

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re

Taylor, Bean & Whitaker Mortgage Corp.

CHAPTER 11
CASE NO. 3:09-bk-07047-JAF

Debtor(s)

_____/

**OMNIBUS
MOTION FOR RELIEF FROM STAY FILED BY SAXON MORTGAGE SERVICES,
INC. REGARDING REAL PROPERTY**

SAXON MORTGAGE SERVICES, INC. ("Saxon"), pursuant to §§362(d)(1) and (2) of the Bankruptcy Code, hereby moves this Court for entry of an order granting relief from stay as to the bankruptcy estate and as to the Debtor(s), and states:

1. Debtor is or was the holder of a second Mortgage or Junior Mortgage on several parcels of real property. In other instances, debtor is or was the mortgage servicer on several mortgage loans .

2. Saxon or its predecessor in interest entered into Mortgage loan transactions with respect to each of the real properties in which Debtor was either a junior mortgagee or a loan servicer for such junior mortgage which consisted of the following properties:

a. Mortgagor Name: Maria Corral, an unmarried woman

REAL PROPERTY LOCATED AT 1526 N. 21ST AVENUE, MELROSE PARK, IL 60160/ LEGALLY DESCRIBED AS LOT 19 IN BLOCK 5 IN GOSS, JUDD AND SHERMAN'S WEST DIVISION STREET HOME ADDITION IN THE WEST 1/2 OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

b. Mortgagor Name: Stacie Smellie, Married

**REAL PROPERTY LOCATED AT 314 EAST CLAIMS STREET, AURORA, IL 60506/ LEGALLY DESCRIBED AS THAT PART OF LOT 13 IN BLOCK 13 OF MANN'S ADDITION TO AURORA, DESCRIBED AS FOLLOWS:
COMMENCING AT THE POINT OF INTERSECTION OF THE EAST LINE OF LINCOLN AVENUE WITH THE NORTH LINE OF CLAIM STREET (AS NOW LOCATED); THENCE NORTHERLY ALONG THE EAST LINE OF LINCOLN AVENUE, 120 FEET; THENCE EASTERLY PARALLEL WITH THE OLD CLAIM LINE 105 FEET FOR THE POINT OF BEGINNING; THENCE EASTERLY PARALLEL WITH SAID OLD CLAIM LINE TO A LINE DRAWN PARALLEL WITH AND 105 FEET EASTERLY OF, MEASURED AT RIGHT**

ANGLES THERETO, THE EASTERLY LINE OF SAID LINCOLN AVENUE; THENCE NORTHERLY ALONG SAID PARALLEL LINE TO THE NORTH LINE OF SAID LOT 13; THENCE EASTERLY ALONG SAID NORTH LINE TO THE WEST LINE EXTENDED NORTHERLY OF LOT 14 IN SAID BLOCK 13; THENCE SOUTHERLY ALONG THE EXTENSION OF AND THE WEST LINE OF SAID LOT 14 TO A POINT IN SAID WEST LINE 129 FEET NORTHERLY OF THE NORTH LINE OF CLAIM STREET (AS NOW LOCATED); THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID CLAIM STREET 47 FEET; THENCE SOUTHERLY TO A POINT IN THE NORTH LINE OF SAID STREET 50 FEET WESTERLY OF THE WEST LINE OF SAID LOT 14; THENCE WESTERLY ALONG SAID NORTH LINE TO A POINT 120 FEET EASTERLY OF THE EAST LINE OF LINCOLN AVENUE; THENCE NORTHERLY TO THE POINT OF BEGINNING, IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS.

c. Mortgagor Name: David Lynn White

REAL PROPERTY LOCATED AT 422 EAST CANYON ESTATES CIRCLE, BOUNTIFUL, UT 84010/ LEGALLY DESCRIBED AS LOT 13, NORTH CANYON ESTATES PLAT A AMENDED, ACCORDING TO THE OFFICIAL PLAT THEREOF RECORDED IN THE OFFICE OF THE DAVIS COUNTY RECORDER UTAH.

d. Mortgagor Name: Adam M Holdaway

REAL PROPERTY LOCATED AT 2823 WEST FOX HUNTERS LOOP, LEHI, UT 84043/ LEGALLY DESCRIBED AS LOT 178, WINTER HAVEN, PHASE 1, AMENDED SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER.

e. Mortgagor Name: Joy Adam

REAL PROPERTY LOCATED AT 607 WEST 4TH AVE., MIDVALE, UT 84047/ LEGALLY DESCRIBED AS BEGINNING AT A POINT 1168 FEET SOUTH AND EAST 633 FEET FROM THE WEST QUARTER CORNER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE EAST 100 FEET; THENCE SOUTH 100 FEET; THENCE WEST 100 FEET; THENCE NORTH 100 FEET TO THE POINT OF BEGINNING.

