

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

**FILED**  
JACKSONVILLE, FLORIDA

JAN 7 2011

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

<b>In re:</b>	)	
	)	<b>CHAPTER 11</b>
<b>TAYLOR , BEAN &amp; WHITAKER</b>	)	
<b>MORTGAGE CORP.,</b>	)	
<b>REO SPECIALISTS, LLC, and</b>	)	
<b>HOME AMERICA MORTGAGE., INC.,</b>	)	<b>Case No. 3:09-bk-07047-JAF</b>
	)	<b>Case No. 3:09-bk-10022-JAF</b>
	)	<b>Case No. 3:09-bk-10023-JAF</b>
	)	
<b>Debtors and Debtors in Possession</b>	)	<b>Jointly Administered Under</b>
	)	<b>Case No. 3:09-bk-07047-JAF</b>
	)	
<b>vs.</b>	)	
	)	
<b>Cassandra Boyd-Bey</b>	)	
<b>Creditor</b>	)	

**RESPONSE OBJECTION CREDITOR CASSANDRA BOYD-BEY TO OMNIBUS  
OBJECTION #8: CLAIMS FOR WHICH DEBTORS ARE NOT LIABLE**

NOW, COMES, The Creditor Cassandra Boyd-Bey, as a National and in this court of record presents, hereby responds objection **DEBTORS' OMNIBUS OBJECTION #8: CLAIMS FOR WHICH DEBTORS ARE NOT LIABLE** and respectfully states as follows:

**RESPONSE**

1. On May 14, 2010, Cassandra Boyd-Bey timely filed with Taylor, Bean & Whitaker Mortgage Corp. ("TBW"), REO Specialists, LLC ("REO Specialists"), and Home America Mortgage, Mortgage, Inc. the Debtors' claims agent, (i) a proof of claim in the amount

of \$244,235,000.00, against Taylor, Bean & Whitaker Mortgage Corp. (“TBW”), REO Specialists, LLC (“REO Specialists”), and Home America Mortgage, Mortgage, Inc., assigned claim number 1569. Pursuant to Section 502(b)(9) of the Bankruptcy Code and Bankruptcy Rule 3003(c)(3) Establishing Deadline for Filing Proofs of Claim, Approving the Form and Manner of Notice Thereof and Approving the Proof of Claim Form, dated June 15, 2010 (the “Bar Date Order”). Claims were in connection with payments due Cassandra Boyd-Bey.

2. The Debtors now propose, with no explanation, insufficient information not found in their records, the Debtors propose that the claim against Taylor, Bean & Whitaker Mortgage Corp. (“TBW”), REO Specialists, LLC (“REO Specialists”), and Home America Mortgage, Mortgage, Inc. the Debtors are not liable.

**A. There Is No Basis Claim Which Debtors Are Not Liable**

3. The Debtors fail to provide any detailed reasons for Claims Which Debtors Are Not Liable for in the Objection. The Debtors allege in the Objection that the Claims “Which Debtors Are Not Liable should be disallowed in their entirety.

This description is not a reasonable substitute for an explanation of the proposed partial denial of the Claims. In the absence of any real information from the Debtors as to why they think the Claims here at issue are not liable, it is impossible for creditor Cassandra Boyd-Bey to make sense of the proposed disallowing or not liable to assess the validity of the Debtors’ position.

**ARGUMENT**

4. Once filed, a proof of claim establishes *prima facie* evidence of the validity and amount of the claim. FED. R. BANKR. P. 3001(f). Under Rule 3001(f), the allegations of a proof of

claim are taken as true and the claim enjoys *prima facie* validity. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); *Wilson v. Huffman (In re Missionary Baptist Found. of Am.)*, 818 F.2d 1135, 1143 (5th Cir. 1987). See also *Simmons v. Savell (In re Simmons)*, 765 F.2d 547, 551-52 (5th Cir. 1985) ("a proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes *prima facie* evidence of the validity and amount of the claim") (citing to FED. R. BANICR. P. 3001(0); *Glinka v. Dartmouth Banking Co. (In re Kelton Motors, Inc.)*, 121 B.R. 166, 190 (Bankr. D. Vt. 1990) ("there is a presumption of the validity of the proof of claim" under Rule 3001(f)); *In re Windsor Commc'ns Group, Inc.*, 45 B.R. 770, 773 (Bankr. E.D. Pa. 1985) (holding that filing a proof of claim in accordance with the Bankruptcy Code and the Bankruptcy Rules constitutes *prima facie* evidence of the validity and amount of the claim).

5. Once a creditor files a *prima facie* valid proof of claim, the burden of proof shifts to the debtor "to produce evidence sufficient to negate the *prima facie* validity of the filed claim." *In re Allegheny Intl, Inc.*, 954 F.2d 167, 173 (3d Cir. 1992) (citing *In re Holm*, 931F.2d at 623). Specifically, the objecting party must come forward with substantial facts to overcome the proof of claim's *prima facie* validity. *Webster v. Barbara (In re Otis & Edwards, P.C.)*, 115 B.R. 900, 914 (Bankr. E.D. Mich. 1990).

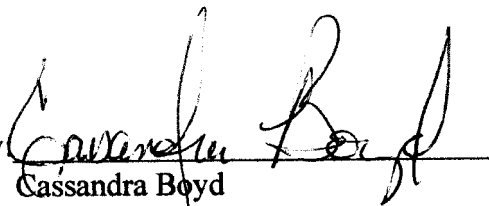
6. The Debtors do not contest that creditor Cassandra Boyd-Bey's Proof of Claim were filed in accordance with Rule 3001. The Debtors have failed to provide any information regarding the basis on which it is seeking to not be liable for creditor Cassandra Boyd-Bey's Claims, nor have they provided any evidence to support disallowing of creditor Cassandra Boyd-Bey's Claims.

**CONCLUSION**

**WHEREFORE**, the Creditor Cassandra Boyd-Bey respectfully requests that the Court overrule the objection, enter an order granting the Claims in their entirety, as well as other and further relief this Court deems just and proper.

Respectfully submitted

This 7th day of January 2011.

By   
Cassandra Boyd  
P.O.Box 362074  
Decatur, Georgia 30036

CERTIFICATE OF SERVICE

Documents served:

**RESPONSE OBJECTION CREDITOR CASSANDRA BOYD-BEY TO OMNIBUS  
OBJECTION #8: CLAIMS FOR WHICH DEBTORS ARE NOT LIABLE**

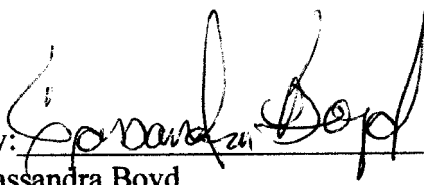
On 01 / 07 / 11 / , I served the above mentioned documents with attachments as noted by placing a true and correct copy thereof enclosed in a sealed envelope with postage fully prepaid for delivery by U.S. Postal Service, addressed to the following recipients as follows:

**BRYAN SIMPSON -CLERK OF THE COURT  
UNITED STATES COURTHOUSE  
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Suite 3-350  
Jacksonville, Florida 32202**

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By:   
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