

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

In re:

TAYLOR, BEAN & WHITAKER MORTGAGE
CORP.

Debtor.

Case No.: 3:09-bk- 07047

Chapter 11

**443 BUILDING CORPORATION'S MOTION TO COMPEL PERFORMANCE OF
DEBTOR'S OBLIGATIONS UNDER 11 U.S.C. SECTION 365(d)(3)**

Comes Now, 443 Building Corporation with this its Motion to Compel Payment of Debtor's Obligations pursuant to 11 U.S.C. Sections 365(d)(3) and states as follows:

JURISDICTION

1. This Court has jurisdiction pursuant to 28 U.S.C. Section Sections 157 and 1334. The statutory bases for relief are 11 U.S.C. Sections 105 and 365(d)(3). This is a core matter pursuant to 28 U.S.C. 157(b)(2)(G). Venue is appropriate pursuant to 28 U.S.C. Sections 1408 and 1409.

BASIS FOR RELIEF

2. As of the Petition Date, the Debtor leased certain real property located at 443 Summit Avenue, Oakbrook Terrace, Illinois (the "Oakbrook Terrace Premises") from 443 Building Corporation.

3. A copy of the Lease is attached as Exhibit A.¹

4. Under the Lease, the arrearages and amounts due under the Lease had agreed to were \$349,185.90 for the term of the lease, as shown in the Tenant Ledger attached as Exhibit B.

¹ There are several individual leases under one master Lease.

5. This Motion seeks the payment of \$21,176.67, as required by the Lease, in rent and related CAM charges due for the sixty day period immediately after the Petition Date.

MEMORANDUM OF LAW

6. 11 U.S.C Section 365(d)(3) mandates that “the trustee shall timely perform all of the obligations of the debtor. . . arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding Section 503(b) of this title.” 11 U.S.C Section 365(d)(3). An obligation arises under a lease for the purposes of 11 U.S.C Section 365(d)(3) when the legally enforceable duty to perform arises under that lease. See, *In re Valley Media, Inc.* 290 B.R. 73 (Bankr. D. Del. 2003).

7. Bankruptcy Courts, including those for the Middle District of Florida, have consistently held that the obligations under Section 365(d)(3) are mandatory, whether or not the debtor uses the property. See, *In re Florida Lifestyle Apparel, Inc.*, 221 B.R. 897 (Bankr. M.D. Fla 1997)(Judge Jenneman held landlord entitled to rent until lease rejection even though debtor had previously abandoned property and turned over keys to landlord); *In re Kirsch*, 242 B.R. 77 (Bankr. M.D. Fla. 1999)(Judge Funk held landlord entitled to full rent despite parties’ stipulation that debtor had not used premises). As Judge Jenneman wrote in *Florida Lifestyle*:

The literal language of Section 365(d)(3) which requires a trustee to perform all obligations under leases of nonresidential real property, including the obligation to make timely rent payments, is interpreted to waive the requirement that the lessor must demonstrate that the estate benefited from the post-petition rental charge...

Id., at p. 899. (Supporting citations from original omitted).

8. In the case at bar, 443 Building Corporation is entitled to the performance of all the Debtor's obligations that arose under the Lease during the sixty day period and the payment of rent for that period of \$21,176.67.

CONCLUSION

Wherefore, based upon the foregoing, Movant 443 Building Corporation requests that this Court enter an order directing the Debtor to pay the sum of \$21,176.67 to Movant.

Respectfully Submitted,

/s/ Robert Wilcox

Robert D. Wilcox
Florida Bar No.: 755168
BRENNAN, MANNA, & DIAMOND, P.L.
800 West Monroe Street
Jacksonville, FL 32202
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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2011 I filed this **Motion to Compel** through the CM/ECF filing system, which will cause a copy to be served upon all parties participating in the CM/ECF System, all to be served electronically, including Russell M. Blain, Esq., Stichter, Reidel, Blain, and Prosser P.A., 110 East Madison Street, Suite 200, Tampa, Florida 33602

