



Arsenal Appraisal

Because You Can't Afford To Wait

May 25, 2012

FILED
JACKSONVILLE, FLORIDA

JUN - 1 2012

CLERK, U. S. BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA

RECEIVED
CLERK, U.S. BANKRUPTCY COURT

JUN - 1 2012

MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Clerk of the Court of the United States Bankruptcy Court
Bryan Simpson
United States Courthouse
300 North Hogan Street
Suite 3-350
Jacksonville, FL 32202

RE: Taylor, Bean & Whitaker
Case 3:09-bk-07047-JAF
Doc 5211

Dear Sirs:

This letter is in direct response to the letter received from Taylor Bean & Whitaker (TB&W). This letter addresses The Plan Trustee's motion to disallow, reduce or reclassify the claims submitted by Arsenal Appraisal, Inc. Please see below:

Exhibit "A" A Portion of All of the Claim Does not pertain to TB&W.

RESPONSE: All of the appraisals listed in the complaint filed by Arsenal Appraisal, Inc. were ordered on behalf of TB&W. These appraisals were used in connection with a mortgage loan for a customer of TB&W and therefore are covered under the Mortgage Lending Act. Pursuant to Section 53-244.111(9) of the North Carolina General Statutes, it is a prohibited activity to fail to promptly pay when due reasonable fees to a licensed appraiser for appraisal services. A copy of this statute is included in the letter dated 09/25/2012, from the N.C. Office of the Commissioner of Banks acknowledging that TB&W is responsible for payment of the appraisals in question, per the Mortgage Lending Act.

Exhibit "B" Overstated Claims.

RESPONSE: Late fees were added to the appraisal requests for invoice 0907084 in the amount of \$35 and to invoice K0906004 in the amount of \$30. Payment on invoices for Arsenal Appraisal, Inc. is due within 45 days of completion or late fees will accrue every 45 days from the invoice date, per our office policy and as stated on all of our appraisal invoices. These two appraisals were both over 45 days due and as such had accrued late fees in the amount of \$30 or more. There were no fees added to the invoice for 0907044.

Exhibit "C" Books & Records.

RESPONSE: These appraisals were ordered by Securityone Valuation Services LLC on behalf of TB&W. Therefore, TB&W is responsible for payment of these appraisals.



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Exhibit "D" Amended Claims.

RESPONSE: There have been no amendments to these claims with the exception of the late fees which we were within our rights to request.

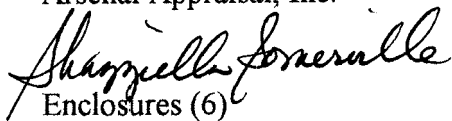
Exhibit "E" A Portion of the Claim has already been paid.

RESPONSE: A payment was made by Securityone Valuation Services LLC, the appraisal management company (AMC) that ordered the delinquent appraisals. This payment was check #7027 dated 09/02/2009 for the amount of \$350, however, the check was returned on 09/14/2009 for insufficient funds. Arsenal Appraisal, Inc. was unable to resubmit the check for payment when we received the NSF notice as the bank was closed by the Federal Government two days after this check was written. No other payments have been received by Arsenal Appraisal, Inc. from TB&W or any other entity for invoices K0906004, 0907044 and 0907084 since we filed with the N.C. Office of the Commissioner of Banks on 09/22/2009.

Please accept this letter of rebuttal to the Omnibus Objection filed by Taylor, Bean & Whitaker.

Respectfully submitted,

Shazziella "Deal" Somerville
Accounting
Arsenal Appraisal, Inc.



Enclosures (6)

cc: Alisa Paige Mason, Esq.

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.

_____/

THIRTY SEVENTH OMNIBUS OBJECTION TO CLAIMS
(TBW Class 9 Claim Objections)

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

This objection seeks to disallow or reduce, or reclassify your claim. 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 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

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, on the grounds set forth in Exhibits "A", "B", "C", "D" and "E" to this Omnibus 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: April 25, 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

