

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

In re:

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.,

CASE NO.: 3:09-BK-07047-JAF

CHAPTER 11

Debtor. /

**BAYVIEW LOAN SERVICING, LLC'S MOTION FOR  
RELIEF FROM AUTOMATIC STAY *NUNC PRO TUNC* TO NOVEMBER 18, 2009**

**(Property Address: 1200 Scenic Gulf Dr. East, #B-610, Miramar Beach, FL 32550)**

**NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider this motion, without further notice or hearing unless a party in interest files an objection within 14 days from the date this paper is entered on the docket. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 300 North Hogan Street, Suite 3-350, Jacksonville, FL 32202 and serve a copy of the movant's attorney, Gary M. Freedman, Esquire Tabas, Freedman, Soloff, Miller & Brown, P.A., 14 N.E. First Avenue, Penthouse, Miami, Florida 33132.

If you file and serve an appropriate objection within the time permitted, and the objection reveals factual or legal issues requiring a hearing, the Court may schedule a hearing and you will be notified. Otherwise, the Court will consider the motion and the responses on the papers without further notice or hearing. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

Bayview Loan Servicing, LLC ("Movant" or "Bayview"), by and through undersigned counsel and pursuant to 11 U.S.C. § 362(d), Rule 4001(a) of the Federal Rules of Bankruptcy Procedure and Local Rule 2002-4, files this Motion for Relief from the Automatic Stay *Nunc Pro Tunc* to November 18, 2009 (the "Motion") to allow Movant to foreclose on its first priority mortgage lien on property on which the Debtor claims to have a second priority mortgage lien, and as good cause for same, states as follows:

**I. Background**

1. On August 24, 2009 (the "Petition Date"), the Debtor, Taylor, Bean & Whitaker Mortgage Corp. (the "Debtor") filed a voluntary Chapter 11 bankruptcy petition.

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).

3. Movant holds a first priority mortgage lien on the real property located at 1200 Scenic Gulf Dr. East, #B-610, Miramar Beach, FL 32550, legally described as:

Unit No. B 610, of Majestic Sun, Phase II, a Condominium, According to the Declaration of Condominium recorded in Official Records Book 2303, Page 56, as amended by Amendment recorded in Official Records Book 2323, Page 652, and all exhibits and amendments thereof, Public Records of Walton County, Florida.

(the "Property").

4. Movant's security interest in the Property is by virtue of a mortgage executed by Michael Stone and Eric Frega ("Borrowers") in favor of Home America Mortgage, Inc. ("HAMI"), recorded on January 14, 2005, in Official Records Book 2649 at Page 4446, of the public records of Walton County, Florida (the "Senior Mortgage"). A copy of the Mortgage is attached hereto as Exhibit "A". The Senior Mortgage secures a promissory note executed by Borrowers in favor of HAMI (the "Note"). A copy of the Note is attached hereto as Exhibit "B".

5. Movant owns and has actual possession of the original Senior Mortgage and Note. See *Mortgage Elec. Registration Sys., Inc. v. Azize*, 965 So. 2d 151, 153 (Fla. 2<sup>nd</sup> DCA 2007) (holder of a note has standing to seek enforcement of the note); *Lawyers Title Ins. Co., Inc. v. Novastar Mortg., Inc.*, 862 So. 2d 793, 798 (Fla. 4<sup>th</sup> DCA 2003) (owner and possessor of note has right to enforce the mortgage lien).

6. The Mortgage gives Movant a first mortgage position in the Real Property.

7. The Debtor may have an interest in the Property by virtue of that certain Mortgage recorded on January 14, 2005, in Official Records Book 2649 at Page 4465, of the public records of Walton County, Florida (the "Junior Mortgage") which was subsequently assigned to First Federal Savings Bank of Florida on July 13, 2005, which then assigned the Junior Mortgage to the Debtor on August 19, 2009. A copy of the Junior Mortgage and assignments are attached hereto as Composite Exhibit "C".

8. Any interest that the Debtor may hold in the Property is subordinate to Movant's interest.

9. Borrowers have defaulted under the Note and Senior Mortgage by failing to make the payment due under the Note on June 1, 2009, and all subsequent payments.

10. On or about November 18, 2009, Movant instituted an action (the "State Court Action") in the Circuit Court of the First Judicial Circuit in and for Walton County, Florida (the "State Court"), Case No. 09002365 CA, against the Borrowers, the Debtor and other defendants who may claim an interest in the Property.

11. At the time of the filing of the foreclosure complaint in the State Court, Movant was unaware of the Debtor's bankruptcy case and the imposition of the automatic stay.

12. The value of the Property according to the Walton County, Florida Property Appraiser as of January 1, 2012 is \$192,478.00 as is set forth in Exhibit "D" attached hereto.

13. As of December 6, 2011 Borrowers owe Movant \$483,253.96 under the Note plus per diem interest of \$28.04 per day. See Affidavit attached hereto as Exhibit "E".

14. Movant seeks relief from the automatic stay to enforce its rights against the Property, including obtaining a final judgment of foreclosure and a deficiency judgment against the Borrowers, but Movant will not seek any money damages or *in personam* relief against the Debtor.

15. Relief from the automatic stay is required because the Debtor is a necessary defendant to the foreclosure action because it appears to be a junior lienholder on the Property.

16. As such, relief from the automatic stay is warranted because the Debtor does not have any equity in the Property. The Debtor's interest in the Property adds no value to the bankruptcy estate and the Property is not necessary to an effective reorganization.

17. Alternatively, relief from the automatic stay is also warranted because the Debtor has failed to take any action to adequately protect the interests of Movant in the Property.

18. Movant respectfully requests that the relief requested herein be granted *nunc pro tunc* to November 18, 2009, the date that Movant filed its complaint in the State Court, so that Movant is not forced to incur the additional expense and delay in having to re-file the foreclosure action in the State Court.