f. Mortgagor Name: Mark Seipert & Chalise Seipert

REAL PROPERTY LOCATED AT 341 WEST 2375 NORTH, LEHI UT 84043/ LEGALLY DESCRIBED AS LOT 13, PLAT "C", RIDGEPOINT ESTATES SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND ON RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

g. Mortgagor Name: Jamie Goeckeritz

REAL PROPERTY LOCATED AT 400 EAST 100 NORTH, UNIT J-1, AMERICAN FORK, UT 84003/ LEGALLY DESCRIBED AS UNIT 1, BUILDING J, CONTAINED WITHIN SUNCREST CONDOMINIUM, A CONDOMINIUM

PROJECT, AS THE SAME IS IDENTIFIED IN THE RECORD OF SURVEY MAP RECORDED IN UTAH COUNTY, UTAH AS MAY NO 2431-ARM-18 AND IN THE RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SUN CREST CONDOMINIUM RECORDED IN UTAH COUNTY, UTAH, AS ENTRY NO 3418, IN BOOK 2279, AT PAGE 312.

h. Mortgagor Name: Quinn K Goeckeritz

REAL PROPERTY LOCATED AT 100 NORTH 400 EAST, UNIT J-2, AMERICAN FORK, UT 84003/ LEGALLY DESCRIBED AS BUILDING J, UNIT 2, CONTAINED WITHIN SUNCREST CONDOMINIUM, A CONDOMINIUM RECORDED IN UTAH COUNTY, UTAH, AS MAP NO. 2431-ARM-18 AND IN THE RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF SUN CREST CONDOMINIUM RECORDED IN UTAH COUNTY, UTAH, AS ENTRY NO 3418, IN BOOK 2279, AT PAGE 312.

i. Mortgagor Name: David Magarin

REAL PROPERTY LOCATED AT 4261 SOUTH PEGGY DRIVE, SALT LAKE CITY, UT 84120/ LEGALLY DESCRIBED AS LOT 12, WOODLEDGE, ACCORDING TO THE OFFICIAL PLAT THEREOF RECORDED IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

j. Mortgagor Name: Patrick Easter & Mary Easter, Husband & Wife

REAL PROPERTY LOCATED AT 1869 NORTH 600 WEST, MAPLETON, UT 84664/ LEGALLY DESCRIBED AS LOT 9, PLAT "A", SEAL'S CHERRY TREE ESTATES SUBDIVISION, MAPLETON, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE UTAH COUNTY RECORDER'S OFFICE, UTAH.

k. Mortgagor Name: Dean Stokes

REAL PROPERTY LOCATED AT 1535 SOUTH CANYON VIEW DRIVE, PERRY, UT 84302/ LEGALLY DESCRIBED AS ALL OF LOT 35, OUAILE POINTE SUBDIVISION, PHASE 3, PERRY CITY, BOX ELDER COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.

l. Mortgagor Name: Kettly Charles Philibert & Clervil Philibert

REAL PROPERTY LOCATED AT 34-36 SOUTH SECOND STREET, TAFTVILLE CT 06380/ LEGALLY DESCRIBED AS A CERTAIN PIECE OR PARCEL OF LAND WITH THE BUILDINGS THEREON SITUATED IN TAFTVILLE, TOWN OF NORWICH, COUNTY OF NEW LONDON AND STATE OF CONNETICUT, BEING BOUNDED AND DESCRIBED AS FOLLOWS:

BEING KNOWN AND DESIGNATED AS LOT #105 ON SHEET D OF "PONEMAH MILLS PLAT NO. 1 SHOWING LAND AT TAFTVILLE, TOWN OF NORWICH, CONN., DRAWN BY CHANDLER & PALMER, ENGRS., NORWICH, CONN., APRIL 1934," ON FILE IN THE NORWICH LAND RECORDS, PLAN BOOK 3, PAGE 86 AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

EASTERLY BY THE WESTERLY LINE OF SOUTH SECOND AVENUE, 81', SOUTHERLY BY LOT NO. 108 AS SHOWN OF SAID PLAN, 86'; WESTERLY BY PARTS OF THE EASTERLY LINES OF LOTS NO. 109 AND 103 AS SHOWN ON SAID PLAN, 81'; AND NORTHERLY BY LOT NO. 104 AS SHOWN ON SAID PLAN, 86'.

m. Mortgagor Name: Walter Gillin & Dana Gillin

REAL PROPERTY LOCATED AT 612 ANNIE LANE, LATTA, SC 29565/ LEGALLY DESCRIBED AS ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND LYING, BEING AND SITUATE IN THE COUNTY OF DILLON, STATE OF SOUTH CAROLINA, BEING KNOWN AND DESIGNATED AS LOT 22, AS SHOWN ON A PLAT OF OAK GROVE ESTATES, SECTION II, DATED JULY 30, 1992, AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR DILLON COUNTY IN PLAT BOOK 27, AT PAGE 19, AND BEING GENERALLY BOUNDED AND DESCRIBED AS FOLLOWS: ON THE NORTHWEST BY BRANCH THE LINE, ON WHICH IT MEASURES 230.11 FEET; ON THE NORTHEAST BY LOT 21, IN WHICH IT MEASURES BY 541.40 FEET; ON THE SOUTHEAST BY 50 FOOT ROAD, ON WHICH IT MEASURES 200.00 FEET; AND ON THE SOUTHWEST BY LOT 23, ON WHICH IT MEASURES 427.59 FEET. REFERENCE AS MADE TO SAID PLAT FOR A MORE COMPLETE AND ACCURATE DESCRIPTION.