/s/ Robert Wilcox

Robert D. Wilcox

EXHIBIT A

OFFICE LEASE

DATE OF LEASE	TERMS OF LEASE		RENT	P/MONTH	P/YEAR
	BEGINNING	ENDING			
7/10/2006	9/1/2006	1/31/2007	\$3202		\$16,010
		8/31/2007	\$5564		\$38,948
		8/31/2008	\$5787		\$69,444
ADDRESS: (the "Premises") 1 S. 443 Summit Oakbrook Terrace, IL 60181 Suite(s) 306 & 307			9/1/2008 - 8/31/2009	\$6018	\$72,216
			9/1/2009 - 8/31/2010	\$6259	\$75,108
			9/1/2010 - 8/31/2011	\$6509	\$78,108
<u>Tenant will occupy suite 307 from 8/15/2006 until at least 8/31/2011; Tenant will occupy suite 306 from 2/1/2007 until at least 8/31/2011.</u>			SECURITY DEPOSIT		
			3 months rent - \$6244 due 9/1/2006 for suite 307 & 3 months rent - \$4050 due 2/1/2007 for suite 306 (parallel with Taylor Bean Provisions in lease for Suite 304b)		

TENANT

Name of: Taylor Bean & Whitaker dba First Mortgage Options
 Address: 1 S. 443 Summit
 City: Oakbrook Terrace, IL 60181

DEC 4683
DEC 3547
LANDLORD
 Name: 443 Building Corporation
 c/o Veith Financial
 Address: 434 W. 2nd St.
 City: Elmhurst, IL 60126

In consideration of the mutual covenants and agreements herein stated, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord solely for the above purposes the premises designated above (the "Premises"), together with the appurtenances thereto, for the above term.

RENT

1.) Tenant shall pay Landlord or Landlord's agent as rent for the premises the sum stated above, monthly in advance, until the termination of this lease, at Landlord's address stated above or such other address as Landlord may designate in writing, prior to the 1st of each month. Rent received after the 5th day of the month must include as additional rent a 10% late charge per month to cover the Landlord's collection and administrative costs.

HEAT: NON-LIABILITY OF LANDLORD

2.) Landlord will at all reasonable hours during each day and evening, from October 1 to May 1 during the term, when required by the season, furnish at Tenant's expense heat for the heating apparatus in the demised premises, except when prevented by accidents and unavoidable delays, provided, however, that except as provided by Illinois statute, the Landlord shall not be held liable in damages on account of any personal injury or loss occasioned by the failure of the heating apparatus to heat the Premises sufficiently,

PREMISES

condition of said premises. The taking possession of said premises by the Tenant shall be conclusive evidence as against the Tenant that said premises were in good and satisfactory condition when possession of the same was taken; and the Tenant will, at the termination of this lease by lapse of time or otherwise, return said premises to the Landlord in as good condition as when received, loss by fire and ordinary wear excepted.

**TRANSFER OR
SUBLETTING OF
TENANT'S
INTEREST**

6.) The Tenant shall not assign this lease or any interest hereunder and will not sublet said premises or any part thereof; and will not permit the use of said premises by any other parties than the Tenant, and the agent and servants of the Tenant, except with the written consent of the Landlord. If the Tenant shall at any time during the term hereby demised become insolvent, or if proceedings in bankruptcy shall be instituted by or against the Tenant, or if a receiver or a trustee shall be appointed of the Tenant's property, or if the Tenant shall make an assignment for the benefit of creditors, or if this lease shall, by operation of law, devolve upon or pass to any person or persons other than the Tenant, then and in each of said cases it shall and may be lawful for the Landlord, at the Landlord's election, to forfeit this lease and re-enter said premises and take possession thereof as of its former state without the service of any notice or demand whatever.

**LANDLORD'S
RIGHT TO
RELET**

7.) If Tenant's right to the possession of the Premises shall be terminated in any way, the Premises, or any part thereof, may, but need not (except as provided by Illinois statute), be relet by Landlord, for the account and benefit of Tenant, for such rent and upon such terms and to such person or persons and for such period or periods as may seem fit to Landlord, but Landlord shall not be required to accept or receive any tenant offered by Tenant, not to do any act whatsoever or exercise any diligence whatsoever, in or about the procuring of another occupant or tenant to mitigate the damages of Tenant or otherwise, Tenant hereby waiving the use of any care or diligence by Landlord in the reletting thereof; and if a sufficient sum shall not be received from such reletting to satisfy the rent hereby reserved, after paying the expenses for reletting and collection, including commissions to agents and expenses for redecoration of the Premises, and for repairs, alterations, buildouts, and additions in or to the Premises to the extent deemed necessary or desirable by Landlord to relet the Premises, Tenant agrees to pay and satisfy all deficiency; but the acceptance of a tenant by Landlord, in place of Tenant, shall not operate as a cancellation hereof, shall not release Tenant from the performance of any covenant, promise or agreement herein contained, and performance by any substituted tenant by the payment of rent, or otherwise, shall constitute only satisfaction pro tanto of the obligations of Tenant arising hereunder. Also, any discussions or negotiations for reletting will be subject to an additional charge of one months rent to compensate landlord for his time.