19. Granting relief from the automatic stay to Movant *nunc pro tunc* to November 18, 2009 will not result in the Debtor or the estate suffering any prejudice. See *In re IBI Sec. Serv., Inc.*, 158 B.R. 1, 3 (Bankr. E.D.N.Y. 1993) (relief from stay granted *nunc pro tunc* to date of filing state court complaint against debtor where it was determined that

debtor would not suffer any prejudice and where debtor did not contest the motion); see also *In re Bresler*, 119 B.R. 400 (Bankr. E.D.N.Y. 1990) (granting relief from stay *nunc pro tunc* to validate a foreclosure sale conducted one day after the bankruptcy filing).

20. Movant has incurred attorneys' fees of \$650.00 and costs in the amount of \$150.00 as a result of having to file this Motion.

**WHEREFORE**, Bayview Loan Servicing, LLC respectfully requests this Honorable Court enter an Order:

- (i) lifting the automatic stay *nunc pro tunc* to November 18, 2009 so that it may be permitted to continue that pending foreclosure action in the State Court and to exercise of any and all of its *in rem* remedies as to the Debtor's interest in the Property;
- (ii) finding that Bayview has incurred fees of \$650.00 and costs in the amount of \$150.00 as a result of having to file this Motion which may be recoverable against Borrowers pursuant to the Senior Mortgage and Note; and
- (iii) awarding such other relief deemed appropriate under the circumstances.

Dated this 23<sup>rd</sup> day of January, 2012.

/s/ Gary M. Freedman

Gary M. Freedman

Florida Bar No.: 727260

Scott N. Brown

Florida Bar No. 663077

*Attorneys for Bayview Loan Servicing, LLC*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23<sup>rd</sup> day of January, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day as follows:

via electronic transmission to:

Edward J. Peterson: [epeterson@srbp.com](mailto:epeterson@srbp.com)  
Elena L. Escamilla: [elena.l.escamilla@usdoj.com](mailto:elena.l.escamilla@usdoj.com)  
Arthur Spector: [aspector@bergersingerman.com](mailto:aspector@bergersingerman.com)  
Amy Denton Harris: [aharris.ecf@srbp.com](mailto:aharris.ecf@srbp.com)  
Russell M. Blain: [rblain.ecf@srbp.com](mailto:rblain.ecf@srbp.com)  
Richard C. Prosser: [rprosser.ecf@srbp.com](mailto:rprosser.ecf@srbp.com)  
Jeffrey W. Kelley: [jeffrey.kelley@troutmansanders.com](mailto:jeffrey.kelley@troutmansanders.com)  
James D. Dantzler, Jr.: [david.dantzler@troutmansanders.com](mailto:david.dantzler@troutmansanders.com)  
Paul S. Singerman: [singerman@bergersingerman.com](mailto:singerman@bergersingerman.com)  
James D. Gassenheimer: [jgassenheimer@bergersingerman.com](mailto:jgassenheimer@bergersingerman.com)  
David L. Gay: [dgay@bergersingerman.com](mailto:dgay@bergersingerman.com)

via United States Mail, postage prepaid to:

Taylor, Bean & Whitaker Mortgage Corp., 4901 Vineland Rd, Suite 120, Orlando, FL 32811;  
United States Trustee – JAX 11, 11, 135 W. Central Blvd., Suite 630, Orlando, FL 32801;

All other interested parties and creditors listed on the Local Rule 1007(d) parties in interest list.

/s/ Gary M. Freedman  
Gary M. Freedman

# A

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(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower (check box as applicable):

- ☒ Adjustable Rate Rider    ☒ Condominium Rider    ☒ Second Home Rider  
☐ Balloon Rider    ☐ Planned Unit Development Rider    ☐ Other(s) (specify)  
☐ 1-4 Family Rider    ☐ Biweekly Payment Rider

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damages to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.



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## TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the \_\_\_\_\_ County of \_\_\_\_\_ State of \_\_\_\_\_.

See Attached Exhibit A.

which currently has the address of

1200 SCENIC GULF DRIVE #B-610

Miramar Beach  
(City)

Florida

32550  
(Zip Code)

("Property Address")

TOGETHER WITH all the improvements now or hereafter erected on the property and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property and to take any action required of Lender including, but not limited to, releasing and cancelling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency; instrumentally, or entirely or (d) Electronic Funds Transfer.

FLORIDA--Single Family--Florida MacGraw-Hill UNIFORM INSTRUMENT

FORM 100761A (0012)-MERS

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Form 5010 1/01

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Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudices to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments in, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which run against priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurances required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for

FLORIDA-Single Family-Florida Man/Reside Home UNIFORM INSTRUMENT

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Form 9016 1/01

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holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up this shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attach prior to the Security Instrument, household payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attach prior to this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not



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otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds to the extent not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property. Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any person or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or foreclosure, for enforcement of a lien which may attain priority over this Security Instrument) or to enforce laws or regulations, or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument.

FLORIDA—Single Family—Resale Use/Resale Use UNIFORM INSTRUMENT

FORM 699 (06-2011)—UNIFORM

(Page 4 of 12 pages)

Form 699 1/11

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CFN 28225 OR BK 2703 PG 1080

including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has—if any—with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

FLORIDA—Single Family—Fixed Rate/Fixed Rate MORTGAGE INSTRUMENT

FORM 707615 (2011)—JAN12

(Page 7 of 12 pages)

Form 707615 1/01

To Order Call 1-800-330-6165 or 1-800-414-1111



CFN 928235 OR BK 2703 PG 1059

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction; provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver, Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument





CVN 928235 OR BK 2703 PG 1061

require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 18 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, remittance check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally or electronically; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects periodic payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental

FLORIDA--Single Family--Fixed Rate Mortgage Note INSTRUMENT

JUL 11 11:42:40 (2011) -HHS

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Form 2010 101

DONALD W. M. 1-800-437-4977 C1/01/10-710111



OWN 928235 OR BK 2708 PG 1062

Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spillage, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

**23. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

**24. Attorneys' Fees.** As used in this Security Instrument and the Note, attorneys' fees shall include those awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