| | CREDITOR | CLAIM NUMBER | CLAIM AMOUNT | BASIS FOR THE DISPOSITION | RECOMMENDED DISPOSITION |
|----|---|--------------|---------------|---|--|
| 7 | CHRISTI D BUJE 1155 CENTRAL HILL ROAD GRANTSBURG, IL 62943 | 1073 | \$ 1,133.00 | The Plan Trustee objects to this Claim on the basis that this Claim is owed by Security One Valuation Services and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 8 | CROWE APPRAISAL SERVICES LLC PO BOX 153 ANDERSON, SC 29622 | 927 | \$ 1,150.00 | The Plan Trustee objects to this Claim on the basis that this Claim is owed by Security One Valuation Services and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 9 | DELTA COM INC ATTN: SONIA M BROWDER SR TREASURY ANALYST & PARALEGAL 7037 OLD MADISON PIKE STE 400 HUNTSVILLE, AL 35806 | 623 | \$ 138,226.91 | The Plan Trustee objects to this Claim on the basis that a portion is due from Home Mortgage Corporation and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 10 | DIETRICH & CO PO BOX 101431 FORT WORTH, TX 76185 MCDONALD SANDERS ATTN RUSSELL DEVENPORT 777 MAIN STREET, SUITE 1300 FORT WORTH, TX 76102 | 425 | \$ 1,550.00 | The Plan Trustee objects to this Claim on the basis that a portion is due from Security One Valuation Services and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 11 | GREAT ATLANTIC REALTY INC JOSEPH & MAREES PA 4035 ATLANTIC BLVD JACKSONVILLE, FL 32207 <u>Transferred to Riverside Claims LLC</u> RIVERSIDE CLAIMS LLC PO BOX 626 PLANETARIUM STATION NEW YORK, NY 10024-0540 | 268 | \$ 50,063.98 | The Plan Trustee objects to this Claim on the basis that this Claim is owed by REO Specialists, LLC and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 12 | GREEN APPLE VALUATIONS LLC KAREN UHLMAYER OWNER & LEAD APPRAISER 1475 BUFORD DR STE 403-215 LAWRENCEVILLE, GA 30043 | 535 | \$ 5,925.00 | The Plan Trustee objects to this Claim on the basis that this Claim is owed by Security One Valuation Services and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 13 | HANSARKE ENTERPRISES BRIAN GODDARD 7965 QUAIL MOUNTAIN LN LAS VEGAS, NV 89131 | 146 | 47,350.00 | The Trustee objects to this Claim on the basis that the Claim is owed by REO Specialists, LLC and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |

| | CREDITOR | CLAIM NUMBER | CLAIM AMOUNT | BASIS FOR THE DISPOSITION | RECOMMENDED DISPOSITION |
|----|---|--------------|--------------|--|--|
| 23 | <p>US BANCORP MANIFEST FUNDING SERVICES ATTN: CORPORATE ATTORNEY 1450 CHANNEL PKWY MARSHALL, MN 56258</p> <p><u>Transferred to Restoration Services</u> RESTORATION HOLDINGS LTD 325 GREENWICH AVE - 3RD FL ATTN: CLAIMS PROCESSING (BANKRUPTCY) GREENWICH, CT 06830</p> | 241 | \$ 18,683.94 | The Plan Trustee objects to this Claim on the basis that the Claim is owed by Home Mortgage Corporation and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 24 | <p>WESTON GRAPHICS INC ADAM WESTON 9320 LURLINE AVE CHATSWORTH, CA 91311</p> | 208 | \$ 53,793.00 | The Plan Trustee objects to this Claim on the basis that the Claim is owed by REO Specialists, LLC and thus is not a TBW liability. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 25 | <p>WILSON & ASSOCIATES PLLC 1521 MERRILL DR STE D-220 LITTLE ROCK, AR 72211</p> | 3040 | \$ 23,662.76 | The Plan Trustee objects to this Claim because all invoices contained in the Claim were billed to and owed by Sparta Special Servicing, LLC and are thus not a liability of TBW. | The Plan Trustee recommends that the Claim be disallowed in its entirety. |

EXHIBIT "C" - BOOKS & RECORDS DO NOT SUPPORT CLAIM

| | CREDITOR NAME | CLAIM NUMBER | CLAIM AMOUNT | BASIS FOR DISPOSITION | RECOMMENDED DISPOSITION |
|---|--|--------------|--------------|---|--|
| 1 | ACE AMERICAN INSURANCE COMPANY C/O RICHARD FELDMAN, ESQ. BAZELDON LESS & FELDMAN PC 1515 MARKET STREET, SUITE 700 PHILADELPHIA, PA 19102 | 3048 | UNLIQUIDATED | The Plan Trustee objects to this Claim because it is inconsistent with the Debtors' books and records and the Claimant did not provide adequate support for the Claim. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 2 | BANK OF OAKRIDGE 1684 NC HIGHWAY 68N OAK RIDGE, NC 27310 | 3038 | \$ 5,400.00 | The Plan Trustee objects to this Claim because it is inconsistent with the Debtors' books and records and the Claimant did not provide adequate support for the Claim. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 3 | BONNIE L BALLARD 406 BARCHESTER WESTLAND, MI 48186 | 3282 | \$ 9,418.93 | The Plan Trustee objects to this Claim because it is inconsistent with the Debtors' books and records and the Claimant did not provide adequate support for the Claim. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 4 | CAPITAL DIRECT LENDING 17300 RED HILL AVE STE 200 IRVINE, CA 92614-5651 | 1147 | \$ 9,600.00 | The Plan Trustee objects to this Claim because it is inconsistent with the Debtors' books and records and the Claimant did not provide adequate support for the Claim. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |
| 5 | CONTEMPORARY MORTGAGE SERVICES 488 PALM SPRINGS DRIVE #220 ALTAMONTE SPRINGS, FL 32701 | 1265 | \$ 7,200.00 | The Plan Trustee objects to this Claim because it is inconsistent with the Debtors' books and records and the Claimant did not provide adequate support for the Claim. In addition, the Claim represents broker fees for loan that did not close and excessive commissions. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |

