

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. 3437 FILED BY RODERICK & LASHUNDA LASSITER

**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 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. 3437 (the “Claim”) filed by Roderick & Lashunda Lassiter (the “Claimant”) as follows:

Claimant	Claim #	Amount	Basis for Disposition	Recommended Disposition
Roderick & Lashunda Lassiter c/o Richard Holston, Esq. PO Box 195 Mobile, AL 36601-0195	3437	\$50,000.00	<p>The Claimants assert an unsecured claim for “delayed insurance funds for home repair.” Attached in support of the Claim is a short factual summary which asserts that Claimants were former customers of the Debtor. While the Debtor was servicing their loan, their house was struck by a motorist, and they filed a claim for the damages to their residence with their homeowner’s insurance carrier. Their insurance company sent them a check in the amount of \$17,470.12 made payable jointly to the Claimants and the Debtor, which the Claimants sent to the Debtor. The Debtor ceased operations thereafter.</p> <p>The Claimants filed a lawsuit against the Debtor in the circuit court of Mobile County, Alabama seeking turnover of the funds immediately prior to the commencement of the Debtor’s bankruptcy case (Case No. CV-2009-901556). The Claimants’ loan was service released to Bank of America on behalf of GNMA before the commencement of the Debtor’s bankruptcy case, and the Claimants received a check “several months later” from Bank of America to make the repairs to their home. Claimants assert that for the several months they had to wait for release of the funds from Bank of America, they “endured living in a residence which</p>	Disallow Claim No. 3437.

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>was not habitable, was not secure, was exposed to the elements and was subject to mold and other pest infestations.” Claimants assert that under Alabama law they have a claim for mental anguish and other damages set forth in their complaint. The case was stayed upon the Debtor’s filing of a suggestion of bankruptcy shortly after it was filed.</p> <p>The Claim fails to set forth any documents or any evidentiary support for damages incurred or how they were calculated. The Claim therefore fails to set forth any documents or supporting evidence to establish the nature or amount the Claim. The Claim has never been liquidated or determined to be valid. Any damages suffered by the Claimants were the result of the intervening acts of third parties and were not caused by the Debtor. Accordingly, the Plan Trustee submits that the Claim should be disallowed in full.</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.

[INTENTIONALLY LEFT BLANK]

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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