**25. Jury Trial Waiver.** The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.





CFN 929235 OR BK 2703 PG 1063

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in pages 1 through 12 of this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Michael Stone  
MICHAEL STONE  
2410 WILD IRIS LANE  
Dacula, GA 30019

(Seal)  
Borrower

Eric Fregia  
ERIC FREGIA  
188 HUFF DRIVE  
LAWRENCEVILLE, GA 30044

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

Signed, sealed and delivered in the presence of:

Dawn Davis

Anna L. Hewett  
Anna L. Hewett

State of Florida  
County of DeKalb

The foregoing instrument was acknowledged before me this 7th day of January 2005 by  
Michael Stone and Eric Fregia  
who is personally known to me or who has produced GA Drivers Licenses  
as identified on:

Christy L. Shuck  
Notary Public

CHRYL L. SHUCK  
NOTARY PUBLIC, STATE OF FLORIDA  
My Commission Expires 06/15/2008  
Commission No. 00000000

OWN 928236 OR BK 2703 PG 1063

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in pages 1 through 12 of this Security Instrument and in any rider(s) executed by Borrower and recorded with it,

Michael Stone  
MICHAEL STONE  
2410 WILD IRIS LANE  
DUBLIN, GA 30019

(Seal)  
Borrower

Eric Fregia  
ERIC FREGIA  
100 HUFF DRIVE  
LAWRENCEVILLE, GA 30044

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

Signed, sealed and delivered in the presence of:

Dawn Denton

Al. Hewitt  
Alma C. Hewitt

State of Florida  
County of DeKalb

The foregoing instrument was acknowledged before me this 7th day of January 2005 by  
Michael Stone and Eric Fregia  
who is personally known to me or who has produced GA Drivers License  
as identification.

GINDY L. SHANK  
NOTARY PUBLIC STATE OF FLORIDA  
My Commission Expires 06/30/08  
DeKalb, GA 30008

Cindy L. Shank  
Notary Public

FLORIDA—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

FORM 1006-12 (04/11)—2006

(Page 14 of 12 pages)

Form 1010 1/01


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To Order Call 1-800-645-6100 or FAX (813) 741-1131

CFN 928235 CR BK 2703 PG 1064

EXHIBIT "A"

Unit No. B 610, of Majestic Sun, Phase II, a Condominium, according to the Declaration of Condominium recorded in Official Records Book 2303, Page 56, as amended by Amendment recorded in Official Records Book 2323, Page 652, and all exhibits and amendments thereof, Public Records of Walton County, Florida.

Said property is not the homestead of the Mortgagor(s) under the laws and Constitution of the State of Florida in that neither Mortgagor(s) nor any member of the household of Mortgagor(s) reside thereon.

MS  
EF  


OFN 928238 OR BK 2703 PG 1088

Parcel # 29 252/4250200

**CONDOMINIUM RIDER**

THIS CONDOMINIUM RIDER is made this 7th day of January 2008 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to Home America Mortgage, Inc.

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

1200 SCENIC GULF DRIVE #B-610  
Miramar Beach, FL 32550  
(Property Address)

The Property includes a unit in, together with an undivided interest in the common elements of, a condominium project known as:

(Name of Condominium Project)

(the "Condominium Project"). If the owners association or other entity which acts for the Condominium Project (the "Owners Association") holds title to property for the benefit or use of its members or shareholders, the Property also includes Borrower's interest in the Owners Association and the uses, proceeds and benefits of Borrower's interest.

**CONDOMINIUM COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. **Condominium Obligations.** Borrower shall perform all of Borrower's obligations under the Condominium Project's Constituent Documents. The "Constituent Documents" are: (i) Declaration or any other document which creates the Condominium Project; (ii) by-laws; (iii) rules of regulations; and (iv) other equivalent documents. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. **Property Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy on the Condominium Project which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, from which Lender requires insurance, then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender for application to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

MULTI-PARTY CONDOMINIUM RIDER--Single Family--Florida Standard Form UNIFORM INSTRUMENT

Form 1001 (001)

(Page 1 of 2 pages)

Form 1140 1/01

To Order: (813) 400-6100 (Toll Free: 1-800-368-1111)



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CFN 928235 OR BK 2703 PG 1066

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property, whether of the unit or of the common elements, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to (i) the abandonment or termination of the Condominium Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the Constituent Documents if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay condominium dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in pages 1 and 2 of this Condominium Rider.

  
MICHAEL STONE

(Seal)  
Borrower

  
ERIC FREGA

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

MULTISTATE CONDOMINIUM RIDER--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

FD-504 (Rev. 10/01)

(Page 2 of 2 pages)

Form 5140 1/01  
To Order Call 1-800-368-6100 © 2001 Fannie Mae

CPN 928235 OR BK 2703 PG 1067

Parcel # 2923214250200B0610

Loan Number: 701382

## ADJUSTABLE RATE RIDER

(LIBOR Six-Month Index As Published in *The Wall Street Journal*)  
- Rate Caps Accrued Interest Only for Fixed Rate Period -

THIS ADJUSTABLE RATE RIDER is made this day on 1/7/2008  
and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed  
(the "Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Adjustable  
Rate Note (the "Note") to Home American Mortgage, Inc.  
("Lender") of the same date and covering the property described in the Security Instrument and located at:  
1200 SOBENIO GULF DRIVE #B-310, Miramar Beach, FL 32650  
(Property Address)

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES  
IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE  
NOTE LIMITS THE AMOUNT BORROWER'S INTEREST RATE CAN  
CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE  
BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument,  
Borrower and Lender further covenant and agree as follows:

## A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 6.000 %. The Note provides for changes in the interest  
rate and the monthly payments, as follows:

## A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

## (A) Change Dates

The interest rate I will pay may change on the 1st day of February 2007 and on that day every 6th  
month thereafter. Each date on which my interest rate could change is called a "Change Date."