**REPAIRS
AND
ALTERATIONS**

8.) The Landlord may enter said premises at all reasonable times for the purpose of making such repair or alterations therein as it shall deem necessary for the safety, preservation or improvement of said premises or said building. The Tenant will make no alterations in or additions to said premises without first obtaining the Landlord's written consent and Tenant shall submit to Landlord upon request paid bills, contractor's affidavits and full and final lien waivers for any alterations or repairs made by Tenant. All

**OF
LANDLORD**

or by other persons, due to the building or any part thereof or any appurtenances thereof becoming out of repair, or due to the happening of any accident, unfavorable weather conditions, natural disasters, or acts of God, in or about said building, or due to any act or neglect of any tenant, or occupant, or the Landlord of said building, or of any other person.

**RULES AND
REGULATIONS**

11.) The Tenant, and his agents and servants, shall at all times observe, perform and abide by all the rules and regulations printed upon the last page of this instrument and such reasonable modifications thereof and additions thereto as may be hereafter adopted by the Landlord and which apply to all tenants of the building in which the premises are located. Violation of these rules will constitute a break of this indenture.

**FIRE AND
CASUALTY**

12.) In case the Premises shall be rendered untenable by fire, explosion, or other casualty, Landlord may, at its option, terminate this lease or repair the Premises within sixty days. If Landlord does not repair the Premises within said time, or the building shall have been wholly destroyed, the term hereby created shall cease and terminate.

**TERMINATION ;
HOLDING OVER**

13.) At the termination of this lease, by lapse of time or otherwise, Tenant will yield up immediate possession of the Premises to Landlord, in good condition and repair, loss by fire and ordinary wear excepted, and will return the keys therefore to Landlord at the place of payment of rent. If Tenant retains possession of the Premises or any part thereof after the termination of the term by lapse of time or otherwise, then Landlord may at its option within thirty days after termination of the term serve written notice upon the Tenant that such holding over constitutes either (a) renewal of this lease for one year, and from year to year thereafter, at 150% of the rental (computed on an annual basis) specified on Page 1 hereof, or (b) creation of a month-to-month tenancy, upon the terms of this lease except at 150% of the monthly rental specified on Page 1 hereof, or (c) creation of a tenancy at sufferance, at a daily rental rate of 6% of the monthly total for the time Tenant remains in possession. If no such written notice is served, then a tenancy at sufferance with rental as stated at (c) above shall have been created. Tenant shall also pay to Landlord all damages sustained by Landlord resulting from retention of possession by Tenant. the provisions of this paragraph shall not constitute a waiver by Landlord of any right of re-entry as hereinafter set forth; nor shall receipt of any rent or any other act in apparent affirmance of tenancy operate as a waiver of the right to terminate this lease for a breach of any of the covenants herein.

**LANDLORD'S
REMEDIES**

14.) If Tenant shall vacate or abandon the Premises or permit the same to remain vacant or unoccupied for a period of ten days, or in case of the non-payment of the rent reserved hereby, or any part thereof, or of the breach of any covenant in this lease contained, Tenant's right to the possession of the Premises thereupon shall terminate with or (to the extent permitted by law) without any notice or demand whatsoever, and the mere retention of possession thereafter by Tenant shall constitute a forcible detainer of the Premises: and if the Landlord so elects, but not otherwise, and with or without notice of such election

requests Landlord as Tenant's agent to remove all articles found in the Premises and place them in some regular warehouse or other suitable storage place at the sole cost and expense of Tenant. Tenant hereby waives all notice of any election made by Landlord hereunder, demand for rent, notice to quit, demand for possession, and any and all notices and demands whatsoever, of any and every nature, which may or shall be required by any statute of this state relating to forcible entry and detainer, or to Landlord and Tenant, or any other statute, or by the common law, during the term of this lease or any extension thereof. The acceptance of rent, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach hereof by Tenant, or the giving or making of any notice or demand, whether according to any statutory provision or not, or any act or series of acts except an express written waiver, shall not be construed as a waiver of Landlord's right to act without notice or demand or of any other right hereby given Landlord, or as an election not to proceed under the provisions of this lease. All past due rent payments shall be first credited to the oldest obligation.

