

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

IN RE:

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP

CASE NO.: **09-07047-JAF**

CHAPTER 11

Debtor.

---

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**SECURED CREDITOR**, U.S. Bank National Association, as Trustee for TBW Mortgage-Backed Trust 2006-6, Mortgage Pass-Through Certificates, Series 2006-6 (“MOVANT”), by and through its undersigned attorney, hereby Moves for Relief from the Automatic Stay pursuant to 11 USC §362(d), and in support states as follows:

1. On August 24, 2009, the above Debtor, Taylor, Bean & Whitaker Mortgage Corp. filed a Voluntary Petition for Relief pursuant to Chapter 11 of the United States Bankruptcy Code.
2. Jurisdiction in this cause is granted to the Bankruptcy Court pursuant to 28 USC §1334 and 11 USC §362, and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Court generally.
3. On September 26, 2006, Barry Hut, as a single man, executed and delivered a promissory note and mortgage in the amount of \$208,000.00, which is now owned by Movant pursuant to Title policy. See attached Exhibit “A”.
4. On September 26, 2006, Barry Hut, as a single man, executed and delivered a subordinate promissory note and mortgage in the amount of \$52,000.00 in which the Title Policy indicates the Debtor is the Lender and holder of the Note. See attached Exhibit “B”.
5. The mortgage secures the following real property located in Arizona County, Florida, to wit:

**Lot 82, of MONTANA DEL SOL, according to the Plat of record in the Office of the County Recorder of Maricopa County, Arizona, recorded in Book 257 of Maps, Page 50.**

**A/K/A 11241 N 109TH WAY, SCOTTSDALE, AZ 85259**

6. The MOVANT respectfully requests that the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Movant for its interest in the above stated collateral. The value of the collateral is insufficient in and of itself to provide adequate protection which the Bankruptcy Code requires to be provided to the MOVANT.
7. In support of this Motion for Relief from Automatic Stay, under §362(d) of the Bankruptcy Code, MOVANT would show that it would be inequitable to permit the debtor to retain the collateral, that there is no equity in the collateral and that said collateral is not necessary for an effective reorganization of the Debtor.
8. MOVANT submits that lack of adequate protection in this cause is the appropriate ground for relief which Movant seeks under §362(d), and that the possible existence of equity over and above the indebtedness, which MOVANT denies exists, would not, even if it did exist, constitute adequate protection as contemplated by the Bankruptcy Code. Additionally, Movant would show that its indebtedness continues to accrue interest which Debtor enjoy the benefit of the collateral without following the requirements of the Bankruptcy Code.
9. MOVANT is receiving no payments from Debtor to protect Movant against the erosion of its collateral position and MOVANT is not otherwise protected.
10. If MOVANT is not permitted to enforce its security interest in the collateral or provided with adequate protection, it will suffer irreparable injury, loss and damage.
11. The value pursuant to the property card in Maricopa County attached is \$171,500.00. See attached Exhibit "C".
12. The principal balance is \$207,930.37. The contractual due date is September 1, 2009.

**WHEREFORE, PREMISES CONSIDERED,** MOVANT prays that the Debtor be cited to appear herein; that upon Final Hearing (if necessary) the Court enter an Order modifying the Automatic Stay under 11 USC §362(d), to permit MOVANT to take any and all steps necessary to exercise any and all rights it may have in the collateral described hereinabove, and to gain permission of said collateral, together with such further relief and this Honorable Court deems just and appropriate.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was provided via electronic and/or Regular U.S. Mail to the parties listed on the attached service list, this 17th Day of January, 2011.

**I HEREBY CERTIFY** that I am admitted to the Bar of the United States District Court for the MIDDLE District of FLORIDA, and I am in compliance with the additional qualifications to practice in this Court set forth in the Local Rules.

David J. Miller  
Albertelli Law  
Attorney for Secured Creditor  
PO Box 23028  
Tampa, FL 33623  
Telephone: (813) 221-4743  
Facsimile: (813) 221-9171

By:         /s/ David J. Miller          
David Miller  
Florida Bar No.:69995

**SERVICE LIST**

Edward J. Peterson, III  
Stichter, Riedel, Blain & Prosser, PA  
110 East Madison Street, Suite 200  
Tampa, FL 33602

Amy Denton Harris  
Stichter, Riedel, Blain & Prosser, P.A.  
110 E Madison Street, Suite 200  
Tampa, FL 33602-4700

Russell M Blain  
Stichter, Riedel, Blain & Prosser  
110 East Madison Street, Suite 200  
Tampa, FL 33602

Richard C. Prosser  
Stichter, Riedel, Blain & Prosser PA  
110 E. Madison Street, Suite 200  
Tampa, FL 33602

Jeffrey W Kelley  
Troutman Sanders LLP  
600 Peachtree Street

Suite 5200  
Atlanta, GA 30308-2216

James D Dantzler, Jr  
Troutman Sanders LLP  
600 Peachtree Street Northeast  
Suite 5200  
Atlanta, GA 30308  
Elena L Escamilla TB  
135 W Central Blvd, Suite 620  
Orlando, FL 32801

Elena L Escamilla  
United States Trustee  
135 W Central Blvd Suite 620  
Orlando, FL 32806

Paul S Singerman  
Berger Singerman PA  
200 South Biscayne Boulevard  
Suite 1000  
Miami, FL 33131

Arthur J Spector  
Berger Singerman PA  
2650 North Military Trail  
Suite 240  
Boca Raton, FL 33431-7391

James D Gassenheimer  
Berger Singerman  
200 South Biscayne Boulevard  
Suite 1000  
Miami, FL 33131

United States Trustee - JAX 11  
135 W Central Blvd, Suite 620  
Orlando, FL 32801

Taylor, Bean & Whitaker Mortgage Corp.  
4901 Vineland Road, Ste 120  
Orlando, FL 32811

Rule 1007-2 Parties In Interest