## (B) The Index

Beginning with the first Change Date, my interest rate will be based on an index. The "index" is the average of  
interbank offered rates for six month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published  
in *The Wall Street Journal*. The most recent index figure available as of the first business day of the month immediately  
preceding the month in which the Change Date occurs is called the "Current Index."

If the index is no longer available, the Note Holder will choose a new index that is based upon comparable  
information. The Note Holder will give me notice of this choice.

## (C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my interest rate by adding Two and One Quarter  
percentage points ( 2.250 %) to the Current Index. The Note Holder will then round the result of this addition to  
the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded  
amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the  
unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in  
substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

## (D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 6.000 or less  
than 2.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more  
than 4.000 percentage points (%) from the rate of interest I have been paying for the preceding 6 months. My  
interest rate will never be greater than 10.000 %.

C0137L1

(page 1 of 2)



CNN 928238 OR BK 2703 PG 1069

Parcel ID # 292521425020030610

# SECOND HOME RIDER

THIS SECOND HOME RIDER is made this 7th day of January 2008 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower," whether there are one or more persons undersigned) to secure Borrower's Note to Home American Mortgage, Inc., a Florida Corporation

(the "Lender") of the same date and covering the Property described in the Security Instrument (the "Property"), which is located at:

1200 SCENIC GULF DRIVE #B-810  
Miramar Beach, FL 32660

(Property Address)

In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree that Sections 6 and 8 of the Security Instrument are deleted and are replaced by the following:

6. Occupancy. Borrower shall occupy, and shall only use, the Property as Borrower's second home. Borrower shall keep the Property available for Borrower's exclusive use and enjoyment at all times, and shall not subject the Property to any timesharing or other shared ownership arrangement or to any rental pool or agreement that requires Borrower either to rent the Property or give a management firm or any other person any control over the occupancy or use of the Property.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any person or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's second home.

NOTES: THIS SECOND HOME RIDER—Single Family—Florida Modified to the UNIFORM INSTRUMENT

Form 9899 1/01

ITEM TT0001 (011)

(Page 1 of 2 pages)

To Order Call 1-800-431-4444 CREDIT ADVISORY: This document is not a contract. It is for informational purposes only.

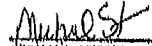
\*023014701382\*

\*023014701382\*



CIPN 928235 OR BK 2708 PG 1070

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in pages 1 and 2 of this Second Home Rider.

  
MICHAEL STONE

(Seal)  
Borrower

  
ERIC FREGA

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

(Seal)  
Borrower

MULTISTATE SECOND HOME RIDER--Single Family--Rennet Mortgage Note UNIFORM INSTRUMENT

Form 9890 1/01

ITEM 77000.8 (011)

(Page 2 of 2 pages)

To order call 1-800-140-4000

CHARTERED



INTEREST RATE ADJUSTABLE RATE NOTE  
2/6 (LIBOR Index-Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

701382  
Loan Number

1/7/2006  
(Date)

Mtamar Beach  
(City)

Florida  
(State)

1200 SCENIC GULF DRIVE #B-910  
(Property Address)

32580

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 400,000.00 (this amount is called 'Principal'), plus interest, to the order of the Lender. The Lender is Home America Mortgage, Inc. I will make all payments under this Note in the form of cash, check or money order. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid Principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 4.000%. The interest rate I will pay may change in accordance with Section 4 of this Note. The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any defaults described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I make a payment on the first day of every month, beginning on March, 2006. Before the first Principal and Interest Payment Due Date as described in Section 4 of this Note, my payment will consist of only the interest due on the unpaid Principal balance of this Note. Thereafter, I will pay Principal and interest by making a payment every month as provided below. I will make my monthly payments of Principal and interest beginning on the first Principal and Interest Due Date as described in Section 4 of this Note. I will make these payments every month until I have paid all of the Principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date, and if the payment includes both Principal and interest, it will be applied to interest before Principal. If on February 01, 2006, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date." I will make my monthly payments at Home America Mortgage, Inc., 101 NE 2nd Street, Coral Gables, FL 33470-6642 or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

For the first 24 months, my monthly payment will be in the amount of U.S. \$ 1,898.67. My interest payments will change on the 25th payment and every six months thereafter. On the first Principal and Interest Payment Due Date, and thereafter my payments will be in an amount sufficient to repay the Principal and interest at the installments by the Maturity Date. The Note Holder will notify me prior to the date of change in monthly payments.



C0325L1

EXHIBIT

B

(C) Monthly Payment Changes  
Changes in my monthly payment will reflect changes in the unpaid Principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 or 5 of this Note.

4. ADJUSTABLE INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate will remain the same for the first 24 months and may change on the first day of the 25<sup>th</sup> month and on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

My interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index". If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding Two and One Quarter percentage points (2.25%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest

The interest rate I am required to pay at the first Change Date will not be greater than 8.00% or less than 0.00%. Thereafter, my adjustable interest rate will never be increased or decreased on any single Change Date by more than 1.00% percentage points from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 10.00%.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

Before the effective Change Date, the Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment. The notice will include information required by law to be given to me and also the title and telephone number of the person who will answer any questions I may have regarding the notice.

(G) DATE OF FIRST PRINCIPAL AND INTEREST PAYMENT

The date of the first payment consisting of both Principal and interest on this Note (the "First Principal and Interest Payment Due Date") shall be my 25<sup>th</sup> scheduled monthly payment due date.



## 5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment". When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note. I may make a full Prepayment or partial Prepayment without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date of my monthly payment unless the Note Holder agrees in writing to those changes. If the partial Prepayment is made during the period when my monthly payments consist of only interest, the amount of the monthly payment will decrease for the remainder of the term when my payments consist only of interest. If the partial prepayment is made during the period when my payments consist of Principal and interest, my partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

## 6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

## 7. BORROWER'S FAILURE TO PAY AS REQUIRED

## (A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 8% of my overdue payment of interest, during the period when my payment is interest only, and of Principal and interest thereafter. I will pay this late charge promptly but only once on each late payment.