**RELOCATION
OF
TENANT**

15.) Landlord shall have the right, upon thirty (30) days written notice, to relocate Tenant to another location in the building at no cost or expense to Tenant and upon the condition that the new premises designated by Landlord shall be substantially as desirable as the demised premises with respect to layout and location in the building and shall not be smaller in area than the demised premises. If Tenant has less than twelve (12) months remaining until the expiration of his lease and he chooses not to extend said lease for at least 36 months, then this lease shall be canceled.

**REMOVED
PROPERTY**

16.) In the event of re-entry and removal of the articles found on the Premises and hereinbefore provided, Tenant hereby authorizes and requests Landlord to sell the same at public or private sales with or without notice, and the proceeds thereof, after paying the expenses of removal, storage and sale to apply towards the rent reserved herein, rendering the overplus, if any, to Tenant upon demand.

**COSTS AND
FEES**

17.) Tenant shall pay upon demand all of Landlord's costs, charges and expenses, including fees of attorneys, agents and others retained by Landlord, incurred in enforcing any of the obligations of Tenant under this lease or in any litigation, negotiation or transaction in which Landlord shall, without Landlord's fault, become involved through or on account of this lease.

**CONFESSION OF
JUDGMENT**

18.) Tenant hereby irrevocably constitutes and appoints any attorney of any court of record in this State, to be its true and lawful attorney for it and its name and stead, to enter its appearance in any suit or suits that may be brought in any court in this State at any time when any money is due hereunder for rent or otherwise, to waive the issuing of process and service thereof and trial by jury or otherwise, and to confess a judgment or to release all errors that may occur or intervene in such proceedings, including the issuance of execution upon any such judgment, and to stipulate that no writ of error or appeal shall be prosecuted from such judgment or judgments, nor any bill in equity filed, nor any proceedings of any kind taken in law or equity to interfere in any way with the operation of such judgment or judgments or of execution issued

will be terminated on the date therein named, the institution of any action of forcible detainer or ejection or any judgment for possession that may be rendered in such action, or any other act or acts resulting in the termination of Tenant's right to possession of the Premises. Landlord may collect and receive any rent due from Tenant, and payment or receipt thereof shall not waive or affect any such notice, demand, suit or judgment, or in any manner whatsoever waive, affect, change, modify or alter any rights or remedies which Landlord may have by virtue hereof.

NOTICES

21.) Notices may be served on either party, at the respective addresses given at the beginning of this lease, either (a) by delivering or causing to be delivered a written copy thereof, or (b) by sending a written copy thereof by United States certified or registered mail, return receipt requested, postage prepaid, addressed to Landlord or Tenant at said respective addresses, in which event the notice shall be deemed to have been served at the time the copy is mailed.

MISCELLANEOUS

22.) (a) The provisions typed on this lease and on all riders attached to this lease and signed by Landlord and Tenant are hereby made a part of this lease.

(b) All covenants, promises, representations and agreements herein contained shall be binding upon, apply and inure to the benefit of Landlord and Tenant and their respective heirs, legal representatives, successors and assigns.

(c) The rights and remedies hereby created are cumulative and the use of one remedy shall not be taken to exclude or waive the right to the use of another.

(d) The words "Landlord" and "Tenant" wherever used in this lease shall be construed to mean Landlords or Tenants in all cases where there is more than one Landlord or Tenant, and to apply to individuals, male or female, or to firms or corporations, as the same may be described as Landlord or Tenant herein, and the necessary grammatical changes shall be assumed in each case as though fully expressed. If there is more than one Tenant, the warrant of attorney in the Confession of Judgment paragraph contained herein is given jointly and severally and shall authorize the entry of appearance of, and waiver of issuance of process and trial by jury by, and confession of judgment against any one or more of such Tenants, and shall authorize the performance of every other act in the name of and on behalf of any one or more of such Tenants.

(e) Unless the context requires otherwise, all words used in this lease in the singular shall extend to include the plural, all words used in the plural shall extend to and include the singular, and all words used in any gender shall extend to and include all genders.

