevailing Eastern Time on June 15, 2010, the Bar Date (as defined in the Bar Date Notice).

THIS SPACE FOR COURT USE ONLY

T, B & W Mortgage Corp.



01617

By Regular Mail to:  
BMC Group, Inc.  
Attn: Taylor, Bean & Whitaker Mortgage Corp. Claim Processing  
PO Box 3020  
Chanhausen, MN 55317-3020

By Hand, Courier, Or Overnight Delivery to:  
BMC Group, Inc.  
Attn: Taylor, Bean & Whitaker Mortgage Corp. Claim Processor  
18750 Lake Drive East  
Chanhausen, MN 55317

DATE 5/11/10

SIGNATURE: The person filing this claim must sign it. Sign and print name and address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Matthew Toll, Counsel for Creditor

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# INSTRUCTIONS FOR PROOF OF CLAIM FORM

*The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.*

## ITEMS TO BE COMPLETED IN PROOF OF CLAIM FORM (IF NOT ALREADY PROPERLY FILLED IN)

<p><b>Court, Name of Debtor, and Case Number:</b> Use this proof of claim form only if you are asserting a claim against the Debtor, Taylor, Bean &amp; Whitaker Mortgage Corp. If you received a notice of the case from the Claims Agent, BMC Group, some or all of this information may have been already completed.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 5px;"> <thead> <tr> <th style="text-align: left;">DEBTOR</th> <th style="text-align: left;">CASE NO</th> <th style="text-align: left;">PETITION DATE</th> </tr> </thead> <tbody> <tr> <td>Taylor, Bean &amp; Whitaker Mortgage Corp.</td> <td>3:09-bk-07047-JAF</td> <td>8/24/2009</td> </tr> </tbody> </table> <p><b>Creditor's Name and Address:</b> Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).</p> <p><b>1. Amount of Claim as of Date Case Filed:</b> State the total amount (in lawful US currency) owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete item 4. Check the box if interest or other charges are included in the claim.</p> <p><b>2. Basis for Claim:</b> State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.</p> <p><b>3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:</b> State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.</p> <p><b>3a. Debtor May Have Scheduled Account As:</b> Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.</p> <p><b>4. Secured Claim:</b> Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.)</p>	DEBTOR	CASE NO	PETITION DATE	Taylor, Bean & Whitaker Mortgage Corp.	3:09-bk-07047-JAF	8/24/2009	<p>State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.</p> <p><b>5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).</b> If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.</p> <p><b>6. Credits:</b> An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.</p> <p><b>7. Supporting Documents:</b> Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary if documentation is voluminous or an explanation if documentation is not available. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.</p> <p><b>Date and Signature:</b> The person filing this proof of claim <u>must</u> sign and date it. FRBP 9011. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.</p> <p><b>Date-Stamped Copy:</b> <b>Return claim form and attachments. If you wish to receive an acknowledgement of your claim, please enclose a self-addressed stamped envelope and a second copy of the proof of claim form with any attachments to the Claims Agent, BMC Group, at the address on the front of this form.</b> <i>Please read – important information: upon completion of this claim form, you are certifying that the statements herein are true.</i></p> <p>Be sure all items are answered on the claim form. If not applicable, insert "Not Applicable."</p>
DEBTOR	CASE NO	PETITION DATE					
Taylor, Bean & Whitaker Mortgage Corp.	3:09-bk-07047-JAF	8/24/2009					