## (B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

## (C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

## (D) No Waiver by Note Holder

Even if at a time I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

## (E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.



## 8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address. Any notice that must be given to the Note Holder under this Note will be, given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or a different address if I am given a notice of that different address.

## 9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against one of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

## 10. WAIVERS

I and any other person who has obligations under this Note waive the right of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

## 11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed or ("Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 10, "Interest in the Property" means any legal or beneficial interest transferred in a bond or deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender. To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and



in this Security Instrument, Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.  
 If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 1.8 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of his period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED,

Without recourse, pay to the order of  
 Taylor, Bean & Whitaker Mortgage Corp.

By:

*[Signature]*  
*[Signature]*

*[Signature]*  
 MICHAEL STONE (Seal)

*[Signature]*  
 ERIC FREDA (Seal)

*[Signature]* (Seal)

*[Signature]* (Seal)

*[Signature]* (Seal)

*[Signature]* (Seal)

Without recourse, pay to the order of  
 Taylor, Bean & Whitaker Mortgage Corp.  
 Home America Mortgage, Inc.

*[Signature]*  
 Attorney-in-Fact

*[Signature]*  
 Eric Carter-Shaw

Without recourse, pay to the order of

By: Taylor, Bean & Whitaker  
 Mortgage Corp.

*[Signature]*  
 Eric Carter-Shaw, E.V.R.

CFN # 928236, OR BK 2709 Page 1071, Recorded 12/28/2008 at 01:59 PM, MARTHA  
INGLA, WALTON COUNTY CLERK OF COURT Deputy Clerk L. PIPPIN

129.00

235.00

111.25

PREPARED BY:

Name:

Address Home America Mortgage, Inc.  
880 Grayson Hwy  
Lawrenceville, GA 30046

Notes for PINNACLE TITLE  
88480 EMERALD COAST PKWY  
DESTIN, FL 32541

INSTR # 888014  
OR BK 2040 Pages 4485, 4479  
RECORDED 01/14/09 12:14:18  
MARTHA INGLA, WALTON COUNTY  
CLERK OF COURT  
DOB 01/14/65 \$411.25  
INT TAX \$235.00  
DEPUTY CLERK K DOUGLASS  
#3

10002800007018856

(Space Above This Line For Recording Data)

**MORTGAGE**  
**(Secondary Lien)**

This Mortgage is being re-recorded to attach correct legal descrip  
DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 10, 12, 17, 19,  
and 20. Certain rules regarding the usage of words used in this document are also provided in Section 13.

(A) "Security Instrument" means this document, which is dated January 07, 2008, together with all  
Riders to this document.

(B) "Borrower" is MICHAEL STONE and ERIC FREDA, As Joint Tenants

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is Home America Mortgage, Inc., organized and existing under  
Lender is a the laws of GA, Lender's address is  
880 Grayson Hwy, Lawrenceville, GA 30046

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated January 07, 2008. The Note  
states that Borrower owes Lender One Hundred Seventeen Thousand Five Hundred and no/100  
Dollars (U.S. \$177,500.00) plus interest. Borrower has promised  
to pay this debt in regular Periodic Payments and to pay the debt in full not later than February 01, 2020.

(E) "Property" means the property that is described below under the heading "Transfer of Rights In the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the  
Note, if allowed under Applicable Law, and all sums due under this Security Instrument, plus interest.

FLORIDA MORTGAGE—Single Family—Secondary Lien  
THE COMPLYMENT SOLUTION, INC. d  
ITEM 140811 (8000)

(Page 1 of 1) pages)

To Order Call 1-800-818-4292 or Fax 813-961-1151



\*024107701063\*



EXHIBIT

C

CEN # 900302, OR BK 2679 Page 3477, Recorded 07/13/2005 at 02:08 PM, MARTHA INGLEW, WALTON COUNTY CLERK OF COURT Deputy Clerk S BILL

Prepared by and return to:  
Virginia B. Parker  
Taylor, Bean & Whitaker Mortgage Corp.  
1417 N. Magnolia Avenue  
Ocala, Florida 34475

TBW Loan # 701383  
Investor Loan #

ASSIGNMENT OF  
MORTGAGE / SECURITY DEED / DEED OF TRUST

FOR VALUE RECEIVED, The undersigned grants, assigns and transfers to:

First Federal Savings Bank of Florida, P.O. Box 2029, Lake City, FL 32066

All rights, title and interest in and to that certain Mortgage/ Security Deed / Deed of Trust, dated January 7, 2005, executed by Michael Stone and Eric Frega, As Joint Tenants  
To: Home America Mortgage, Inc., 950 Grayson Hwy., Lawrenceville, GA 30045  
Recorded on January 14, 2005, in Record Book/Volume: 2649, Page: 4465, CFN: 865914, in the public records of Walton County, State of Florida, as well as to the land described therein:

See Exhibit "A" Attached

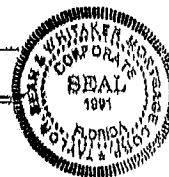
TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Mortgage/ Security Deed / Deed of Trust.

Signed, sealed and delivered  
In the presence of

*Virginia B. Parker*  
WITNESS: Virginia B. Parker  
*Chris L. Richardson*  
WITNESS: Chris L. Richardson

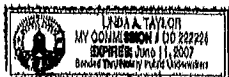
TAYLOR, BEAN & WHITAKER MORTGAGE CORP.

BY: *Rachel Hamilton*  
Rachel Hamilton, Assistant Secretary  
BY: *Shana P. Anderson*  
Shana P. Anderson, Assistant Secretary



State of Florida  
County of Marion

On this 30th day of June, 2005, before me, a Notary in and for the State and County aforementioned, personally appeared Rachel Hamilton and Shana P. Anderson, who are personally known to me to be the Assistant Secretary and Assistant Secretary, respectively, of Taylor, Bean and Whitaker Mortgage Corporation who, being duly sworn by me, did state that said instrument was signed and sealed on behalf of said corporation pursuant to its by-laws or a resolution of its Board of Directors and that they acknowledge said instrument to be the free act and deed of said corporation.



