

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

In re:

Chapter 11

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-10022-JAF  
Case No. 3:09-bk-10023-JAF

Debtors.

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

\_\_\_\_\_  
TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.

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

Applicable Debtor.  
\_\_\_\_\_

**LIMITED OBJECTION TO PROOF OF  
CLAIM NO. 3022 FILED BY U.S. BANK, N.A.**

**PURSUANT TO LOCAL RULE 2002-4, THE COURT WILL CONSIDER THIS MOTION, OBJECTION, OR OTHER MATTER WITHOUT FURTHER NOTICE OR HEARING UNLESS A PARTY IN INTEREST FILES AN OBJECTION WITHIN THIRTY (30) 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 UNITED STATES BANKRUPTCY COURT, BRYAN SIMPSON UNITED STATES COURTHOUSE, 300 NORTH HOGAN STREET, SUITE 3-350, JACKSONVILLE, FLORIDA 32202, AND SERVE A COPY ON THE MOVANT'S ATTORNEY, EDWARD J. PETERSON, III, ESQUIRE, STICHTER, RIEDEL, BLAIN & PROSSER, P.A., 110 E. MADISON STREET, SUITE 200, TAMPA, FLORIDA 33602.**

**IF YOU FILE AND SERVE AN OBJECTION WITHIN THE TIME PERMITTED, THE COURT MAY SCHEDULE A HEARING AND YOU WILL BE NOTIFIED. 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 THIS PAPER, WILL PROCEED TO CONSIDER THE PAPER WITHOUT FURTHER NOTICE OR HEARING, AND MAY GRANT THE RELIEF REQUESTED.**

Neil F. Luria, as Plan Trustee of the Taylor, Bean & Whitaker Plan Trust (the “**Plan Trustee**”), objects to Proof of Claim No. 3022 filed by U.S. Bank, N.A. (the “**Bank**”), successor Trustee to Bank of America as successor by merger to LaSalle Bank National Association as Trustee for First Franklin Mortgage Loan Trust 2007-1, Mortgage Loan Asset Backed Certificates Series 2007-1. In support of its limited objection, the Plan Trustee states the following:

1. The Bank asserts a claim in the amount of \$740,000 (the “**Claim**”) as of August 24, 2009, the date on which Taylor, Bean & Whitaker Mortgage Corp. (“**Debtor**”) filed its chapter 11 bankruptcy petition.

2. The Bank attaches Exhibits 1–3 to Proof of Claim No. 3022, but none of those exhibits support or otherwise show how the Bank calculated the amount of the Claim.

3. The Claim appears to be based on the same facts as Administrative Claim No. 3355 asserted by the Bank. Both claims purport to arise out of the allegedly fraudulent release of a deed of trust on a home located at 41009 Knoll Drive in Palmdale, California (the “**Property**”). The Debtor sold the Property to Selene RMOF REO Acquisition II, LLC, a third party, for \$272,182.05.

4. In its Order on Bank of America’s Motion for Relief as to a Portion of Sale Order and Alternative Application for Allowance and Payment of Administrative Expenses, this Court required the Plan Trustee to reserve the \$272,182.05 sale proceeds in escrow pending a further ruling (“**Escrow Funds**”) (Doc. No. 2887). The Bank pursued an administrative claim for at least the amount of the Escrow Funds, to which the

Plan Trustee objected. (Doc. No. 5005). This Court subsequently entered an Order Sustaining Without Prejudice the Plan Trustee's Objection to Administrative Claim No. 3355 (Doc. No. 5216) (the "**Order**").

5. In sustaining the objection in the Order, the Court explained "that even if the Bank's claim of holding superior title to the Property were correct . . . the appropriate relief would be recovery of the Property from whomever currently purports to hold title to it, rather than an administrative expense claim against [the Debtor] or the Plan Trust" (Doc. No. 5216 at 6-7) .

6. Moreover, the Court sustained the Plan Trustee's objection to the administrative claim "without prejudice to the Bank pursuing a quiet title action against the current purported title holder in the appropriate forum" (Doc. No. 5216 at 8).

7. Accordingly, this Court has ruled that the estate is not liable to the Bank, without prejudice to the Bank's pursuing a quiet title action. Nevertheless, in an effort to resolve the Bank's asserted unsecured claim and administrative claim, the Plan Trustee consents to the allowance of the Claim as a Class 8 Unsecured Claim in the amount of \$272,182.05, without prejudice to the Debtor's rights to continue to contest the administrative claim asserted by the Bank.

WHEREFORE, the Court should sustain the Plan Trustee's limited objection and allow the Claim in the reduced amount of \$272,182.05 as a Class 8 Unsecured Claim, without prejudice to the Debtor's rights to continue to contest the administrative claim asserted by the Bank.

*/s/ Edward J. Peterson, III*

---

Edward J. Peterson, III (FBN 014612)  
Stichter, Riedel, Blain & Prosser, P.A.  
110 East Madison Street, Suite 200  
Tampa, Florida 33602  
Telephone: (813) 229-0144  
Facsimile: (813) 229-1811  
[epeterson@srbp.com](mailto:epeterson@srbp.com)

*Counsel for the Plan Trustee for the  
Taylor Bean & Whitaker Plan Trust*