### DEFINITIONS

### INFORMATION

<p><b>DEBTOR</b> A debtor is the person, corporation, or other entity that has filed a bankruptcy case.</p> <p><b>CREDITOR</b> A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.</p> <p><b>CLAIM</b> A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.</p> <p><b>PROOF OF CLAIM</b> A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the court-appointed Claims Agent, BMC Group, at the address listed on the reverse side of this page</p> <p><b>SECURED CLAIM Under 11 U.S.C. §506(a)</b> A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors.</p>	<p>The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.</p> <p>A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).</p> <p><b>UNSECURED NONPRIORITY CLAIM</b> If a claim is not a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.</p> <p><b>UNSECURED PRIORITY CLAIM Under 11 U.S.C. §507(a)</b> Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.</p> <p><b>Evidence of Perfection</b> Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other</p>	<p>document showing that the lien has been filed or recorded.</p> <p><b>Redacted</b> A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.</p> <p><b>Offers to Purchase a Claim</b> Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.), and any applicable orders of the bankruptcy court.</p>
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In The Twentieth Judicial Circuit  
Court in and for Lee County, Florida

Case No. 08-CA-013409

Jeff Schepp, Inc., d/b/a  
Tarpon Bay Construction,  
Plaintiff,

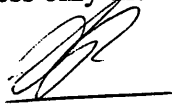
v.

Taylor, Bean & Whitaker Mortgage  
Corp., et al,  
Defendants.

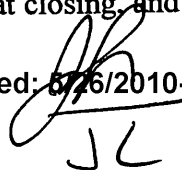
Mediated Settlement Agreement, dated January 27, 2009

Jeff Schepp, Inc., d/b/a Tarpon Bay Construction, hereinafter referred to as "Tarpon Bay," and Taylor, Bean & Whitaker Mortgage Corp, hereinafter referred to as "TBW," agree as follows:

1. **The Property.** TBW is the owner of Lots 39 and 40, Block 2119, Cape Coral, Unit No. 32, a subdivision as per the plat thereof recorded in Plat Book 16, pages 11-13, of the Public Records of Lee County, FL, bearing Lee County Property Appraiser's Tax Parcel No. 31-43-24-C3-02119.0390 (the "Property"). TBW is also the holder of a mortgage on the Property (which TBW has asserted did not get merged into the deed in lieu of foreclosure by which TBW acquired title to the Property). Tarpon Bay has asserted a claim of lien against the Property (the "Claim of Lien").
2. **TBW's Control of the Property.** TBW has indicated that its intention is to market and sell the Property. It is understood and agreed, however, the TBW shall have the sole, absolute and unfettered right to market the Property or not and, if marketed, to determine the asking and ultimate selling price for the Property. The only limitation on TBW's rights in this regard are that it agrees that it shall not, and shall not attempt to, sell, transfer, assign or convey the Property to any person or entity with whom it is affiliated, directly or indirectly, but rather will only sell, transfer, assign or convey the Property to a disinterested, bona fide third party purchaser.
3. **Proceeds Payable to Tarpon Bay Upon Sale.** At the closing of the sale of the Property (whenever that may occur), Tarpon Bay shall be paid twenty-two and one-half percent (22.5%) of the net proceeds of sale. For purposes of this Agreement, the phrase "the net proceeds of sale" is defined to mean the purchase price, less only the real estate commissions paid at closing, and the title insurance

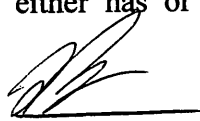
  
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and documentary stamps, if any, for which TBW is responsible at closing. Any and all other amounts which may otherwise be deducted from the purchase price (e.g., pro rata real estate taxes) shall not be taken into consideration for purposes of calculating the 22.5% to be paid to Tarpon Bay. The proceeds that are so payable to Tarpon Bay shall be paid by check payable to "Jeff Schepp, Inc.," which shall be delivered to Tarpon Bay's attorney, Matthew Scott Toll, Esq., Lusk, Drasites, Tolisano & Smith, P.A., 202 Del Prado Blvd., Cape Coral, FL 33990.

