

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

Chapter 11

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,

Case No. 3:09-bk-07047-JAF

Debtor.
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**DEBTOR'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF ITS
MOTION FOR ORDER APPROVING ABANDONMENT OF PROPERTY**

TAYLOR, BEAN & WHITAKER MORTGAGE CORP., (the “**Debtor**” or “**TBW**”), by and through its undersigned counsel, files this Supplemental Memorandum in Support of its Motion for Approval of Proposed Abandonment and states as follows:

1. On September 25, 2009, TBW filed its Motion for Order Approving Abandonment of Property (the “**Motion**”). The Motion has been set for hearing on October 15, 2009.

2. The Motion seeks this Court’s approval for TBW to abandon certain assets located at TBW offices throughout the country, including **Non-Essential Records**¹ that may include confidential borrower information.

3. In the time since TBW filed its Motion, various interested parties, including mortgage regulators in various states and individual borrowers, have raised concerns regarding TBW’s proposed abandonment of Non-Essential Records containing confidential borrower information.

¹ All capitalized terms non-defined herein mean and refer to those terms as defined in the Motion.

4. In order to address the concerns raised by these interested parties, TBW has developed a plan whereby it will collect the majority of the Non-Essential Records for preservation and, ultimately, destruction.

5. Specifically, pursuant to the Court's September 3, 2009 Order authorizing TBW to engage Navigant Capital Advisers ("**Navigant**") [Doc. No. 128], TBW intends to use Navigant personnel to retrieve the Non-Essential Records and to process them as follows:

- a. Office Inventory – Photographs will be taken of each office prior to any collections efforts to show the **Non-Essential Property** and Non-Essential Records located at the office. A walk through will be conducted and additional photographs will be taken upon completion of the process outlined herein to confirm removal of all Non-Essential Records related to TBW's business.
- b. Electronically Stored Information ("**ESI**")
 - i. Computer Hard Drives – Computer hard drives will be removed from personal computers and sent to either Navigant's Evidence Facility outside of Washington D.C. or TBW's Central Document Facility in Ocala Florida. A chain of custody log will be kept for each hard drive.
 - ii. Servers in Cincinnati, Ohio Office – As addressed in TBW's Motion, TBW kept servers in its Cincinnati, Ohio office containing ESI that was completely redundant of the ESI stored on TBW's primary servers located in Ocala, Florida. TBW intends to delete all of the information from the Cincinnati servers in preparation for the sale of those servers.
- c. Paper Files
 - i. Documents Related to TBW Business – Paper files located in file cabinets, desks, etc., that relate to TBW's business will be gathered and recorded on a chain of custody log. Though TBW intends to then send the paper files to a centralized location, it may be necessary to destroy some of the documents at their current office location if the volume

of paper files is excessive; however, TBW will not destroy the original version of any document relating to TBW's business – *i.e.*, loan files, loan applications, notices, etc.

- ii. Documents Not Related to TBW Business – Documents that upon review appear not to relate to TBW's business will be destroyed.
- iii. "Cintas" Documents – Each office includes one or more bins in "Cintas" bins. These documents include trash and were designated by TBW to be shredded by Cintas Document Management, with whom TBW had a document destruction contract. TBW intends to destroy these documents; however, TBW will not destroy the original version of any document relating to TBW's business – *i.e.*, loan files, loan applications, notices, etc.

6. TBW estimates that this process will require approximately 21 days to complete and will cost the debtor estate approximately \$275,000. Though the collection and preservation or destruction of Non-Essential Records will be more costly than the abandonment proposed in TBW's Motion, TBW believes that the procedures set forth herein will address any concerns of interested parties regarding the abandonment of Non-Essential Records containing confidential borrower information.

7. Other than as addressed in this supplemental memorandum, TBW continues to plan to abandon various **Non-Essential Computer Equipment** and **Non-Essential FFE**. None of this abandoned property will include or contain confidential borrower information.

8. In order to effectuate the relief requested in its Motion to Reject Unexpired Leases of Non-Residential Real Property [Doc. No. 146], and to avoid future lease expenses associated with its offices, TBW must implement and complete the process outlined above by October 30, 2009.

WHEREFORE, TBW respectfully requests that this Court enter an order:

A. granting its Motion as modified by this Supplemental Memorandum in Support;

B. approving TBW's proposed plan and approving the engagement of Navigant to gather Non-Essential Records;

C. granting TBW discretion to retain or destroy the Non-Essential Records gathered by Navigant, provided that TBW will not destroy the original version of any document appearing to relate to TBW's business;

D. approving TBW's proposed abandonment of Non-Essential Computer Equipment (after the removal of hard drives) and Non-Essential FFE;

E. authorizing TBW to take any and all actions with respect to the Non-Essential Records and Non-Essential Property which are consistent with provisions of Rule 6007 of the Federal Rules of Bankruptcy Procedure and which do not put at risk the integrity of confidential borrower information; and

E. providing such other and further relief as is just and proper.

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