LANDLORD'S LIEN

23.) The Landlord shall have a first lien upon the interest of the Tenant under this lease, to secure the payment of all moneys due under this lease, which lien may be foreclosed in equity at any time when money is overdue under this lease; and the Landlord shall be entitled to name a receiver of said leasehold interest, to be appointed in any such foreclosure proceeding, who shall take possession of said premises and who may relet the same under the orders of the court appointing him.

**EMINENT
DOMAIN**

26.) If the building or any portion thereof containing the demised premises shall be taken or condemned by any competent authority for a public use or purpose the term of this lease shall end upon the date when possession of the part so taken shall be required for such purpose, without apportionment of the award.

**REMOVAL
OF OTHER
LIENS**

27.) In the event any lien upon Landlord's title results from any act or neglect of Tenant, and Tenant fails to remove said lien within ten days after Landlord's notice to do so, Landlord may remove the lien by paying the full amount thereof or otherwise and without any investigation or contest of the validity thereof, and Tenant shall pay Landlord upon request the amount paid out by Landlord in such behalf, including Landlord's costs, expenses and legal fees.

SEVERABILITY

28.) If any clause, phrase, provision or portion of this lease or the application thereof to any entity, person or circumstance shall be invalid, or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this lease nor any other clause, phrase, provision or portion hereof, nor shall it affect the application of any clause, phrase, provision or portion hereof to other entities, persons or circumstances.

**JANITORIAL
SERVICES**

29.) Landlord will furnish janitorial services as part of the rent paid by Tenant. Janitorial services beyond the normal service for the building will be billed separately to Tenant.

**TAX STOPS AND
TOTAL
BUILDING
OPERATING
EXPENSE STOPS**

30.) The space which Tenant occupies constitutes 12.6 % (his proportionate share) of the total number of rentable square feet of the building.

On each June 30th and December 31st occurring during the term of this lease and on the date of the termination of this lease or, in the alternative, monthly at Landlord's sole discretion, Landlord shall calculate and Tenant shall pay as additional rent the portion specified below of real estate taxes ("Taxes") and total operating expenses as hereinafter specified ("Operating Expenses") of the building incurred by Landlord in the operation and maintenance of the building and its surrounding grounds on a per square foot of rentable building space basis for the period of time occurring since the date of the commencement of this lease or the date of the last of such periodic calculations, whichever is later

Upon Landlord's written demand in accordance with the above schedule, Tenant shall immediately pay to Landlord the amount by which his proportionate share of "operating expenses" exceeds \$ 5.49 per square foot. "Operating Expenses" shall be an all encompassing term which will include: management fees, accounting fees, legal fees, utilities, parking lot maintenance, janitorial service, window washing, elevator maintenance and repair, lawn care maintenance and other landscape maintenance, insurance, snow removal, building supplies, books, collection, and other

~~lawn, parking lot, janitorial and utility rooms, lobbies, and all areas not designated for occupancy by a tenant. Common area expenses will include management fees, utilities, parking lot maintenance, janitorial services, window washing, elevator maintenance and repair, lawn care maintenance and other landscaping maintenance, insurance, snow removal, building supplies, garbage collection, heating and air conditioning, fire and security system service, and all expenses for repairs, replacements, and maintenance to the common areas of the building.~~

~~(b) Tenant shall pay to Landlord on June 30th and December 31st or monthly at Landlord's option as additional rent _____% (Landlord's proportionate share) the amount by which common area expenses incurred by Landlord have increased over the base rental year of this lease, which shall be the calendar year in which this lease was originated. Common areas of the building include hallways, elevators, stairways, landscaping, lawn, parking lot, janitorial and utility rooms, lobbies, and all areas not designated for occupancy by a tenant. Common area expenses will include management fees, utilities, parking lot maintenance, janitorial services, window washing, elevator maintenance and repair, lawn care maintenance and other landscaping maintenance, insurance, snow removal, building supplies, garbage collection, heating and air conditioning, fire and security system service, and all expenses for repairs, replacements, and maintenance to the roof and common areas of the building.~~

**SECURITY
DEPOSIT**

32.) Tenant agrees to deposit with the Landlord on the signing of this lease 2 months rent - \$6244 for suite 307 due on 9/1/2006 and \$4050 for suite 306 due on 2/1/2007 (same terms as Taylor Bean) as security for the payment of rent and the faithful performance by the Tenant of all of the terms, conditions and covenants of this lease, as well as to indemnify the Landlord for any costs which the Landlord may expend due to default of lease terms.