*Linda A. Taylor*  
Notary Public  
LINDA A. TAYLOR

CPN 900302 OR BK 2679 PG 3478

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Exhibit "A" Legal Description

Unit No. B 610, of Majestic Sun, Phase II, a Condominium,  
According to the Declaration of Condominium recorded in  
Official Records Book 2303, Page 56, as amended by Amend-  
ment recorded in Official Records Book 2323, Page 652, and  
all exhibits and amendments thereof, Public Records of Walton  
County, Florida.

CKA: 1200 Seaside Gulf Drive #B-610, Miramar Beach, FL 32550

Loan No.: 701383 / Stone

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CPN # 1091174, OR BK 2824 Page 4116, Recorded 08/31/2009 at 02:17 PM, MARTHA  
ENGLE, WALTON COUNTY CLERK OF COURT Deputy Clerk T BECK

This instrument prepared by:  
First Federal Bank of Florida  
Christine Button  
P.O. Box 2029  
Lake City, FL 32056

### ASSIGNMENT OF MORTGAGE

For in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, FIRST FEDERAL BANK OF FLORIDA, P/K/A FIRST FEDERAL SAVINGS BANK OF FLORIDA hereby grants, assigns and transfers to TAYLOR BEAN & WHITAKER MORTGAGE CORP., that certain mortgage given by Michael Stone and Eric Praga, as Joint Tenants and recorded in the office of the Clerk of Court of Walton County, Florida, in Official Record Book 2649, Page 4468 CNF; 865914, together with the note described therein and the money to become due thereon with the interest provided therein, upon the following described land, situate and being in said county and state, to-wit:

\*\*\*ASSIGNMENT OF MORTGAGE from Home American Mortgage, Inc, to First Federal Bank Savings Bank of Florida, dated June 30, 2005 and recorded in OR Book 2679, Page 3477, of the public record of Walton County, Florida

#### AS DESCRIBED AS FOLLOWS:

Unit No. B 610, of Majestic Sun, Phase II, a Condominium, According to the Declaration of Condominium recorded in Official Records Book 2303, Page 56, as amended by Amendment recorded in Official Records Book 2323, Page 632, and all exhibits and amendments thereof, Public Records of Walton County, Florida.

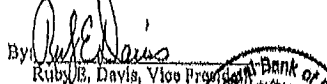
IN WITNESS WHEREOF, the said corporation has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the 19 day of August, 2009.

Signed, sealed and delivered in the presence of

  
1<sup>st</sup> Witness: Christine Button

  
2<sup>nd</sup> Witness: Shanna Lopez

FIRST FEDERAL BANK OF FLORIDA

By:   
Ruby E. Davis, Vice President

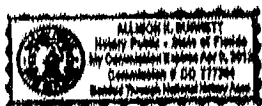
(CORP. SEAL, Corporate Seal)


STATE OF FLORIDA  
COUNTY OF COLUMBIA

I HEREBY CERTIFY, that on this day, before me, an officer duly authorized in the State and County last aforesaid to take acknowledgments, personally appeared Ruby E. Davis, well known to me to be the Vice President of said corporation and that the seal affixed hereto is the true corporate seal of said corporation.

19<sup>th</sup> WITNESS my hand and official seal in the County and State last aforesaid this day of August, 2009.

  
NOTARY PUBLIC: Allison K. Burkhardt  
My commission expires:



		<b>Patrick P. Pilcher, CFA, CCF</b>					
<a href="#">PARCEL MAP</a>	<a href="#">RECENT SALES IN THIS AREA</a>	<a href="#">PREVIOUS PARCEL NEXT PARCEL</a>		<a href="#">RETURN TO MAIN SEARCH PAGE</a>		<a href="#">WALTON HOME</a>	
<b>OWNER NAME</b>		STONE MICHAEL AND		<b>TODAY'S DATE</b>		January 23, 2012	
<b>MAILING ADDRESS</b>		FREGA ERIC		<b>PARCEL NUMBER</b>		29-2S-21-42502-00B-0610	
		1853 HAMILTON MILL PKWY		<b>MILLAGE GROUP</b>		South Walton Fire (7)	
		DACULA, GA 30019		<b>TOTAL MILLAGE</b>		9.621	
				<b>PROPERTY USAGE</b>		CONDOMINIUM (000400)	
<b>LOCATION ADDRESS</b>		1200 SCENIC GULF DR E B610		<b>ACREAGE</b>		0.000 ACRES	
<b>2011 CERTIFIED TAX ROLL</b>							
<b>JUST VALUE OF LAND</b>	<b>LAND VALUE AGRICULTURAL</b>	<b>BUILDING VALUE</b>	<b>TOTAL MISC VALUE</b>	<b>JUST OR CLASSIFIED TOTAL VALUE</b>	<b>ASSESSED VALUE</b>	<b>EXEMPT VALUE</b>	<b>TAXABLE VALUE</b>
0	0	0	192,478	192,478	192,478	0	192,478
<b>LAND INFORMATION</b>							
<b>LAND USE</b>		<b>NUMBER OF UNITS</b>		<b>UNIT TYPE</b>		<b>SEC-TWN-RNG</b>	
						SEC-TWN-RNG	
No land associated with this parcel.							
<b>SHORT LEGAL</b>		UNIT B610 MAJESTIC SUN PHII AND INTEREST IN ALL COMMON ELEMENTS AND DESIGNATED					
<b>BUILDING DATA</b>							
<b>BUILDING #</b>	<b>TYPE</b>	<b>TOTAL AREA</b>	<b>HEATED AREA</b>	<b>BED ROOMS</b>	<b>BATHS</b>	<b>PRIMARY EXTERIOR</b>	<b>SECONDARY EXTERIOR</b>
No buildings associated with this parcel.							
<b>MISCELLANEOUS DATA</b>							
<b>DESCRIPTION</b>		<b>DIMENSIONS LxWxH</b>		<b>UNITS</b>		<b>YEAR BUILT</b>	
CONDO		0 x 0 x 0		1,072 SF		2001	
<b>SALES DATA</b>							
<b>SALE DATE</b>	<b>BOOK</b>	<b>PAGE</b>	<b>PRICE</b>	<b>INSTRUMENT</b>	<b>QUALIFICATION</b>	<b>IMPROVED? (AT TIME OF SALE)</b>	<b>GRANTOR</b>
01-07-2005	2649	4445	575,000	WARRANTY DEED	QUALIFIED	YES	TRAVINSKY JOHN R & MARY L
05-22-2001	2332	158	231,800	WARRANTY DEED	QUALIFIED	YES	FLORIDA CONDOS I
The Walton County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. Website updated: January 10, 2012							
<a href="#">RECENT SALES IN THIS AREA</a>		<a href="#">PREVIOUS PARCEL NEXT PARCEL</a>		<a href="#">RETURN TO MAIN SEARCH PAGE</a>		<a href="#">WALTON HOME</a>	

