

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-10022-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. 1227 FILED BY JOHN AND JULIE CRAIN

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

This objection seeks to disallow your claims. 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 August 14, 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 the underlying proof of claim or scheduled claim; (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 rely in opposing the objection; and (v) a telephone number, email address and other contact information.

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 Plan Trust¹ (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. 1227 (the “Claim”) filed by John and Julie Crain (the “Claimants”) as follows:

Claimant	Claim #	Amount	Basis for Disposition	Recommended Disposition
John and Julie Crain PO Box 13 Melbourne, FL 32902	1227	\$146,000.00	<p>The Claimants assert a claim based on alleged mortgage fraud. The Claimants fail to attach a single supporting document to their Claim and the Plan Trustee has been unable to locate any record of a prepetition lawsuit filed by the Claimants in the TBW records that would substantiate the Claim.</p> <p>Accordingly, the Plan Trustee submits that the Claim should be disallowed because the Claimants fail to provide any supporting documents or explanation for the basis for their claim, nor any calculations or documentary support for the amount of the Claim.</p> <p>Upon information and belief, the Claimants’ loan closed on August 27, 2008 and was funded by TBW on September 2, 2008. Sometime after, the Claimants became delinquent on their loan payments and servicing of their loan has since been transferred to Bank of America. Accordingly, the Plan Trustee hereby objects to the Claim on the basis that the Claimants should not be entitled to recover what appears to be the entire principal balance of their loan after the Claimants failed to make their loan payments.</p>	Disallow Claim No. 1227.

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* [ECF# 3240] (the “Plan”), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors have been replaced, for the most part and according to the terms of the Plan, by the Taylor, Bean & Whitaker Plan Trust (the “Plan Trust”).

			<p>Furthermore, the Plan Trustee would also remind the Court that the Claimant previously commenced a lawsuit on June 21, 2011 against the Debtor by filing, <i>pro se</i>, a purported class action complaint with various other creditors (3:11-ap-326-JAF) (the “Adversary”). In the Adversary, the various plaintiffs submitted unilateral notices of proposed settlement agreements in which they proposed settling their claims for \$1 million. The Court subsequently dismissed the Adversary and ordered that the Claimants, along with the other plaintiffs in the Adversary, were foreclosed from bringing any more actions for damages against the Debtors. The Claimants recently filed another pleading with many of the same <i>pro se</i> plaintiffs, a Motion Requesting Resolution [ECF# 5641], which the Court also struck on the basis that the movants, including the Claimants, were foreclosed from bringing any more actions for damages against the Debtors.</p> <p>Although the filing of a proof of claim is not a violation of the provisions of the Plan or the Court Order, the Claimants appear to be asserting identical claims in the Claim that were asserted in the Adversary, as opposed to legitimate claims for monies owed by the Debtor(s). Accordingly, the Plan Trustee would recommend disallowing the Claim on the basis that it is baseless.</p>	
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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 claims 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: August 10, 2012.

Respectfully submitted,

BERGER SINGERMAN LLP
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Taylor, Bean & Whitaker Plan Trust*
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By: /s/ Alisa Paige Mason
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