4. **Satisfaction of Claim of Lien to Be Held in Escrow.** By or before February 6, 2009, Tarpon Bay shall execute and deliver to counsel for TBW, Tom Smoot, III, Esq., a satisfaction of the Claim of Lien (the "Satisfaction"). Mr. Smoot shall hold the Satisfaction in escrow until such time as there is a closing of the sale of the Property (whenever that may occur). Upon condition that Tarpon Bay is paid at the closing as provided in paragraph 3 above, Mr. Smoot may deliver the executed Satisfaction to the closing agent who handles the closing of the sale of the Property (whenever that may occur) for recording following the closing.
5. **Stipulation for Dismissal.** By or before February 6, 2009, Mr. Toll shall prepare, execute and deliver to Mr. Smoot, a Stipulation for Dismissal with Prejudice with a proposed Order on the Stipulation, which shall provide that any and all Notices of Lis Pendens recorded against the Property in connection with this Civil Action (Case No. 08-CA-013409, as captioned above) are released and discharged of record, that the Clerk of the Court is directed to record the Order of Dismissal to accomplish the same, and that this entire action is dismissed with prejudice, all parties to bear their own attorneys' fees and costs, but which Order shall also provide that the Court reserves jurisdiction to enforce the terms of this Mediated Settlement Agreement. Within 7 days of receiving the same, Mr. Smoot shall execute the Stipulation of Dismissal with Prejudice and file the same with the Court with the request that the Court enter the Order of Dismissal with Prejudice.
6. **Releases.** Except for the obligations of this Mediated Settlement Agreement, which are not hereby released and which shall survive the execution hereof, Tarpon Bay, on the one hand, and TBW, on the other hand, for themselves and for their respective successors and assigns, hereby remise, release, acquit, waive, satisfy and forever discharge one another and one another's respective officers, directors, shareholders, members, employees, agents, servants, representatives and insurers, and the respective personal representatives, heirs, successors and assigns of all of them, of and from all, and all manner of action and actions, cause and causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, guarantees, warranties (whether express or implied, and whether based on statute, common law or otherwise), third-party claims, bad faith claims, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, which either has or may have against the other, whether arising in tort, by

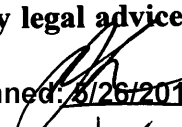


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contract, by virtue of statute, or otherwise, and whether in law or in equity, regardless of whether the same are known or unknown, suspected or unsuspected, patent or latent, or have yet accrued or not accrued (collectively, "Claims"), provided the same arise out of or relate to the issues and/or Claims that were or should have been asserted in this Civil Action, including, without limitation, any Claims that Tarpon Bay has or may have based upon Section 713. 3471, Florida Statutes, or upon any obligations that may arise from any draw agreement.

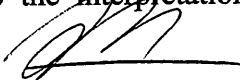
7. **Due Dates Falling on Weekends or Holidays.** In the event that the date of any act required to be performed by this Agreement (including, but not limited to, the payment of any money) falls on a weekend or a federal holiday, then the same shall not be required to be performed until the next business day thereafter.
8. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties and no verbal or written warranties or representations have been made or have been relied upon which do not appear in writing within this Agreement. Any reliance on verbal or other representations which do not appear within this Agreement shall be deemed unjustifiable reliance. Each party hereto is represented by that party's own counsel (or has had the opportunity to confer with counsel of their own choosing) and has had the benefit of such counsel's advice in reviewing, commenting upon, and modifying this Agreement.
9. **Modification of Agreement.** This Agreement may not be amended or modified except by written instrument signed by all of the parties hereto, and the parties agree that this provision may not be waived except in writing.
10. **Waiver** The rights of the parties under this Agreement are to be considered cumulative, and the failure on the part of any party to exercise or enforce properly or promptly any rights arising out of this Agreement shall not operate to forfeit or serve as a waiver of any of those or other rights. The waiver by one party of the performance of any covenant or condition herein shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of any other covenant or condition herein. The waiver by any party of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.
11. **Mediator As Scrivener; Interpretation.** The mediator has provided the initial draft of this Mediated Settlement Agreement to the parties and their counsel as a draft for their consideration. The mediator has done so as an accommodation to assist the parties in memorializing their agreement and has not done so in order to render any legal advice. The parties and their counsel have been free to add to, delete from, and to otherwise change the initial draft as they have seen fit. Any changes made to the initial draft of this Agreement have been at the request of one or more of the parties to this Agreement (or their counsel) and represent the memorialization of their intent. **The parties hereto acknowledge and agree that the mediator has not provided them with any legal advice (either during the**

