

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. 2612 FILED BY VERNON DELGER**

**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 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 Trust<sup>1</sup> (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. 2612 (the “Claim”) filed by Vernon Delger (“the Claimant”) as follows:

<b>Claimant</b>	<b>Claim #</b>	<b>Amount</b>	<b>Basis for Disposition</b>	<b>Recommended Disposition</b>
Vernon Delger 7028 Harrisburg Rd Jacksonville, FL 32222	2612	\$150,000.00	<p>The Claimant asserts an unsecured claim for “lawsuit for statutory violations/fraud” and attaches a Second Amended Complaint against the Debtor and other defendants, which was filed in the Circuit Court in and for Duval County, Florida (Case No. 16-2008-CA-3292).</p> <p>The Second Amended Complaint alleges: (1) violations of the Homeownership and Equity Protection Act of 1994 (HOEPA) and seeks: (a) rescission of the loan transaction; (b) termination of any security interest in the Claimant’s property; (c) return of any money or property given by the claimant to anyone in connection with the transaction; (d) statutory damages of no less than \$2,000 for any disclosure violations; (e) statutory damages of no less than \$2,000 for any of the Debtor’s failure to respond to requests for information; (f) forfeiture and return of loan proceeds; (g) actual damages; (h) reasonable attorney’s fees; and (2) violation of Florida Deceptive and Unfair Trade Practices Act against all defendants (including the Debtor) and seeking damages for same. The Debtor filed an answer and affirmative defenses asserting that the Claimant failed to state a claim, that the HOEPA is inapplicable, that the Claimant’s action wasn’t</p>	Disallow Claim No. 2612.

<sup>1</sup> 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>brought timely, and that the Claimant was estopped from claiming that the loan transaction was illegal or invalid due to admitted improper receipt of funds in paragraphs 12, 13, and 14 of the Second Amended Complaint. Following the Debtor's filing for bankruptcy, a suggestion of bankruptcy was filed and no activity has occurred in the case since that time.</p> <p>The Claim should be disallowed as no documentation or evidentiary support for the amount of the Claim was provided. Furthermore, the Claim lacks merit based on the defenses asserted in the Answer by the Debtor to the Amended Complaint. Further, the mortgage loan underlying the Complaint has been service released to another third-party servicer and the Debtor has no ability to satisfy the equitable remedies sought in the Amended Complaint. Finally, to the extent that the damages claimed by the Claimant in the Second Amended Complaint have been satisfied by other parties and/or defendants, as evidenced by the fact that the loan has been paid in full subsequent to the filing of the Claim, the Claim should be disallowed and/or reduced accordingly.</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 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: 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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