

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Sandy S. Smith

Creditor/Defendant

F I L E D
JACKSONVILLE, FLORIDA

APR 07 2011

In re:

Chapter 11

CLERK, U. S. BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

**TAYLOR, BEAN & WHITAKER §
MORTGAGE CORP:
HOME AMERICA MORTGAGE, §
INC.
REO SPECIALTIES, LLC §**

CASE NO. 3:09-BK-7047-JAF

CASE NO. 3:09-BK-10023-JAF

CASE NO. 3:09-BK-10022-JAF

**Debtors and
Debtors in Possession**

**JOINTLY ADMINISTERED
UNDER CASE NO. 3:09-BK-07047-JAF**

OBJECTION TO THE CONFIRMATION OF THE DISCHARGE PLAN DUE
TO THE NEED FOR REVIEW OF DEBTOR FRAUD UPON THE
SECURITIES EXCHANGE COMMISSION UNDER (15 U.S.C. 781),
§1348. SECURITIES AND COMMODITIES FRAUD.
REQUEST FOR REVOCATION OF CONFIRMATION
“PROCURED BY FRAUD”

Homeowner, Sandy S. Smith (“Creditor”) pursuant to Bankruptcy Code 11 U.S.C. § 1144, files this request for revocation of confirmation, which such request shall provide the procurement of fraud upon this court. 11 U.S.C. § 1144 states “Revocation of the confirmation order is an undoing or cancellation of the confirmation of a plan. A request for revocation of confirmation, if made at all, must be made by a party in interest within 180 days of confirmation. The court, after notice and hearing, may revoke a confirmation order “if and only if the [confirmation] order was procured by fraud.”

On August 31, 2009, Taylor Bean and Whitaker Mortgage Corp. (the Debtor or TBW”), by and through its undersigned counsel, filed an Emergency Motion for Turnover, Approval of Procedures for Maintenance and use of Borrower Payments, and Immediate Resolution of Related Issues (the “Motion”), and requested the entry of an order requiring the Federal Deposit Insurance corporation (“FDIC”) to turn over certain TBW assets to the Debtor estate and approve procedures and represented their case to the court.

Chapter 11 Filing

On August 24, 2009, (the “Petition Date”), TBW filed a voluntary petition for relief under Chapter 11 of the Bankruptcy code.

Prior to filing, TBW restructured its board of directors and management so that the affairs and ongoing operations of the Company under the direction in control a new directors and a Chief Restructuring Officer (“CRO”), all of whom are independent from TBW's prior business activities and from its previous directors and members of management.

As more fully described in TBW's case management summary, TBW was not in financial distress prior to August 3, 2009. As a result of actions taken by various agencies of the Federal Government and others, however, much of TBW's ability to function as a business was destroyed over the course of a very few days, resulting in the filing of this bankruptcy case.

TBW continues to operate its remaining business and manage its properties as a debtor-in-possession pursuant to Section 1107 (a) and 1108 of the Bankruptcy code.

No trustee or Examiner has been appointed in this case and no official committee has been appointed pursuant to Section 1102 of the Bankruptcy code. § 1348. Securities and commodities fraud.

Whoever knowingly executes, or attempts to execute, a scheme or artifice-

- (1) to defraud any person in connection with any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o (d)); or
- (2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any commodity

for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o (d)); Shall be fined under this title, or imprisoned not more than 25 years, or both. Securities Fraud 18 U.S.C. 1348 “A creditor has the right to examine each and every transfer of their loan number to see cusip numbers that pertain to said loan and to verify with the SEC each and every transfer. Paragraph (3) The confirmation of a plan does not discharge a debtor if – (A) the plan provides for the liquidation of all or substantially all of the property of the estate; (B) the debtor does not engage in business after consummation of the plan; and (C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under Chapter 7 of this title. Paragraph (3) specifies that the debtor is not discharged by the confirmation of a plan if the plan is a liquidating plan and if the debtor would be denied discharge in a liquidation case under section 727. Specifically, if all or substantially all of the distribution under the plan is of all or substantially all of the property of the estate or the proceeds of it, if the business, if any, of the debtor does not continue, and if the debtor would be denied a discharge under section 727 (such as if the debtor were not an individual or if he had committed an act that would lead to denial of discharge), the chapter 11 discharge is not granted.

I, creditor and homeowner continue to request the following from Debtors and Debtors Attorneys:

1. The full name and address and phone number of the current holder of this debt including the name and address and phone number of any trustee or other fiduciary. This request is being made pursuant to section 1641(f)(2) of the Truth in Lending Act, which requires the Servicer to identify the holder of the debt.
2. A copy of any mortgage Pooling and Servicing Agreement and all Disclosure statements provided to any investors with respect to any mortgage-backed security trust or other special purpose vehicle related to the said Agreement and any and all Amendments and Supplements thereto.

3. If a copy of the Pooling and Servicing Agreement has been filed with the SEC, provide a copy of SEC Form 8K and the Prospectus Supplement, SEC Form 424b5.


Securities Fraud 18 U.S.C. 1348 states that I, as a creditor have the right to examine each and every transfer of my loan number to see the cu sip numbers that pertain to said loan and to verify with the SEC each and every transfer. Everytime.

- (3) Of Securities fraud 18 USC 1348 states: “The confirmation of a plan does not discharge a debt if--
 - (A) The plan provides for the liquidation of all or substantially all of the property of the estate:
 - (B) The debtor does not engage in business after consummation of the plan; and
 - (C) The debtor would be denied a discharge under section 727(a) of this title if the case were under chapter 7 of this title.
- (3) The Court may approve a written waiver of discharge executed by the debtor after the order for relief under this chapter.

Each Homeowner has the right to examine each cu sip number which transpired via a transfer from one entity to another, et al.

CERTIFICATE OF SERVICE

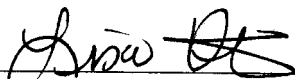
I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via e-mail to: Elena Escamilla, Trial Attorney, Office of the United States Trustee. U.S. Department of Justice Florida Bar No: 898414, 135 W. Central Blvd., Suite 620 Orlando FL. 32801 and served to via e-mail to: Edward J. Peterson, III (FBN 014612) **STRICHTER, RIEDEL, BLAIN & PROSSER, P.A. (Attorneys for the Debtor/Plaintiff)** 110 East Madison Street, Suite 200 Tampa, FL 33602.


Sandy S. Smith
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254-977-4731

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF ERATH §

This instrument was acknowledged before me on the 6 day of April, 2011, by Sandy Smith in the capacity stated therein.


Notary Public, State of Texas

