

5-23-2012

In response to case number, 3:09-bk-07047-JAF Omnibus 45; exhibit A - Paid Borrower Claims, Taylor, Bean & Whitaker Mortgage Corp et al.

FILED  
JACKSONVILLE, FLORIDA  
MAY 29 2012  
CLERK, U. S. BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA

I disagree with the objection filed to disallow my claim to receive payment for \$397.22 owed to me by Taylor, Bean & Whitaker for an escrow check which was issued to me in August 2009. I deposited the check on Aug 21, 2009. On Sept 1, 2009 the check was returned stamped Non Sufficient funds.

The money was the excess moneys left after payment of insurance & Property taxes paid by my self each month and placed in an account for the payment of these fees. The money is mine and in no way should Taylor, Bean & Whitaker be allowed to get out of returning the money to me.

~~Vernon Dwight Murphy~~  
Vernon Dwight Murphy

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

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.

**FORTY FIFTH OMNIBUS OBJECTION TO CLAIMS**  
**(TBW Borrower Claims—Fully Paid)**

**IMPORTANT NOTICE TO CREDITOR:  
THIS IS AN OBJECTION TO YOUR CLAIM**

This objection seeks to disallow your claim in full. Please read this objection carefully to identify which claim/scheduled claim is objected to and what disposition is recommended for your claim.

If you disagree with the objection or the recommended treatment, you must file a written response **WITHIN 30 DAYS** from the date of service stated in the certificate of service accompanying this objection, explaining why your claim should be allowed as presently filed, and you must mail a copy to the undersigned attorneys **OR YOUR CLAIM MAY BE DISPOSED OF IN ACCORDANCE WITH THE RECOMMENDATION IN THIS OBJECTION.**

Any written response must contain the case name, case number, and must be filed with the Clerk of the United States Bankruptcy Court, Bryan Simpson United States Courthouse, 300 North Hogan Street, Suite 3-350, Jacksonville, FL 32202 with a copy to Alisa Paige Mason, Esq., Berger Singerman LLP, 1450 Brickell Avenue, Suite 1900, Miami, FL 33131.

Neil F. Luria, as Plan Trustee (“Plan Trustee”) for the Taylor, Bean & Whitaker Mortgage Plan Trust<sup>1</sup> (the “Plan Trust”), by and through undersigned counsel, and pursuant to Federal Rule of Bankruptcy Procedure 3007 and Local Rules 3007-1 and 2002-4, hereby files this omnibus objection (the “Omnibus Objection”) to the claims listed on **Exhibit “A”** (collectively, the “Claims”). The Plan Trustee seeks to disallow the Claims for the following reasons:

**Exhibit A: The Claims Have Already Been Paid**. The Plan Trustee objects to the Claims listed on Exhibit A on the basis that the Claims should have been paid after the servicing of each of the loans relating to each of the Claims was transferred from TBW to a third party entity. The Claims were to be paid directly by the new servicer or a credit was to be issued to the borrower’s account for the amounts reflected in each Claim.

The Plan Trustee has made multiple attempts to obtain evidence with Freddie Mac, Ginnie Mae and other investors (collectively, the “Investors”) that the amounts reflected in each of the Claims has been satisfied in full and has only received verbal confirmation that borrower issues have been dealt with in accordance with the *Order Establishing Protocol to Resolve Borrower Issues* (D.E. 1079) (the “Borrower Protocol Order”) and paragraph 93 of the *Final Reconciliation Report* (D.E. 1644) (the “Final Reconciliation”). The Plan Trustee has sought written confirmation and supporting evidence from the Investors that each of the Claims have been satisfied in part, however such written confirmation has not been received.

The Plan Trustee submits that the failure to disallow the Claims means that certain borrowers would be paid twice—once through the protocols in place pursuant to the Borrower Protocol Order and Final Reconciliation, and once through the normal claims process.

Accordingly, the Plan Trustee now seeks to disallow each of the Claims in full and Exhibit A recommends a modified claim amount of \$0.00.

The Plan Trustee requests that the Claims be treated as noted above, and believes that these Claims should be disallowed accordance with the Bankruptcy Code.

**All Claimants that have received this Omnibus Objection should locate their name(s)**

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<sup>1</sup> 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), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors have been replaced by the Taylor, Bean & Whitaker Plan Trust (the “Plan Trust”).