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

In re:

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.,

CASE NO.: 3:09-BK-07047-JAF

CHAPTER 11

Debtor, \_\_\_\_\_/

**BAYVIEW LOAN SERVICING, LLC'S AFFIDAVIT IN  
SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC STAY**

STATE OF FLORIDA                                 )  
  ) ss  
COUNTY OF MIAMI-DADE                     )

BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, personally appeared Jennifer Chin, a Bankruptcy Specialist of Bayview Loan Servicing, LLC, who, upon being first duly sworn, deposes and says as follows:

1. That I am a Bankruptcy Specialist of Bayview Loan Servicing, LLC ("Bayview") and in such capacity am authorized to make all of the statements contained in this Affidavit.

2. This Affidavit is based upon my personal knowledge and upon written records or compilations of data which record acts, events or activities occurring in the course of the regularly conducted business of Bayview and which records are kept in the ordinary course of such activities and are created as part of the regular business practices of Bayview and kept under my supervision and control.

3. Bayview holds a first priority mortgage lien in real property located at 1200 Scenic Gulf Dr. East, #B-610, Miramar Beach, FL 32550, legally described as:

Unit No. B 610, of Majestic Sun, Phase II, a Condominium, According to the Declaration of Condominium recorded in Official Records Book 2303, Page 56, as amended by Amendment recorded in Official Records Book 2323, Page 652, and all exhibits and amendments thereof, Public Records of Walton County, Florida.

(the "Property")

4. Bayview's security interest in the Property is by virtue of a mortgage executed by Michael Stone and Eric Frega ("Borrowers") in favor of Home America Mortgage, Inc. ("HAMI"), recorded on January 14, 2005, in Official Records Book 2649 at Page 4446, of the public records of Walton County, Florida (the "Senior Mortgage"). A copy of the Mortgage is attached to the Motion for Stay Relief as Exhibit "A". The Senior Mortgage secures a promissory note

**EXHIBIT**

**E**

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

executed by Borrowers in favor of HAMI (the "Note"). A copy of the Note is attached to the Motion for Stay Relief as Exhibit "B".

5. Bayview holds the Senior Mortgage and Note (the "Loan Documents"), the originals of which are in its possession.

6. I have reviewed the copies of the Loan Documents that are attached as Exhibits to the Motion for Stay Relief and have determined that they are true and correct copies of the original documents that they purport to duplicate.

7. The Borrowers defaulted under the Loan Documents by failing to pay the payment due under the Note due on June 1, 2009, and all subsequent payments.

8. Although Bayview made demand on the Borrowers, they have failed and refused to pay the outstanding balance.

9. On or about November 18, 2009, Bayview instituted an action (the "State Court Action") in the Circuit Court of the First Judicial Circuit in and for Walton County, Florida (the "State Court"), Case No. 09002365 CA, against the Borrowers, Taylor, Bean & Whitaker Mortgage Corp. (the "Debtor") and other defendants who may claim an interest in the Property by filing a foreclosure complaint as to the Property.

10. At the time of the filing of the foreclosure complaint in the State Court, Bayview was unaware of the Debtor's bankruptcy case and the imposition of the automatic stay.

11. Based upon my review and examination of these records, papers and documents, I have determined that the Borrowers owe Bayview the following amounts:

Unpaid Principal Balance	\$	<b>389,936.42</b>
3 Monthly Payments at: \$2,406.83 from 06/01/09 to 08/01/09	\$	7,220.49
6 Monthly Payments at: \$2,187.06 from 09/01/09 to 2/1/2010	\$	13,122.36
6 Monthly Payments at: \$1,982.94 from 03/01/10 to 8/1/2010	\$	11,897.64
6 Monthly Payments at: \$2,007.34 from 09/01/10 to 2/1/2011	\$	12,044.04
6 Monthly Payments at: \$1,959.57 from 03/01/11 to 8/1/2011	\$	11,757.42
4 Monthly Payments at: \$1,936.40 from 09/01/11 to 12/1/2011	\$	7,745.60
	\$	63,787.55
Per Diem Interest \$28.04		
Deferred Late Charges Balance:	\$	110.89
Securing Fees / BPO Fees:	\$	350.00
Inspection Fees	\$	138.00
Escrow Advance	\$	24,465.88
Bankruptcy & Foreclosure Attorneys Fees and Costs (estimated) <sup>1</sup>	\$	4,465.22
<b>TOTAL INDEBTEDNESS AS OF 12/6/2011</b>	<b>\$</b>	<b>483,253.96</b>

<sup>1</sup> Bayview reserves the right to seek additional attorneys' fees and costs, including the attorneys' fees and costs incurred in connection with the filing of the Motion for Stay Relief.

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

A true and correct copy of Bayview's account statement is attached hereto as Exhibit "1".

12. Bayview has retained the services of Tabas, Freedman, Soloff, Miller & Brown, P.A. ("Tabas Freedman") to represent it in this bankruptcy case and owes Tabas Freedman a reasonable fee for these services.

