

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
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In re:

Chapter 11 Case

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,
REO SPECIALISTS, LLC, and
HOME AMERICA MORTGAGE, INC.,

Case No. 3:09-bk-07047-JAF
Case No. 3:09-bk-1022-JAF
Case No. 3:09-bk-10023-JAF

Debtors.

Jointly Administered Under
Case No. 3:09-bk-07047-JAF

_____/

In re:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,

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

Applicable Debtor.

_____/

AGREED MOTION TO CONTINUE APRIL 26, 2012 HEARING ON MOTION FOR FINAL DETERMINATION OF TRADE CREDITOR CLASSIFICATION FILED BY AK CONTRACTING GENERAL PROPERTY MANAGEMENT, LLC

Neil F. Luria as Plan Trustee for the Taylor, Bean & Whitaker Plan Trust¹ (the “Plan Trust”) moves to continue the April 26, 2012 hearing on the *Motion for Final Determination of Trade Creditor Classification Filed by AK Contracting General Property Management, LLC for Final Determination of Trade Creditor Classification* (the “Classification Motion”) (D.E. 2354) by at least 120 days. The Plan Trustee states in support thereof:

1. On December 23, 2010, AK Contracting General Property Management, LLC (“AK Contracting”) filed its Classification Motion seeking to have AK Contracting treated as a

1 As of the effective date of the *Third Amended and Restated Joint Plan of Liquidation of the Debtors and the Official Committee of Unsecured Creditors* (D.E. 3240) (the “Third Amended Plan”), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors (“Committee”) have been replaced by the Plan Trust.

Trade Creditor and its Claim No. 269 treated as a TBW Class 9 general unsecured claim, as those terms are defined in the Third Amended Plan.

2. On November 21, 2011, the Plan Trustee filed a Complaint against AK Contracting on behalf of REO Specialists, LLC to avoid certain fraudulent transfers under Sections 548 and 550 of the Bankruptcy Code (Adversary No. 3:11-ap-00880-JAF).

3. The Plan Trustee filed his *Amended First Omnibus Objection to Claims of REO Specialists, LLC* (D.E. 4727) (the "REO Omnibus Objection"). In the REO Omnibus Objection, the Plan Trustee objected to Claim No. 1021 (the "REO Claim") on the basis that the REO Claim was overstated and should be disallowed pursuant to Section 502(d) of the Bankruptcy Code on the basis that AK Contracting received an avoidable transfer(s) and failed to disgorge such avoidable transfer(s). AK Contracting filed a Response to the REO Omnibus Objection on March 9, 2012 (D.E. 5016).

4. The Plan Trustee and AK Contracting (the "Parties") are working together in an attempt to globally resolve all of AK Contracting's filed claims², the classification of AK Contracting's claims, and the adversary pending on behalf of REO against AK Contracting. The Parties are still in the process of exchanging data relating to paid and unpaid invoices.

5. The Plan Trustee agrees that AK Contracting's Claim No. 269 (the "TBW Claim") will be presently valued in the amount of \$315,543 as a TBW Class 9 general unsecured claim³. The Parties further agree to continue the April 26, 2012 hearing on the Classification

² Claim No. 269 filed against the estate of TBW is identical to and duplicative of the REO Claim.

³ This valuation is subject to revision based on documentation that AK Contracting has agreed to provide to the Plan Trustee and from any further analysis undertaken by the Plan Trustee.

Motion in order to continue to reconcile the Parties' data relating to the TBW Claim in order to determine whether an evidentiary hearing on the Classification Motion will still be necessary.

6. The Parties have agreed to continue the April 26, 2012 hearing on the Classification Motion by at least 120 days, or as the Court's schedule permits.

WHEREFORE the Plan Trustee respectfully requests the Court enter an order continuing the evidentiary hearing on the Classification Motion presently set for April 26, 2012 by at least 120 days, or as the Court's schedule permits, and ordering any other relief that is just or necessary.

Dated: April __, 2012

Respectfully submitted,

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Taylor, Bean & Whitaker Plan Trust*
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