

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.

_____ /

**OBJECTION TO CLAIM NO. 621 FILED BY SLEDGE B.
HILEY AND GINGER P. HILEY**

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

This objection seeks to disallow your claim. Please read this objection carefully to identify which claim is objected to and what disposition of your claim is recommended.

If you disagree with the objection or the recommended treatment, you must file a written response WITHIN 30 DAYS from June 5, 2012 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 include the following: (i) the approved case caption and the title of the objection to which the response is directed; (ii) the name of the claimant and the official claim number; (iii) a description of the basis for the amount of its underlying proof of claim or scheduled claim; and (iv) a concise statement setting forth the reasons why the Court should not sustain the objection, including, but not limited to, the specific factual and legal bases upon which the claimant will reply in opposing

the objection. Any written response 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 33131-3453.

Neil F. Luria, as Plan Trustee (“Plan Trustee”) for the Taylor, Bean & Whitaker Mortgage Plan Trust (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 objection (the “Objection”) to Claim No. 621 (the “Claim”) filed by Sledge B. Hiley, Jr. and Ginger P. Hiley (collectively, “Hiley”) as follows:

| Claimant | Claim # | Amount | Basis for Disposition | Recommended Disposition |
|---|----------------|---------------|---|---|
| Sledge B. Hiley, Jr. and Ginger P. Hiley P.O. Box 90 Melrose, FL 32666 | 621 | \$22,824.02 | <p>The Plan Trustee objects to the Claim on the basis that a portion of the Claim was to be paid by the respective investor after the servicing of each of the loans relating to each of the Claims was transferred from TBW to a third party entity.</p> <p>The Plan Trustee has made multiple attempts to obtain evidence from Freddie Mac, Ginnie Mae and other investors (collectively, the “Investors”) that the amount reflected in the Claim has been satisfied in part by the Investors and has only received verbal confirmation that borrower issues, in general, have been dealt with in accordance with the <i>Order Establishing Protocol to Resolve Borrower Issues</i> (D.E. 1079) (the “Borrower Protocol Order”) and paragraph 93 of the <i>Final Reconciliation Report</i> (D.E. 1644) (the “Final Reconciliation”). The Plan Trustee has sought written confirmation and supporting evidence from the Investors that this Claim has been satisfied in part; however such written confirmation has not been received.</p> | Disallow Claim No. 621 in its entirety. |

| | | | | |
|--|--|--|---|--|
| | | | <p>Second, Plan Trustee objects to the Claim on the basis that the Claim contains a duplicative component because the Claim asserts a total amount (\$11,412) that is then reasserted in identical, total amounts both as (a) secured and unsecured and (b) priority. Thus, the total amount of the Claim was doubled on the claims register because the Claimant asserted a secured or unsecured claim in the total amount of the Claim, and also asserted a priority claim in the total amount of the Claim, which multiplied the true total amount of the Claim. Prior orders resolving objections to the Claim have resulted in the proper classification of the Claim, but duplicative amounts with regard to the Claim total remain.</p> <p>Finally, the Plan Trustee objects to the Claim on the basis that TBW applied every mortgage payment received by the Claimant to the Claimant's mortgage prior to the transfer of the servicing of the loan to a third party entity. Accordingly, any issues with the application of mortgage payments after the transferring of servicing do not pertain to TBW and the Claimant should not be entitled to recover for certain mortgage payments. In sum, the Plan Trustee seeks to disallow the Claim and provide that no distribution from the Plan Trust shall be made on account of this Claim.</p> | |
|--|--|--|---|--|

The Plan Trustee reserves the right to amend this objection, 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 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) dispose of the claim set forth herein, as recommended by the Plan Trustee, on the grounds set forth in this Objection, 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: June 1, 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