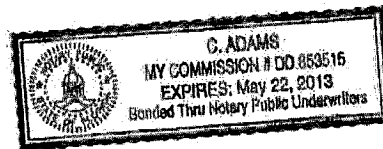
FURTHER AFFIANT SAYETH NAUGHT.

BAYVIEW LOAN SERVICING, LLC

By: J.A. Chin  
Name: Jennifer Chin  
Title: Bankruptcy Specialist

Sworn to and subscribed before me this 19 day of January, 2012 by Jennifer Chin who is personally known to me or who produced a driver's license as identification.

C. Adams  
[NOTARY PUBLIC / NOTARIAL SEAL]




**BAYVIEW**  
 LOAN SERVICING

 Bayview Loan Servicing  
 895 SW 30th Avenue  
 Suite 202  
 Pompano Beach, FL 33069  
 Phone: (800) 457-5105

 Loan No.: 344288  
 Interest Rate: 4.88%  
 Bankruptcy Filed: 08/24/09  
 Lien Position: 1ST  
 Case Number: 09-07047  
 Chapter: 11

 Contractual Due date: 6/1/2009  
 Post due date:  
 Mortgagor(s): STONE, MICHAEL  
 Property Address: 1200 SCENIC GULF DRIVE #B-6  
 MIRAMAR BEACH, FL

Make sure you include any outstanding foreclosures/Bankruptcy/Fees and Costs						
<b>Unpaid Principal Balance:</b>						<b>\$389,936.42</b>
3	Monthly Payments at:	\$2,406.83	From	06/01/09	To	8/1/2009 \$7,220.49
6	Monthly Payments at:	\$2,187.06	From	09/01/09	To	2/1/2010 \$13,122.36
6	Monthly Payments at:	\$1,982.94	From	03/01/10	To	8/1/2010 \$11,897.64
6	Monthly Payments at:	\$2,007.34	From	09/01/10	To	2/1/2011 \$12,044.04
6	Monthly Payments at:	\$1,959.57	From	03/01/11	To	8/1/2011 \$11,757.42
4	Monthly Payments at:	\$1,936.40	From	09/01/11	To	12/1/2011 \$7,745.60
	Late Charges at:		From		To	\$0.00
	Late Charges at:		From		To	\$0.00
						<b>\$63,787.55</b>
Deferred Late Charges Balance:						\$110.89
Securing Fees/BPO Fees:						\$350.00
Interest Arrearages:						\$0.00
Current NSF Balance:						\$0.00
Inspection Fees:						\$138.00
Escrow Advance:						\$24,465.88
Bankruptcy & Foreclosure Attorney Fees and Costs:						\$4,465.22
Other Cost:						\$0.00
<b>CREDITS:</b>						\$0.00
<b>TOTAL REINSTATEMENT:</b>						<b>\$93,317.54</b>
<b>TOTAL UNPAID PRINCIPAL PLUS REINSTATEMENT:</b>						<b>\$483,253.96</b>
<b>INTEREST GOOD THROUGH REFERRAL DATE:</b>						<b>\$32,675.52</b>
<b>PER DIEM</b>						<b>28.04</b>

 Prepared by: Jennifer Chin  
 Date: 12/6/2011

**EXHIBIT**
**1**

**Label Matrix for local noticing**  
**In re: Taylor, Bean & Whitaker**  
**Case 3:09-bk-07047-JAF**  
**Middle District of Florida**

American Home Mortgage Servicing, Inc.  
c/o Anila Rasul  
Kahane & Associates  
8201 Peters Road, Ste 3000  
Plantation, Florida 33324

American Home Mortgage Servicing, Inc.  
c/o Bart T. Heffernan, Esq.  
100 Cypress Creek Road, Suite 1045  
Ft. Lauderdale, FL 33309

Bank of the Ozarks as Successor\*  
c/o Patti W. Halloran, Esq.  
Gibbons, Neuman et al.  
3321 Henderson Blvd.  
Tampa FL 33609

Brodie & Laura Calder  
c/o Schuyler Smith  
118 W. Adams Street, #800  
Jacksonville, FL 32202

Craig & Lyndsi Crowell  
c/o Schuyler Smith  
118 W. Adams Street, #800  
Jacksonville, FL 32202

Jody & Lacy McKnight  
c/o Schuyler Smith  
118 W. Adams Street, #800  
Jacksonville, FL 32202

Joh Crain  
PO Box 13  
Melbourne, FL 32902

John A. Crain  
PO Box 13  
Melbourne, FL 32902-0013

John Caine, Creditor  
c/o S. Hunter Malin  
P. O. Box 477  
Jacksonville, FL 32201

Land Settlement Services  
c/o Barry Jay Warsch  
100 Southeast 2nd Street, 36th Floor  
Miami, Florida 33131

Land Settlement Services, Inc.  
107 S. 4th Street  
Lebanon, PA

Michael C. Cabassol  
c/o Donald R. Kirk  
Fowler White Boggs P.A.  
P.O. Box 1438  
Tampa, FL 33601

Michael C. Cabassol  
c/o Donald R. Kirk, Esq.  
and David W. Barrett, Esq.  
Fowler White Boggs P.A.  
P.O. Box 1438  
Tampa, FL 33601

Onewest Bank FSB  
c/o Scott Weiss  
1800 NW 49th Street Suite 120  
Fort Lauderdale, FL 33309

State of Michigan, Department of Treasury  
Attn: Suann D. Cochran  
3030 West Grand Boulevard Suite 10-200  
Detroit MI 48202

The Bank of New York Mellon Corporation  
JOHN C. BROCK, JR.  
Albertelli Law  
P.O. Box 23028  
Tampa, FL 33623

The Bank of New York Mellon Corporation,  
as Trustee  
Shapiro & Fishman, LLP  
4630 Woodland Corporate Blvd Suite 100  
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Attorney for Secured Creditor  
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