IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

Taylor, Bean & Whitaker Mortgage Corporation,

CASE NO: 3:09-bk-07047
CHAPTER: 11

Debtor.

MOTION TO LIFT, MODIFY OR ANNUL
AUTOMATIC STAY OR FOR ADEQUATE PROTECTION

AMERICAN HOME MORTGAGE SERVICING, INC., as servicing agent for, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR TBW MORTGAGE-BACKED TRUST SERIES 2006-5, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-5, by and through its undersigned attorneys, moves the Court for an Order lifting, modifying or annulling the automatic stay or for adequate protection, and in support thereof would show:

1. This is a Motion pursuant to §362(d)(1) of the Bankruptcy Code and Bankruptcy Rule 4001(a) for modification of, or relief from, the automatic stay entered pursuant to §362(a) of the Bankruptcy Code.

2. Movant is a secured creditor holding a promissory note ('Note') secured by a first mortgage ('Mortgage') on property now owned by Douglas Sobral and Megan Galego-Sobral located at 9 Taber Street, Acushnet, MA 02743, more particularly described as:

A certain tract or parcel of land with the buildings and improvements thereon, if any, located in the Town of Acushnet, County of Bristol, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at the intersection of the northerly line of Taber Street with the easterly line of Cox Street; thence Northerly in said line of Cox Street, one hundred (100) feet to land now or formerly of Lambert Adams; thence Easterly in line of last-named land, one hundred (100) feet to land of parties unknown; thence Southerly in line of last-named land, one hundred (100) feet to said line of Taber Street; and thence Westerlyin said line of Taber Street, one hundred (100) feet to the point of beginning.

3. The First Mortgage has been recorded in Official Record Book 8294, Page 113, of the Public Records of Bristol County, Massachusetts. A copy of the Note and of the First Mortgage are attached hereto as Exhibits "A" and "B", respectively, and made a part hereof.

4. Movant owns and holds the Note and the First Mortgage.

5. On August 24, 2009, a voluntary petition under Chapter 11 of the Bankruptcy Code was filed, which is now pending as the above-styled case.

6. The property has not been claimed as exempt.

7. The Debtor's Plan does not provide for pre or post-petition payments to Movant.

8. Taylor, Bean and Whitaker Mortgage Corporation holds a second mortgage on the property.

9. The Note and First Mortgage are in default by reason of a failure to pay the installment of principal and interest due on December 1, 2008, and all subsequent installments.

10. The Debtors are indebted to Creditor in the amount of $246,024.65, with interest accruing at the rate set forth in the Note, plus other fees and costs advanced pursuant to the Note and First Mortgage.

11. Movant has incurred court costs and attorney's fees in this proceeding and will incur additional costs, fees and expenses in foreclosing the First Mortgage and in preserving and protecting the property, all of which additional sums are secured by the lien of the First Mortgage.

12. Movant has previously accelerated the Note and First Mortgage, declaring the entire principal balance, interest and all sums otherwise due thereunder to be immediately due and payable.

13. Movant has brought a foreclosure action in the state court and has incurred attorney's fees and costs both in the state court action and in this Court.

14. There is little or no equity for the benefit of other creditors; Movant contends that any equity over and above the indebtedness, should it exist, does not constitute adequate protection as contemplated by the U.S. Bankruptcy Code.

15. Pursuant to the property appraisal website Zillow.com, the property is valued at $154,000.00.

16. Movant's post-petition address is American Home Mortgage Servicing, Inc., 1525 S. Beltline Road, Suite 100, N. Coppell, TX 75019.

17. Movant's interest in the property is not adequately protected.

18. Movant is stayed from proceeding to foreclose the First Mortgage in the state court pursuant to Bankruptcy Code §362(a). Unless the Court lifts, modifies or annuls the stay to allow Movant to prosecute its foreclosure action, or conditions continuation of the stay upon payment of adequate protection to Movant, Movant's security will be significantly jeopardized.

19. Movant requests that they be able to have future communications to offer and provide Debtor with information in regards to a potential Forbearance Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss Mitigation Agreement, and the obtaining of a deed in lieu of foreclosure, including authorization to negotiate inferior liens, and may enter into such agreement with Debtor. However, Movant may not enforce, or threaten to enforce, any personal liability against Debtor if Debtor's personal liability is discharged in the bankruptcy case; and

WHEREFORE, **AMERICAN HOME MORTGAGE SERVICING, INC., as servicing agent for, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR TBW MORTGAGE-BACKED TRUST SERIES 2006-5, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-5** , prays that the Court:

A. Lift, modify or annul the automatic stay as it applies to Movant, granting Movant leave to proceed in the state court, and waive the stay provisions of Rule 4001(a)(3); or

B. In the alternative, condition continuation of the stay upon the payment of adequate protection to Movant, viz: immediate payment of all post-petition arrearage; strict compliance with the terms of the Note and Mortgage thereafter; and prompt payment of all pre-petition arrearage; and,

C. Grant such other relief as may be just.

Respectfully submitted this 8th day of July, 2011.

FLORIDA FORECLOSURE ATTORNEYS, PLLC

___ Klarika J. Caplano, Esquire (FBN 43496)
___ Jacqueline J. Brown, Esquire (FBN 58879)
_X_ Jerrold J. Golson, Esquire (FBN 233072)
601 Cleveland Street, Suite 690
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Our File No: CA11-05173 /SH

This Communication is from a Debt Collector

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Lift, Modify or Annul Automatic Stay or for adequate protection with attachments was furnished by First Class U.S. Mail on this 8th day of July, 2011 to Taylor, Bean & Whitaker Mortgage Corp. , 4901 Vineland Road, Ste 120 , Orlando, FL 32811, Debtor; Douglas Sobral and Megan Galego-Sobral, 9 Taber Street, Acushnet, MA 02743, Mortgagors; and the following parties were served by Notice of Electronic Transmission on this 8th day of July, 2011 to: EDWARD J. PETERSON III, AMY DENTON HARRIS, RUSSELL M BLAIN, RICHARD C. PROSSER, Attorneys for the Debtor, 110 East Madison Street, Suite 200, Tampa, FL 33602, and United States Trustee, Orlando, 135 W. Central Boulevard, Orlando, FL 32801; and the attached parties in interest per Local Rule 1007.02

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FAIR DEBT COLLECTION PRACTICES ACT - This is an attempt to collect a debt and any information obtained will be used for that purpose. Unless you dispute the validity of this debt, or any portion of it, within 30 days of receipt of this notice, Creditor's attorney will assume the debt to be valid as stated. If you notify Creditor's attorney in writing that you dispute the debt, or any portion of it, or that you request the name and address of the original creditor, Creditor's attorney will obtain and mail to you verification of the debt, or a copy of the judgment, or the name and address of the original creditor if different from the current creditor.

Our File No: CA11-05173 /SH

This Communication is from a Debt Collector

Label Matrix for local noticing
113A-3
Case 3:09-bk-07047-JAF
Middle District of Florida
Jacksonville
Wed May 11 14:48:08 EDT 2011

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End of Label Matrix
Mailable recipients 23
Bypassed recipients 0
Total 23