

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

Taylor, Bean & Whitaker Mortgage Corp.

Debtor(s).

Case No. 3:09-bk-07047-JAF
Chapter 11

MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND FOR NUNC PRO TUNC APPROVAL OF RECORDATION OF ASSIGNMENT OF DEED OF TRUST AND WAIVER OF 30-DAY RULE PURSUANT TO 11 U.S.C. §362(e) (RE: 2635 THULE LANE, RUNNING SPRINGS, CA 92382)

PURSUANT TO LOCAL RULE 2002-4, THE COURT WILL CONSIDER THIS MOTION, OBJECTION, OR OTHER MATTER WITHOUT FURTHER NOTICE OR HEARING UNLESS A PARTY IN INTEREST FILES AN OBJECTION WITHIN 21 DAYS FROM THE DATE OF SERVICE OF THIS PAPER. IF YOU OBJECT TO THE RELIEF REQUESTED IN THIS PAPER, YOU MUST FILE YOUR OBJECTION WITH THE CLERK OF THE COURT AT 300 N. HOGAN STREET, SUITE 3-350, JACKSONVILLE, FLORIDA 32202-4267, AND SERVE A COPY ON THE MOVANT'S ATTORNEY, SHAPIRO & FISHMAN, 4630 WOODLAND CORPORATE BLVD., SUITE 100, TAMPA, FL 33614.

IF YOU FILE AND SERVE AN OBJECTION WITHIN THE TIME PERMITTED, THE COURT MAY SCHEDULE A HEARING AND YOU WILL BE NOTIFIED. IF YOU DO NOT FILE AN OBJECTION WITHIN THE TIME PERMITTED, THE COURT WILL CONSIDER THAT YOU DO NOT OPPOSE THE GRANTING OF THE RELIEF REQUESTED IN THE PAPER, WILL PROCEED TO CONSIDER THE PAPER WITHOUT FURTHER NOTICE OR HEARING, AND MAY GRANT THE RELIEF REQUESTED.

Comes now the Bank of New York Mellon Corporation, as Trustee for TBW Mortgage-Backed Trust 2007-1, Mortgage Pass-Through Certificates, Series 2007-1 ("Movant"), by and through the undersigned attorney and requests the Court for entry of an Order Granting Relief from the Automatic Stay and Nunc Pro Tunc Approval of Recordation of Assignment of Deed of Trust, and in support thereof would show:

1. This is a motion pursuant to Bankruptcy Rule 4001(a) for a modification of the automatic stay provisions of Section 362(d)(1) of the Bankruptcy Code.
2. That the Movant is a secured creditor by virtue of a promissory note, mortgage, and assignment of mortgage(s) on real property located at 2635 Thule Lane, Running Springs, CA 92382 and bearing following legal description:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 91 OF TRACT NO. 7568, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 109, PAGES 54 THROUGH 59 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

3. Copies of the above-referenced documents are attached to this motion as Exhibit "A"
4. The aforementioned documents create first mortgage position on the Subject Property in favor of Movant.
5. Debtor(s) filed a Chapter 7 petition on August 24, 2009 in bankruptcy in the United States Bankruptcy Court for the Middle District of Florida.
6. The Debtor transferred physical possession of the Note to Movant but did not execute and record a corresponding Assignment of Deed of Trust to Movant.
7. Debtor is not personally liable to Movant as a Debtor and Movant seeks only in rem relief to foreclose upon the Subject Property.
8. On January 13, 2011, Movant recorded an Assignment of Deed of Trust in favor of Movant was recorded as instrument number 2011-0016616 of the official records of the Office of the Recorder of San Bernardino County, California (the "Assignment").
9. Movant asserts that the subject obligation is not an obligation owed by the Debtor to Movant and that there is no automatic stay in effect with regards to the subject Deed of

Trust. Accordingly, Movant requests entry of its Order 1) determining that the subject property is not property of the estate and that no automatic stay in effect with regards to the subject property, with such determination effective, nunc pro tunc, as of the date of filing of the Debtor's petition, 2) authorizing and directing the Debtor to execute an Assignment of Deed of Trust in favor of Movant with regards to the subject property, with such relief and authorization effective, nunc pro tunc, to the date of execution and recordation of the Assignment, and 3) allowing the Movant to commence and/or continue a foreclosure action in the State Court with regards to the subject property.

10. Movant hereby waives the thirty (30) day rule set forth in 11 U.S.C. §362(e) and consents to the Court setting a hearing on this Motion on or within thirty (30) days after the filing of this motion.

WHEREFORE, the Bank of New York Mellon Corporation, as Trustee for TBW Mortgage-Backed Trust 2007-1, Mortgage Pass-Through Certificates, Series 2007-1, moves this court to enter an order 1) determining that the subject property is not property of the estate and that no automatic stay in effect with regards to the subject property, with such determination effective, nunc pro tunc, as of the date of filing of the Debtor's petition, 2) authorizing and directing the Debtor to execute an Assignment of Deed of Trust in favor of Movant with regards to the subject property, with such relief and authorization effective, nunc pro tunc, to the date of execution and recordation of the Assignment, and 3) allowing the Movant to commence and/or continue a foreclosure action in the State Court with regards to the subject property.

/s/ Kevin L. Hing
Kevin L. Hing
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay and all exhibits, have been sent by electronic or standard first class mail on this 16th day of March, 2011 to the following:

Taylor, Bean & Whitaker Mortgage Corp., 4901 Vineland Road, Suite 120, Orlando, Fl 32811
Edward J. Peterson, III, 110 East Madison Street, Suite 200, Tampa, Fl 33602
Amy Denton Harris, 110 East Madison Street, Suite 200, Tampa, Fl 33602
Russell M. Blain, 110 East Madison Street, Suite 200, Tampa, Fl 33602
Richard C. Prosser, 110 East Madison Street, Suite 200, Tampa, Fl 33602
Jeffrey W. Kelley, 600 Peachtree Street, Suite 5200, Atlanta, Ga 30308-2216
James D. Dantzler, Jr., 600 Peachtree Street Northeast, Suite 5200, Atlanta, Ga 30308
United States Trustee, 135 West Central Blvd., Suite 620, Orlando, Fl 32801
Elena L. Escamilla, 135 West Central Boulevard, Suite 620, Orlando, Fl 32801
All other interested parties and creditors listed on the 1007(d) parties in interest list

/s/ Kevin L. Hing
Kevin L. Hing
FL Bar # 0071976

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