n. Mortgagor Name: Gerald A Bickmore

REAL PROPERTY LOCATED AT 7236 SOUTH 580 EAST, MIDVALE, UT 84047/ LEGALLY DESCRIBED AS LOT 1, MELISSA 580 MEADOWS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

o. Mortgagor Name: Teofilo M. Arcino Jr. And Everdina Arcino, Husband & Wife as Joint Tenants

REAL PROPERTY LOCATED AT: 4077 OLIVER SAGEBRUSH DR, LAS VEGAS, NV 89122 / LEGALLY DESCRIBED AS: LOT 13, BLOCK 1, DESERT IN MASTER PLAN LOT "E", AS SHOWN BY MAP THEREOF ON FILE IN BOOK 118 OF PLATS, PAGE 33, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA

p. Mortgage Name: Rose and James Hawley

REAL PROPERTY LOCATED AT: 2987 ROUNDTREE DRIVE, TROY MICHIGAN 78083

3. Saxon is entitled to enforce the Note and Mortgage on each of the above described properties. Copies of the relevant loan document(s) are available upon request but are not attached hereto, because the Debtor is not the obligor on any of the instruments.

4. The property owners who are not debtors in the case before this Court, defaulted under the terms of their respective Note and Mortgage with Creditor by failing to make all payments when due.

5. The Debtor(s), and the estate, have made no offer of adequate protection to Creditor regarding Creditor's superior mortgage interest in the real property. Creditor, therefore, lacks adequate protection.

6. The Collateral is diminishing and decreasing in value and continues to do so by virtue of the continued decline in the market values for many of these properties without payments to Creditor.

7. The Debtor(s), and the estate, lack equity in the Collateral.

8. The Collateral is not necessary to an effective reorganization.

9. Pursuant to the terms of the Contract between the parties, the mortgagors (non debtors) are obligated to pay Creditor's reasonable attorneys' fees and court costs. Creditor has retained the undersigned attorneys and has agreed to pay them a reasonable fee for their services rendered in connection with this Motion.

10. Creditor asserts sufficient cause exists to waive the requirement of Bankruptcy Rule 4001(a)(3), therefore allowing an Order to be effective upon this Honorable Court's signature. In addition Creditor prays that the Court suspend the Rule in all instances in which there is a Consent on the part of the Debtor(s).

WHEREFORE, Creditor requests that the Court enter an order modifying or terminating the automatic stay as to the Debtor and to the estate or enter a comfort Order determining that the Stay does not apply to permit Creditor to enforce its in rem contractual and state law remedies as against the various described properties and for such other relief as requested above.

/s/ Larry M. Foyle, Esq.
Larry M. Foyle, Esq.
Kass, Shuler, Solomon, Spector,
Foyle & Singer, P.A.
P.O. Box 800
Tampa, FL 33601
Phone: (813) 229-0900 Ext. 1353
Fax: (813) 769-7563
lfoyle@kasslaw.com
Florida Bar No. 307343

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing was furnished on November 8, 2010, by U.S. Mail and/or electronic mail via CM/ECF pursuant to Local Rule 7005-3 to: Taylor, Bean & Whitaker Mortgage Corp., 315 N.E. 14th Street, Ocala, FL 34470; Edward J Peterson, 110 East Madison Street, Suite 200, Tampa, FL 33602 Office of the United States Trustee, 135 West Central Boulevard, Suite 620, Orlando, FL, 32801 and all parties in interest on the attached matrix pursuant to Local Rule 1007-2 and, if applicable, F.R.B.P. 1007(d), 2002; and 4001(d).

Notice respecting documentation –

It is **not** anticipated that any creditor or party in interest will request documentation, but if requested the undersigned will either email, fax, or mail a copy of same to anyone who requests the documentation. There are approximately 30 pages for a typical note and mortgage multiplied by the number of mortgages contained herein = 15 x 30 = approximately 450 pages of paper that are likely to be irrelevant to everyone in the case except for Saxon Mortgage Services, Inc.

MOREOVER, all of the information has been shared with Debtor's Counsel and Debtor does not have a junior lien interest with respect to 11 of the properties so the Order sought is a comfort order as to those 11 properties. With respect to the remaining 5 properties, Debtor may claim a junior lien interest and will participate in the foreclosure action if appropriate.

Rule 7005-3

SERVICE BY ELECTRONIC MEANS UNDER RULE 5(b)(2)(D)

A party may make service under Rule 5 (b) (2) (D) of the Federal Rules of Civil Procedure through the Court's electronic transmission facilities if the party being served is a Filing User or otherwise consents in writing to electronic service.

/s/ Larry M. Foyle, Esq.
Larry M. Foyle, Esq. (x1353)