

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

Debtor.

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 PROOF OF CLAIM NO. 3018 FILED BY REGIONS BANK

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 COURT AT SAM M. GIBBONS UNITED STATES COURTHOUSE, 801 NORTH FLORIDA AVENUE, TAMPA, FLORIDA 33602, 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. 3018 (the “**Claim**”) filed by Regions Bank (the “**Bank**”). In support of its objection, the Plan Trustee states the following:

1. In the Claim, the Bank asserts that the amount is “\$2,471,000 for mortgage foreclosure.”

2. Additionally, the basis for the claim is stated to be “mortgage foreclosure. *See Regions Bank v. West Cutler Gardens*, Case No. 08-68176-CA-40-Miami Dade County, Florida.”

3. Further, the Bank asserts that the Claim is secured in the amount of \$11,000,000 by real estate described as “First West Cutler Gardens.”

4. The Debtor asserts a first mortgage position with respect to one of the condominium units located at First West Cutler Gardens. Unfortunately, as a result of unscrupulous behavior on the part of the title company that was related to the owners, the sale proceeds for the condominium unit financed by Taylor, Bean & Whitaker Mortgage Corp. were not sent to the Bank and therefore a release of lien was not obtained.

5. By order dated March 12, 2012 (Doc. No. 5039), this Court lifted the automatic stay to allow the Bank to proceed to foreclosure. The Debtor reserves all rights and remedies with respect to such foreclosure action, which is now proceeding in Miami-Dade County.

6. The Debtor does not have an ownership interest in the Bank’s asserted collateral and therefore the Bank does not have a secured claim.

7. Moreover, as the automatic stay has been lifted and the foreclosure action is proceeding, the stated basis of the claim, “foreclosure,” has been satisfied.

8. The Bank is not entitled to any damages from the Debtor and, as set forth in the Complaint attached to the Claim, has not asserted any such damages.

9. Finally, without limitation, on information and belief, the Bank has assigned the Claim and is no longer the proper party to pursue the Claim.

WHEREFORE, premises considered, this Court should disallow and expunge the Claim and grant to the Plan Trustee such other and different relief to which he may be entitled.

/s/ Edward J. Peterson, III
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