**and Claim(s) on the attached Exhibit "A" which lists the Claimants alphabetically.**

The Plan Trustee reserves the right to amend his objection to any claims set forth herein, to object on additional grounds not set forth herein and/or to object to any further claims not presently set forth herein. By filing this Omnibus Objection, the Plan Trustee does not waive the right to file further objections or to pursue avoidance actions or other causes of action.

**WHEREFORE**, the Plan Trustee respectfully requests that the Court (1) treat the Claims set forth herein, as recommended by the Plan Trustee, without prejudice to the rights of the Plan Trustee or other interested parties to file further objections or to pursue avoidance actions or other causes of action, and (2) grant such other and further relief as is just and appropriate.

**I HEREBY CERTIFY** that I am admitted to the Bar of the United States District Court for the Middle District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(a).

Dated: May 4, 2012

Respectfully submitted,

BERGER SINGERMAN LLP  
*Counsel to Neil F. Luria, Plan Trustee for the  
Taylor, Bean & Whitaker Plan Trust*  
1450 Brickell Avenue  
Suite 1900  
Miami, FL 33131  
Telephone: (305) 755-9500  
Facsimile: (305) 714-4340

By: /s/ Alisa Paige Mason  
Alisa Paige Mason  
Florida Bar No. 084461  
[pmason@bergersingerman.com](mailto:pmason@bergersingerman.com)

**In re: Taylor, Bean & Whitaker Mortgage Corp., et al.**  
**Jointly Administered Under Case No. 3:09-bk-07047-JAF**  
**OMNIBUS 45: EXHIBIT A - PAID BORROWER CLAIMS**

Creditor Name / Address	Case Number	Claim Number	Total Claim Dollars*	Claim Type**	Modified Claim Amount*	Claim Type**
13 MULLINS, CAROLYN & BUFORD 121 TYLER DR BRISTOL, TN 37620	09-07047	563	\$0.00 \$844.90	(S) (U)	\$0.00 \$0.00	(S) (U)
14 MURPHY, MICHAEL 300 S LAWS ST BRIDGEVILLE, DE 19933	09-07047	1454	\$0.00 \$980.00	(S) (U)	\$0.00 \$0.00	(S) (U)
15 MURPHY, VERNON DWIGHT PO BOX 177 DUNNVILLE, KY 42528	09-07047	669	\$397.22	(U)	\$0.00	(U)
16 MURUGANANDAM, MUTHUSAMY 2541 THORNCROFT PL HERNDON, VA 20171	09-07047	824	\$0.00 \$373.42	(P) (U)	\$0.00 \$0.00	(P) (U)
17 NGUYEN, JACQUELINE 209 DETROIT AVE HUNTINGTON BEACH, CA 92648	09-07047	662	\$5,503.31	(U)	\$0.00	(U)
18 NICHOLS JR, DOUGLAS E 5253 S AUSTIN AVE CHICAGO, IL 60638	09-07047	837	\$0.00 \$2,248.87	(S) (U)	\$0.00 \$0.00	(S) (U)
19 O BRIEN, JOHN N 52 WOODLAND RD ALBRIGHTSVILLE, PA 18210	09-07047	1532	\$0.00 \$2,759.55	(S) (U)	\$0.00 \$0.00	(S) (U)
20 OLIVER, LESLIE 1093 CHESTNUT STREET NEWTON, MA 02464	09-07047	1405	\$2,638.65	(U)	\$0.00	(U)
21 PATRICK, BARBARA 4757 MCCORMICK ROAD MT STERLING, KY 40353	09-07047	913	\$0.00 \$142,400.00	(P) (U)	\$0.00 \$0.00	(P) (U)
22 PATTERSON, ANN K 60 NW SANDY TRAIL LN LAWTON, OK 73505	09-07047	689	\$0.00 \$1,738.00	(S) (U)	\$0.00 \$0.00	(S) (U)
23 PENCE, KEITH 870 SHADY CT MONROE, OH 45050-1623	09-07047	995	\$1,203.00	(U)	\$0.00	(U)
24 PETERSON, ALBERT T 569 CATHERINE CT WOOD DALE, IL 60191	09-07047	3274	\$0.00 \$1,499.68	(S) (U)	\$0.00 \$0.00	(S) (U)

\*Plus, in certain instances, additional contingencies, unliquidated amounts, interest, penalties and/or fees.