| | CREDITOR NAME | CLAIM NUMBER | CLAIM AMOUNT | BASIS FOR DISPOSITION | RECOMMENDED DISPOSITION |
|----|--|--------------|--------------|--|--|
| 12 | STATE FARM MUTUAL AUTOMOBILE INS CO BOUTWELL & ASSOC LLC 2280 SATELLITE BLVD #B DULUTH, GA 30097-4914 | 3288 | \$ 3,363.88 | The Plan Trustee objects to this Claim because it is inconsistent with the Debtors' books and records and the Claimant did not provide adequate support for the Claim. | The Plan Trustee recommends that this Claim be disallowed in its entirety. |

EXHIBIT "E" - A PORTION OF THE CLAIM HAS BEEN PAID

| | CREDITOR NAME | CLAIM NUMBER | CLAIM AMOUNT | BASIS FOR THE DISPOSITION | RECOMMENDED DISPOSITION |
|---|---|--------------|--------------|---|---|
| 1 | ELLIS PAINTER RATTERREE & ADAMS LLP 2 E BRYAN ST 10TH FLOOR SAVANNAH, GA 31401 | 2618 | \$ 38,605.07 | The Plan Trustee objects to this Claim because a portion of this Claim in the amount of \$1,026.00 was paid by the Debtor pre-petition. | The Plan Trustee recommends that the \$1,026.00 pre-petition payment be disallowed and the balance of the Claim be allowed in the reduced amount of \$37,579.07. |
| 2 | KAMLET REICHERT, LLP 950 17TH ST STE 2400 DENVER, CO 80202-2822 <u>Transferred to Riverside Claims</u> RIVERSIDE CLAIMS LLC PO BOX 626 PLANETARIUM STATION NEW YORK, NY 10024-0540 | 3081 | \$ 4,171.90 | The Plan Trustee objects to this Claim because one of the invoices supporting this Claim was listed twice and that invoice was paid by the Debtor pre-petition. | The Plan Trustee recommends that \$832.58 of this Claim be disallowed because the invoice it references was paid by the Debtor pre-petition and thus the Claim should be allowed in the reduced amount of \$3,339.32. |
| 3 | PIERCE & ASSOCIATES PC ONE NORTH DEARBORN SUITE 1300 CHICAGO, IL 60602 | 1635 | \$ 16,244.18 | The Plan Trustee objects to this Claim because the Claimant included duplicate invoices to support this Claim in the amount of \$3,520.75. | The Plan Trustee recommends that \$3,520.75 of this Claim be disallowed for the duplicate invoice and thus, this Claim should be allowed in the reduced amount of \$12,723.42. |



State of North Carolina
OFFICE OF THE COMMISSIONER OF BANKS

BEVERLY E. PERDUE
GOVERNOR

JOSEPH A. SMITH, JR.
COMMISSIONER OF BANKS

September 25, 2009

Ms. Erla Shaw, Executive VP of Loss Mitigation
Taylor, Bean & Whitaker Mortgage Corp.
1417 N. Magnolia Avenue
Ocala, FL 34475-9078

Dear Ms. Shaw:

The Office of the Commissioner of Banks is in receipt of a complaint filed by Arsenal Appraisal for nonpayment of appraisal fees. We have enclosed a copy for your review.

The Statute is very clear on the fact that appraisals ordered by your company, or an employee of your company are your company's responsibility for payment. Failure to promptly pay appraisers is a prohibited activity in North Carolina.

Pursuant to Section 53-244.111(9) of the North Carolina General Statutes, it is a prohibited activity to fail promptly to pay when due reasonable fees to a licensed appraiser for appraisal services that are:

- a. requested from the appraiser in writing by the mortgage broker or mortgage banker or an employee of the mortgage broker or mortgage banker; and
- b. performed by the appraiser in connection with origination or closing of a mortgage loan for a customer or the mortgage broker or mortgage banker.

Please respond *immediately* to this agency with a written response and remit payment to the appraiser within 10 days from the date of this letter. If you do not do so, the Office of the Commissioner of Banks may commence an administrative enforcement action against you and your company for violations of the Mortgage Lending Act.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer W.", written over a horizontal line.

