

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:	:	
	:	
Taylor, Bean & Whitaker Mortgage Corp.,	:	03:09-bk-07047-JAF
	:	
	:	
Debtor		

BANK OF AMERICA’S CLARIFICATION TO ITS MOTION FOR RELIEF AS TO A PORTION OF THE SALE ORDER (DKT. NO. 802) AND IN THE ALTERNATIVE, APPLICATION FOR ALLOWANCE AND PAYMENT OF AN ADMINISTRATIVE EXPENSE CLAIM

Bank of America, National Association as Successor by Merger to LaSalle Bank National Association as Trustee for First Franklin Mortgage Loan Trust 2007-1, Mortgage Loan Asset-Backed Certificates, Series 2007-1 (“BOA”) hereby files its Clarification to the Motion for Relief As to a Portion of the *Order Approving the Debtor’s Sale of Certain REO Assets and Granting Related Relief* (Dkt. No. 802) (the “Sale Order”), and requests that this Court enter an order (i) directing Taylor, Bean, & Whitaker Mortgage Corp (the “Debtor”) to distribute to BOA the greater of the fair market value of the Property (defined below) at the time of the sale or the net proceeds received by the Debtor from the sale of Property, to the extent not disbursed by the Debtor, or (ii) if already disbursed, to require the Debtor to pay BOA the greater of the fair market value of the Property at the time of the sale or the net sale proceeds, whichever is greater, and in the alternative, (iii) granting BOA an administrative expense claim pursuant to 11 U.S.C. § 503(b), in the amount of either the fair market value of the property at the time of the sale, or the net sale proceeds received by the Debtor from the sale of the Property, whichever is greater, and in support thereof states as follows:

1. On December 16, 2010, BOA, filed its Motion for Relief as to a Portion of the *Order Approving the Debtor's Sale of Certain REO Assets and Granting Related Relief* (Dkt. No. 2295) (the "Motion"), related to a parcel of property the Debtor sold to Selene RMOF REO Acquisition II, LLC ("Selene") pursuant to the Sale Order, which was defined in the Motion as the "Property."¹

2. Upon information and belief, the fair market value of the Property at the time of the sale was much higher than the net proceeds received by the Debtor for the sale of the Property.

3. On March 16, 2011, counsel for BOA received the Broker Price Opinion for the Property dated November 16, 2009, which stated that the reviewer's "as-is sale price" is \$320,000 and the reviewer's "as-is list price" was \$339,900.00. The Debtor's net proceeds from the sale of the Property was \$272,509.00.

4. Additionally, BOA hereby clarifies the relief sought in the Motion. In the Motion, BOA asked this Court to amend the Sale Order and direct the Debtor to either disburse the net proceeds to BOA, pay the net proceeds to BOA, or in the alternative, grant BOA an administrative expense claim in the amount of the net proceeds received by the Debtor or in the amount of the fair market value of the Property. (See ¶ 40 of the Motion). However, in the "wherefore" clause of the Motion, BOA only requested an administrative expense claim in the amount of the net sales proceeds from the sale of the Property.

¹ All capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

5. It was BOA's intention that any aspect of relief requested in the Motion refer to either the fair market value of the Property or the net proceeds received by the Debtor from the sale of the Property, whichever was greater

6. BOA therefore hereby clarifies the relief sought in the Motion to request in the form of a disbursement from the Debtor, payment from the Debtor, or an administrative expense claim in the amount of either the fair market value of the Property at the time of the Sale or the net proceeds from the sale of the Property, whichever is greater.

WHEREFORE, Bank of America respectfully requests that this Court enter an order (i) granting BOA relief as to a portion of the Sale Order as related to the Property; (ii) (a) directing the Debtor to pay BOA the fair market value of the Property at the time of the sale, or the net proceeds received by the Debtor from the sale of the Property, whichever was greater, or (b) in the alternative, enter an order granting BOA an allowed administrative expense claim pursuant to 11 U.S.C. § 503(b) in the amount of either the fair market value of the Property at the time of the sale, or the net proceeds received by the Debtor from the sale of the Property, whichever is greater, and directing the Debtor to pay such claim; and (iii) and any other and further relief as this Court deems necessary and just.

/s/ Mark J. Wolfson
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Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via US Mail or CM/ECF on this 28th day of March, 2011, to the following recipients: Taylor, Bean & Whitaker Mortgage Corp, 315 NE 14th Street, Ocala, FL 34470; Edward Peterson, 110 East Madison Street, Suite 200, Tampa, Florida 33602; Elena L. Escamilla, Office of the United States Trustee, 135 W Central Blvd, Suite 620, Orlando, FL 32801; J. David Dantzler, Troutman Sanders, 600 Peachtree Street, NE, Suite 5200, Atlanta, GA 30308-2216; Arthur J. Spector, Berger Singerman, PA, 350 E. Las Olas Blvd., 10th Floor, Fort Lauderdale, FL 33301, and to all parties who requested electronic noticing through CM/ECF.

/s/ Mark J. Wolfson
Attorney