

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

TAYLOR, BEAN & WHITAKER) Bk. No. 3:09-bk-07047-JAF
MORTGAGE CORP.,)
)
Debtor.) Chapter 11
)
) Judge Jerry A. Funk

**United States' Status Report on its
Motion to Lift the Automatic Stay (Dkt. No. 2706)**

The United States of America submits this status report on its motion to lift the automatic stay (Dkt. No. 2706) filed on February 16, 2011. The United States moved this Court to lift the automatic stay to permit the government to add the Debtor-in-Possession, Taylor, Bean & Whitaker Mortgage Corp. ("TBW"), as a party to a federal tax lien enforcement action pending in United States District Court for the Eastern District of Michigan (*United States of America v. Ford, et al.*, No. 2:10-cv-12642-MOB-MAR). Pursuant to 26 U.S.C. § 7403(b), the United States is required to name all parties that have or may claim an interest in the property (4090 Cranbrook Court, #44, Bloomfield Hills, Michigan, or the "Cranbrook Court property") upon which the government seeks to enforce its federal tax liens. As TBW is the mortgagee of record for the Cranbrook Court property at the Oakland County (Michigan) Recorder, the United States must name TBW to the District Court action in order to clear the title. The United States does not seek *in personam* relief against TBW.

The Court held a hearing on the government's motion on Friday, March 4, 2011. At the hearing, counsel for the United States and TBW informed the Court that the parties would submit a revised proposed order after slight disagreement arose concerning the precise language of the order. However, during the hearing (and according to the proposed order prepared by

TBW and presented at the hearing), TBW made it clear that it does not have an interest in the Cranbrook Court property and, therefore, the United States' motion is moot because the District Court action did not invoke property of the estate. It appears that TBW does not object to the joinder of TBW to the District Court action without an order modifying the automatic stay because the automatic stay does not bar the joinder of TBW under these circumstances.

Time is of the essence in this matter because the District Court in the federal tax lien enforcement action has set Friday, March 18, 2011, as the deadline for amending the pleadings. As stated above, the United States is required under 26 U.S.C. § 7403(b) to amend its complaint to add TBW as a party to that action. The United States is seeking an extension of time to file an amended complaint in that case.

On Wednesday, March 9, 2011, counsel for the United States transmitted a copy of a revised proposed order (attached as Exhibit 1) via e-mail to Mr. Edward Peterson and Mr. Russell Blain, counsel for TBW (copy of March 9, 2011, e-mail attached as Exhibit 2). The United States did not receive a response to its first request for opposing counsel's views on the revised order. Again, on Wednesday, March 16, 2011, the undersigned attorney for the United States sent another e-mail request to TBW for its views on the proposed order prepared by the government (copy of March 16, 2011, e-mail attached as Exhibit 3). As of the time of this filing, the United States has not yet received a response from TBW.

Pursuant to 11 U.S.C. § 362(e), the stay will automatically be lifted thirty (30) days after a motion to lift the stay is filed unless the Court orders otherwise. The thirty-day period in this case runs on Friday, March 18, 2011, after which date the automatic stay will expire (to the extent that it does apply), and there will be no dispute that the United States would be permitted

to add TBW as a party to the District Court action pending in Michigan.

For the sake of clarity, the United States requests that the Court enter the proposed order which is attached hereto as Exhibit 1. Again, the United States is not seeking any *in personam* relief against the estate.

WHEREFORE, the United States of America respectfully requests that this Court enter the proposed order attached on the government's motion to lift the automatic stay on or before Friday, March 18, 2011.

Respectfully submitted,

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/s/ Patrick B. Gushue

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2011, a copy of the foregoing **United States'**
Status Report on its Motion to Lift the Automatic Stay (Dkt. No. 2706) will be sent to those
parties registered to receive electronic notification through the Court's CM/ECF System.

/s/ Patrick B. Gushue

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