Jennifer Winborne
Consumer Affairs

Enclosures

cc: Arsenal Appraisal
File No. 2009-2680



2009-2680

Returned NSF check

Do not endorse or write below this line.

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PAY TO THE ORDER OF
ARSENAL APPRAISAL, INC.
202917047

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Securityone Valuation Services LLC
P.O. Box 433
Oasis, FL 32475
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Paying Community Bank
2915 West Ketchum Road
Raleigh Meadows, N. 28088
704451710
DATE 9/2/2009
\$ **350.00
DOLLARS
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Arsenal Appraisal, Inc
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Arsenal Appraisal, Inc
P.O. Box 63889
FAYETTEVILLE, NC 28305
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K0906004

- **Lender name:** Taylor, Bean & Whitaker
 - **Lender Address:** 314 NE 14th Street; Ocala, FL 34470
 - **Order Number:** 34500116
 - **Loan Number:** 3406183
 - **Base Price:** \$325.00
 - **Fee Prices:**
 - **Total Price:** \$325.00
 - **Order Type:** New Order
 - ✱ **Borrower:** ELIZABETH LOCKLEAR
 - **Parcel/Description:**
 - **Contact Name:** ELIZABETH LOCKLEAR
 - **Contact Phone:** 9105217335
 - **Occupancy:** Primary Residence
 - **Loan Purpose:** Refinance
 - **Property Type:** Single Family
 - ✱ **Address:** 1742 PRESTON RD, MAXTON, NC 28364, ROBESON
 - **Appraisal type:** 1004/70 - Uniform Residential Appraisal Report
 - **Status:** Accepted
 - **Due Date:** 06/5/2009
 - **Additional Documents:**
 - **Comments:** CALL HOMEOWNER FOR ACCESS TO HOME. HOME # IS 910-522-1395.
 - **Order Guidelines:** will accept at a fee of \$350
-

- **Lender name:** Taylor, Bean & Whitaker
- **Lender Address:** 315 NE 14th Street; Ocala, FL 34470
- **Order Number:** 34500345
- **Loan Number:** 3461567
- **Base Price:** \$350.00
- **Fee Prices:**
- **Total Price:** \$350.00
- **Appraiser Price Comments:** SRW
- **Order Type:** New Order
- **Borrower:** MUBARAK SHAHBAIN
- **Parcel/Description:**
- **Contact Name:** JULISSA JUMPER
- **Contact Phone:** 9107975533
- **Occupancy:** Primary Residence
- **Loan Purpose:** Purchase
- **Loan Type:** Conventional
- **Property Type:** Single Family
- **Address:** 104 MAGNOLIA ST, RAEFORD, NC 28376, HOKE
- **Appraisal type:** 1004/70 - Uniform Residential Appraisal Report
- **Status:** Accepted
- **Due Date:** 07/28/2009
- **Additional Documents:** Mubarak Shahbain contract.pdf
- **Comments:**
- **Order Guidelines:** Unable to locate 104 Magnolia on GIS; is this the correct address? If the subject is <3000SF and on less than 5 acres will accept at fee adjustment - \$350 for 1004 with 1004MC form. Frank could get it back on 07/28/2009 if that's OK. Thank you. Kathy

0907084

→ SEE IT →

- **Lender name:** Taylor, Bean & Whitaker
- **Lender Address:** 315 NE 14th Street; Ocala, FL 34470
- **Order Number:** 34500309
- **Loan Number:** 3435751
- **Base Price:** \$350.00
- **Fee Prices:**
- **Total Price:** \$350.00
- **Appraiser Price Comments:** PCP
- **Order Type:** New Order
- **Borrower:** Ronnie Bailey
- **Parcel/Description:**
- **Contact Name:** Ronnie Bailey
- **Contact Phone:** 9109781703
- **Occupancy:** Primary Residence
- **Loan Purpose:** Refinance
- **Loan Type:** Conventional
- **Property Type:** Single Family
- **Address:** 8484 SUNNING CT, SAINT PAULS, NC 28384, CUMBERLAND
- **Appraisal type:** 1004/70 - Uniform Residential Appraisal Report
- **Status:** Accepted
- **Due Date:** 07/14/2009
- **Additional Documents:**
- **Comments:** Please contact borrower for access: Ronnie Bailey 910-978-1703 home; 910-423-6177 wk; 910-978-1703 cell
- **Order Guidelines:** Will accept order at our regular fee of \$350; appraisal report will be submitted to you within 48 business-hours after inspection. Please advise if you wish for us to proceed at the corrected fee of \$350. Thank you!

0907 044