**TENANT'S
RIGHTS**

33.) Landlord agrees to pay all real estate taxes and special assessments against said premises, and in the event that Landlord shall become in default under any mortgage secured by said premises, including the payment of principal, interest, real estate taxes and special assessments, the Tenant shall have the right to pay such principal, interest, and real estate taxes and special assessments and to apply the amount so paid towards the next month or months rent due hereunder after the date of such payment.

**SUBORDIN-
ATION**

34.) The Tenant does hereby agree to subordinate its right, title and interest under this lease to any first mortgage lien hereinafter placed upon said premises by the Landlord or it's assigns and to execute any and all documents necessary to accomplish such subordination, provided that such subordination provides that the Tenant shall not be disturbed in its possession and use of said demised premises so long as Tenant shall not be in default in any of the terms, conditions and covenants of this lease.

**TENANT'S
INSURANCE**

35.) Tenant, at Tenant's expense, agrees to maintain in force, during the term:

(a) Comprehensive General Liability Insurance on an occurrence basis with minimum limits of liability, in

prior written notice to Landlord, and Landlord's agent; (ii) an express waiver of any right of subrogation by the insurance company against Landlord, and Landlord's agent; and (iii) that the policy shall not be invalidated should the insured waive in writing prior to a loss, any or all rights of recovery against any other party for losses covered by such policies. The Tenant shall deliver Certificates of Insurance of all policies and renewals thereof to Landlord or upon demand; (iv) Tenant's failure to purchase and maintain above stated policies permits Landlord to purchase these policies and bill Tenant as additional rent for cost of said policies.

RIGHT OF ENTRY

36.) Landlord and its representatives shall have the right to enter the premises at all reasonable times to inspect the same, to make repairs and to maintain the building, to post such reasonable notices as Landlord may desire to protect its rights, or, during the sixty (60) days prior to the expiration of this lease, to exhibit the premises to prospective Tenants and to place upon the doors or in the windows of the premises any usual or ordinary "To Lease" signs.

37.) Tenant agrees to pay the electric bill for his suite, which has its own electric panel and meter.

RULES AND REGULATIONS

1. No sign, picture, advertisement or notice shall be displayed, inscribed, painted or affixed on any part of the outside or inside of said building or on or about the premises hereby demised, except on glass of the doors of said premises and on the directory board of the building, and then only of such color, size, style and materials as shall be first approved by the Landlord in writing.

2. The Tenant shall not (without the Landlord's written consent) put up or operate any electric appliance, space heater, electric motor, machinery or stove upon the premises or carry on any mechanical business thereon, or use flammable fluid therein. No article or appliance deemed hazardous on account of fire and no explosives shall be brought into said premises.

3. No additional locks shall be placed upon any doors of the premises. If tenant changes the locks to his suite he must use landlord's locksmith so locks will be keyed to landlord's master key, which is also supplied to Fire Department. If more than two keys for any door-lock are desired, the additional number must be paid for by the Tenants. Upon the termination of this lease the Tenants shall surrender all keys of the premises and of the building. Tenant shall be responsible for locking doors to the premises and any damage resulting from neglect of this clause shall be the responsibility of Tenant.

4. All safes, furniture, boxes and other bulky articles shall be carried up or into the premises at such times and in such a manner as shall be specified by the Landlord; the Landlord reserves the right to prescribe the position of all safes and other heavy articles to prevent overloading the floor. Any damage done to the building, hallway carpeting or to other tenants in the building by moving in or out of the premises will be paid by the Tenant. All moving to be done by professional movers under Landlord's direction.

