UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

| | |
|---|---|
| In re: | Chapter 11 Case |
| TAYLOR, BEAN & WHITAKER MORTGAGE CORP., | Case No. 3:09-bk-07047-JAF |
| REO SPECIALISTS, LLC, and | Case No. 3:09-bk-10022-JAF |
| HOME AMERICA MORTGAGE, INC., | 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. 3045 FILED BY MOUNTAIN WEST BANK, NA**

**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 July 18, 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[1] (the "Plan Trust") and on behalf of the Debtor, Taylor, Bean & Whitaker Mortgage Corp. ("Debtor" or "TBW"), 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. 3045 (the "Claim") filed by Mountain West Bank, NA ("the Claimant") as follows:

| Claimant | Claim # | Amount | Basis for Disposition | Recommended Disposition |
|---|---|---|---|---|
| Mountain West Bank, NA<br>3390 Colton Drive, #A<br>Helena, MT 59602-0204 | 3045 | $1,150.59 | The Claimant asserts a claim for prepaid principal and interest relating to borrower Seth Shields' loan.<br><br>First, the Plan Trustee objects to this Claim on the basis that the underlying loan has been sold to FHLMC and has been paid in full. It is not clear from the documents attached to the Claim why the Claimant should receive prepaid interest and principal from the Debtor for a loan that has been paid in full. Notwithstanding this fact, Check # 5176 was sent to the current servicer of this loan to satisfy this Claim and other claims relating to loans that have been service released from TBW. As a result, the Plan Trustee submits that the funds have been distributed to the appropriate servicer to satisfy this Claim.<br><br>By way of background, the Debtor filed its *Final Reconciliation Report of Debtor Taylor, Bean & Whitaker Mortgage Corp.* (the "Final Reconciliation Report") [D.E. 1644] on July 1, 2010. The Final Reconciliation Report was the culmination of the efforts of the Debtor, as | Disallow Claim No. 3045. |

[1] 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) (the "Plan"), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors have been replaced, in most part and according to the terms of the Plan, by the Taylor, Bean & Whitaker Plan Trust (the "Plan Trust").

| | | | | |
|---|---|---|---|---|
| | | | part of an agreement with the FDIC that the Court approved, to perform a reconciliation of (a) borrower funds and other service-related monies that had been affected by the collapse of TBW and the failure of Colonial Bank and (b) mortgage loans (assets) that were the subject of competing claims of ownership.<br><br>One major component of the Final Reconciliation Report was the reconciliation of funds trapped in servicing complex and servicing-related accounts. The Debtor allocated to investors approximately $860,642,822 that was trapped in accounts at Colonial Bank, Regions Bank, Platinum Bank, etc. The Debtor also discloses in the Final Reconciliation Report that certain funds were transferred to investors and/or subsequent servicers during the pendency of the Debtor's chapter 11 case to deal with a number of borrower issues.<br><br>As a result of extensive efforts to allocate funds to investors and ensure that monies have been transferred to new servicers in order to apply to borrowers' accounts in connection with certain borrower issues, the Plan Trustee submits that the Claim has been and/or will be addressed according to the methodology discussed in the Final Reconciliation Report. If the Claimant insists that it still has a claim against the Debtor's estate, the Plan Trustee submits that the Claimant should be required to provide further support for its Claim and also reassign its rights to any allocated or transferred funds as provided for in the Final Reconciliation Report in exchange for the allowance of the Claim against the Debtor's estate. | |

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: July 16, 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*
James D. Gassenheimer
Florida Bar No. 959987
jgassenheimer@bergersingerman.com
Alisa Paige Mason
Florida Bar No. 084461
pmason@bergersingerman.com