  
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course of the mediation or in connection with the negotiation and preparation of this Agreement), and that they have obtained their own independent legal advice prior to executing this Agreement. The parties hereto agree that in the event of any dispute as to the precise meaning of any term or provision contained herein, the principle of construction and interpretation that written documents are to be construed against the party preparing the same shall not be applicable. Wherever used herein, the singular shall include the plural, the plural shall include the singular, and pronouns shall be read as masculine, feminine or neuter, all as the context requires.

12. **Cooperation.** The parties hereto agree to cooperate fully in the execution of any documents or performance in any way which may be reasonably necessary to carry out the purposes of this Agreement and to effectuate the intent of the parties hereto.
13. **No Admission of Liability.** By this settlement, no party admits any liability, but rather the parties have agreed to this settlement as a compromise of disputed claims in the interests of avoiding the costs and uncertainty of continued litigation.
14. **Time is of the Essence.** Time is of the essence of this Agreement.
15. **Headings.** The headings used in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement or the intent of any provision in it.
16. **Severability.** If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, whether on its face or as applied, the remaining provisions shall remain in full force and effect.
17. **Benefit and Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and assigns. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The individuals signing below on behalf of entities represent and warrant that they have the full authority to bind their respective entities to all of the provisions hereof. Signatures by facsimile transmission or other electronic transmission of this Agreement shall be acceptable and binding upon the Parties. A copy hereof shall be as binding as the executed original.
18. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida, without regard to its principles of conflicts of law.
19. **Attorneys' Fees.** In any litigation arising out of or relating to this Agreement, or to the interpretation or enforcement hereof, the prevailing party(ies) shall be

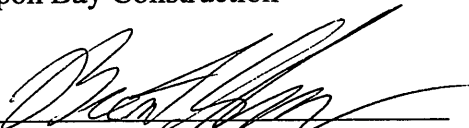
  
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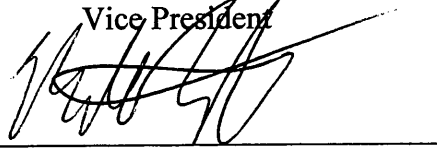
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entitled to recover the prevailing party's(ies') attorneys' fees and costs from the non-prevailing party(ies) at the trial and at all appellate levels.

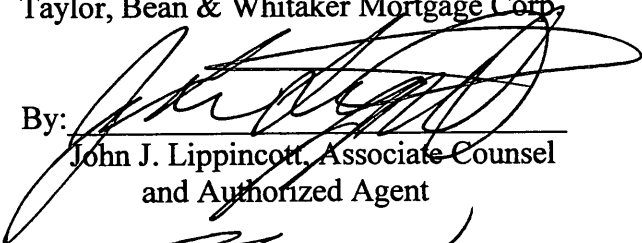
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first stated above.

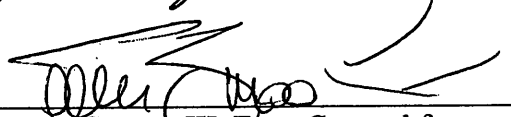
Jeff Schepp, Inc., d/b/a  
Tarpon Bay Construction

By:   
Brent Schepp, Executive  
Vice President

  
Matthew Scott Toll, Esq., Counsel for  
Tarpon Bay

Taylor, Bean & Whitaker Mortgage Corp.

By:   
John J. Lippincott, Associate Counsel  
and Authorized Agent

  
Tom Smoot, III, Esq., Counsel for  
TBW