6. No person other than the janitor of the building shall, without the Landlord's consent, be employed by the Tenants for the purpose of cleaning or taking charge of said premises. Any person or persons so employed by the Tenants, with the Landlord's consent, shall be subject to and under the control and direction of the Landlord (but not as agent, or servant of the Landlord). The janitor and Landlord of said building shall at all times keep a passkey and be allowed admittance to said premises, to cover any emergencies that may arise and to enable him to examine said premises from time to time. All locks shall be operable by Landlord's master keys.
7. The Landlord and its agents shall have the right to enter the demised premises at all reasonable hours to examine the same and make any necessary repairs, replacements, or improvements.
8. If the Tenant desires computer, telephone, electric, or plumbing connections, the Landlord will direct the electrician, plumber, or installer as to where and how the wires and pipes are to be introduced and without such directions no boring or cutting for wires or pipes will be permitted for any purpose. Tenant assumes liability for damage done to the common areas or the suites by his workmen and installers. Access to utility closets must be with Landlord's permission.
9. Fire inspections by the local fire department are done routinely. Tenant's suite must be up to local fire ordinances and codes at all times. Tenant is responsible to correct any fire code violations within his suite.
10. Venetian blinds inside of the windows must be installed, repaired, and cleaned at the expense of the Tenant, and must be of such shape, color, material and make as prescribed by the Landlord. Tenant shall install and maintain directory, parking lot, and door signs to match other signs in the building. Tenant shall be responsible for changing light bulbs and ballasts in his suite. Tenant shall repair any damage to walls of his suite caused by his employees.
11. The Tenants shall not allow anything to be placed against or near the glass in the halls of the building which shall diminish the light in the halls or through the atrium. No packages, garbage, or any other articles which shall have the effect of deterring the appearance of the halls shall be allowed to remain in halls at any time.
12. Water, electricity, and other utilities on said premises shall not be wasted by Tenant or their employees. Neither the Tenants or their employees shall undertake to tamper with the thermostats which control the temperature, but shall report to the manager of the building whenever the same are not working properly or satisfactorily. Windows are not to be opened to adjust temperature. Tenant shall not install any equipment which will use a substantial amount of electricity or other utility or overload the electric lines without advance written consent of Landlord.
13. No bicycle or other vehicle and no dogs or other animals shall be allowed in the offices, halls, or any other part of said building.
14. The Landlord reserves the right to make such other and further reasonable rules and regulations as in his judgment may from time to time be needed for the safety and health of other tenants, the care and cleanliness of the premises, and for the preservation of good order therein.

18. Upon termination of the Lease, Tenant shall clean carpeting by professional carpet cleaner and paint the unit to its original condition.
19. Tenant shall follow rules for parking of vehicles as established by Landlord, or as required by law, or weather conditions including unauthorized overnight parking.
20. Tenant is allowed to park no more than 7 cars for every 1500 ft. of rentable office space.
21. Tenant shall be responsible for all costs resulting from Tenant's (or Tenant's agent's) false or misleading representation to Landlord that service or repair is necessary to any electrical or mechanical system, including heating and air conditioning system.
22. Tenant is not to do any painting to the suite without prior approval by Landlord. Landlord must approve color of paint, type of paint and person doing the painting. If Tenant uses a painter other than that recommended by Landlord Tenant will be liable for any damages to any portion of the property which includes but not limited to paint spills to carpet, trim, walls or doors.
23. Any construction, alteration, modification or build-out done by Landlord shall be in accordance to the building standard that exists in the majority of the suites. Anything to be constructed different than building standard construction shall be agreed upon in writing by Tenant and Landlord.
24. Dumpsters are for reasonable quantities of garbage only. Any excessive trash (i.e. large boxes, furniture, office equipment, etc.) shall be removed at Tenant's expense
25. Landlord has clearly designated smoking areas. There is absolutely no smoking in any area (inside or outside the building) other than those areas designated for smoking.
26. Discussions between tenant and landlord pertaining to building operations and management are to be kept confidential and not discussed with other tenants.
27. Tenant's use of atrium is limited and to be used at Landlord discretion. Landlord has the right to limit tenant's use of atrium so as not to disturb other tenants or their use of atrium.
28. Fire Codes and Insurance Regulations require that all storage must have a minimum clearance of 18" from the ceiling and light fixtures also Tenant shall not use a space heater. Codes also outlaw power strips that are plugged into each other. It is Tenant's responsibility to obey all codes and ordinances.

LANDLORD'S RESPONSIBILITY

1. Landlord will pay for carpet that will match as closely as possible to the carpet in suite 306.
2. Landlord will deliver key to Tenant upon signing of lease and Tenant shall have access to premises prior to August 16, 2006.
3. Upon signing of lease Tenant shall deliver to Landlord first months rent and two month's security deposit (same terms as Taylor Bean).