\*\*(A) - Administrative  
(P) - Priority(S) - Secured  
(U) - Unsecured

Account Number: 1099004  
Capture Date: September 01, 2009  
Item Number: 27450000205938  
Posted Date: September 01, 2009  
Posted Item Number: 9546  
Serial Number:  
Amount: 397.22



**CREDIT GENERAL LEDGER**

ACCOUNT TITLE: <i>Other Cash Items</i>	DATE: <i>9-1-09</i>			
DETAILED DESCRIPTION: <i>Vernon D. Murphy -- Teller 26</i>				
OFFSETTING ENTRY: DESCRIPTION				
EFFECTIVE DATE	SERIAL NUMBER	CENTER NUMBER	PREPARED BY <i>Kita</i>	APPROVED BY

*1099004* *397 22*

⑆5091⑆0792⑆

898189 2745 888285938>883987926< CCB 8885

*NS#*

Account Number: 1090895  
 Capture Date: September 01, 2009  
 Item Number: 27450000206007  
 Posted Date: September 01, 2009  
 Posted Item Number: 9615  
 Serial Number:  
 Amount: 397.22



VERNON DWIGHT MURPHY  
 OR DONNA MURPHY  
 PO BOX 177  
 DUNNVILLE KY 42528

THE CASEY COUNTY BANK 73-792		LIBERTY, KY		9-1	2009
WE CHARGE YOUR ACCOUNT AND RETURN HEREWITH UNPAID		REASON	DRAWN ON	DRAWN BY	AMOUNT
<b>KEY TO REASON FOR RETURN</b> 1. Not Sufficient Funds 2. Endorsement Missing 3. Account Closed 4. Account Garnished 5. Dated Ahead 6. Guarantee Alteration 7. Guarantee Amount 8. Guarantee Endorsement 9. No Account 10. No Funds 11. Not Properly Endorsed 12. Not Signed 13. Payee Missing 14. Payment Stopped 15. Signature Not Authorized 16. Signature Not Correct 17. Drawn Against Uncollected Funds 18. A/C Unposted 19. Other		1	Taylor Bean + Whitaker Platinum Com Bank		397.22
		ACCOUNT NUMBER	1090895		
				SERVICE CHARGE	
				TOTAL CHARGE	397.22
<i>Vernon D Murphy</i>					
⑆ 50 10 0 7 9 2 ⑆					104

2009 09 01

1090895

9/1/2009 09:29 011 0035 DUNNVILLE3

898189 27450000206007 9615 397.22 OMNS CHECK

5888 CCB 8885 < 9267680

Account Number: 904015  
Capture Date: August 21, 2009  
Item Number: 27450000202084  
Posted Date: August 21, 2009  
Posted Item Number: 3324  
Serial Number: 395201  
Amount: 397.22



THIS DOCUMENT CONTAINS SECURITY FEATURES

<p><b>TAYLOR, BEAN &amp; WHITAKER</b> Mortgage Corporation 315 NE 14th Street Ocala, Florida 34470 Escrow Disbursement Clearing Account</p>	<p>Platinum Community Bank 70-7445-710</p>	<p>NO. 395201 CHECK NO. 395201</p>
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Dollars

Three Hundred Ninety Seven and 22/100

	DATE	AMOUNT
	August 5, 2009	\$397.22

*Vernon D. Murphy*  
AUTHORIZED SIGNATURE

⑆395201⑆ ⑆071974453⑆ 0000904015⑆

ENDORSE HERE

DO NOT WRITE OR SIGN BELOW THIS LINE

Stamp or sign below this line

\*\*\*\*\*397.22 TRANSIT CHECK  
Account No.: 00000000000000000000  
8/21/2009 09:21 026 0015 DUNNTEL  
Memo:

*Vernon D. Murphy*

**Security Features:**

- MICR routing and account numbers show red ink on back.
- Void appears in body of check when photocopied or scanned.
- Border warning of security features

Warning Band

\* FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

⑆110745⑆ ⑆88282084⑆ ⑆883987926⑆ < CCB 8883