

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

IN RE:

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP

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

Debtor.

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**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 Series 2006-4, TBW Mortgage Pass-Through Certificates, Series 2006-4 (“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 13 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 July 12, 2006 Robert J. Kaczmarek,(borrower) an unmarried man, executed and delivered a promissory note and mortgage in the amount of 161,600.00 in favor of Taylor, Bean, and Whitaker.
4. The mortgage is secured by the following real property located in County, Marciopa, Arizona, to wit:

**UNIT 101, PUEBLO SECO CONDOMINIUM, ACCORDING TO DECLARATION OF CONDOMINIUM RECORDED AT RECORDERS NO. 99-0618544 IN DOCUMENT NO. 99-836708 AND AFFIDAVIT OF CORRECTION RECORDED AT RECORDERS NO. 99-0976962, AND ACCORDING TO BOOK 491, PAGE 20, RECORDS OF MARCIOPA COUNTY, ARIZONA**

**AKA: 125 South 56th Street #101, Mesa, Arizona 85206**

5. The Debtor holds a 2<sup>nd</sup> mortgage on the above-described collateral.

6. The MOVANT respectfully requests that the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) so that MOVANT may exercise its rights against its collateral pursuant to its contract and applicable state law.
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 borrower 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 borrower.
8. MOVANT is receiving no payments from borrower to protect Movant against the erosion of its collateral position and MOVANT is not otherwise protected.
9. The value pursuant to the Broker's Price Opinion attached is \$74,900.00. See attached Exhibit "B".
10. The principal balance is \$155,269.05. The contractual due date is April 1, 2010.

**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 15<sup>th</sup> Day of February, 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.

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By:           /s/ John C. Brock, Jr.            
**John C. Brock, Jr.**  
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Rule 1007-2 Parties in Interest