PHASE I REMODELING TO BE PAID FOR BY LANDLORD AND COMPLETED BY 8/15/06 PER ATTACHED FLOOR PLAN as Page 12 of lease

Case No. 07-2933 Filed 04/03/11 Page 10 of 10
AMMENDMENT adding all
Of Suite 305 to existing lease between LANDLORD, 443 BUILDING
CORPORATION, and TAYLOR BEAN & WHITAKER dba FL ST
MORTGAGE OPTIONS :

Lease for 305

THIS FIRST LEASE AMMENDMENT ADDENDUM AGREEMENT is made this 1st day of September, 2007 by and between **443 BUILDING CORPORATION**, hereinafter referred to as ("**Landlord**"), and **TAYLOR BEAN & WHITAKER dba FIRST MORTGAGE OPTIONS** (who is also currently leasing all of Suites 307 and 306, and a portion of Suite 305) and is, collectively, referred to as ("**Tenant**") below.

- 305 lease*
1. On July 14, 2006, Landlord and Tenant entered into a certain lease ("**Original Lease**"); whereby Landlord leased to Tenant Suites 307 & 306 on the 3rd floor of the Gallery office building for a lease term beginning on September 1, 2006 and continuing until at least August 31st 2011.
 2. On August 21, 2007, Tenant informed Landlord that it wished, beginning on September 1, 2007, to add and occupy all of suite 305 to its remaining lease term for Suites 306 & 307, until at least August 31, 2011 for all of suites 307, 306, and 305. The additional rent allocated to Suite 305 will be \$2300 for its first year (as indicated and built in the first line of table in #6 below.
 3. Landlord agrees to accept and apply all of the above terms for lease of Suite 307 & Suite 306 to Suite 305 (as more definitively specified below).

NOW THEREFORE, in consideration of mutual covenants herein contained and other good and valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, Landlord and Tenant **TAYLOR BEAN & WHITAKER dba FIRST MORTGAGE OPTIONS** hereby agree as follows:


4. Tenant wishes to continue all terms and conditions of the lease for Suite 307 & Suite 306, and to continue and have all those same terms applied (in their entirety) to the newly leased suite 305 through at least August 31, 2011.


NEW Monthly Amended Base Rent Payments for Suites 307, 306 & 305 collectively shall be as follows:

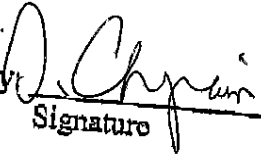
	Monthly	Yearly
9/1/2007 - 8/31/2008 (\$2300 Rent for Suite 305)	\$8,087	\$ 97,044
9/1/2008 - 8/31/2009	\$8,410	\$100,926
9/1/2009 - 8/31/2010	\$8,746	\$104,952
9/1/2010 - 8/31/2011	\$9,096	\$109,152

- 7. Tenant agrees to take remaining Suite 305 "as is"**. Landlord will pay for the cutting of a standard doorway size opening between Suites 306 and 305, to provide reciprocal access between the two suites. Any other additional, build-out, modifications, decorating, carpeting, woodwork, or painting which tenant wishes to make shall first be approved by the landlord, but be the sole responsibility of and paid for by the tenant.
- 8. DEFINED TERMS.** Except as otherwise set forth herein, the defined terms shall have the meaning ascribed to them in the Original Lease For Suites 307 and 306 executed on July 14, 2006
- 9. CONSTRUCTION.** This Lease Amendment Addendum Agreement shall be construed in conjunction with Original Lease Agreement of July 14, 2006, and except as amended hereby, all of the terms, covenants, charges and conditions of Original Lease Agreement of July 14, 2006 shall remain in full force and effect and are hereby ratified and confirmed and shall continue to be in effect.
- 10. ADDITIONAL SECURITY DEPOSIT.** Tenant has deposited with Landlord the sum of \$8,225 for Tenant's faithful performance of Tenant's obligations hereunder, which amount Landlord agrees to return to Tenant subject to the Security Deposit provision of Original Lease. Upon signing of this lease, ~~Tenant shall deposit an~~

75

Tenant: By  9-19-07 Richard Lamz, Taylor Bean & Whitaker
 Signature Date Dba First Mortgage Options
 name printed

 9-19-07 Lee Farkas, Taylor Bean & Whitaker
 Signature Date name printed

Landlord By  9-19-07 Dr. George C. Chipain, 443 Building
 Signature Date name printed