

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
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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.

_____/

**AGREED EX PARTE MOTION TO CONTINUE SEPTEMBER 20, 2012 HEARING
ON (I) OBJECTION TO CLAIM NUMBER 162 FILED BY DELTACOM, INC.
AND (II) OBJECTION TO CLAIM NUMBER 623 FILED BY DELTACOM, INC.**

Deltacom, Inc. (“Deltacom”) and Neil F. Luria as Plan Trustee for the Taylor, Bean & Whitaker Plan Trust¹ (the “Plan Trust”) hereby move to continue the September 20, 2012 hearing on the following matters relating to Deltacom’s claims against Taylor, Bean & Whitaker Mortgage Corp. (the “Debtor”): (a) the *Fifty First Omnibus Objection to Claims* (the “Fifty First Objection”) [D.E. 5308], which objected to Claim No. 162 on the basis that Claim No. 162 is owed by Home Mortgages Company, a nondebtor entity; and (b) the *Thirty Seventh Omnibus Objection to Claims* (the “Thirty Seventh Objection”) [D.E. 5211], which objected to Claim No.

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 “Third Amended Plan”), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors (“Committee”) have been replaced by the Plan Trust.

623 also on the basis that Claim No. 623 is owed by a nondebtor entity. In support thereof the parties state:

1. On October 19, 2009, Deltacom filed Claim No. 162 in the amount of \$177,399.72. The Plan Trustee filed the Fifty First Objection objecting to Claim No. 162 and Deltacom filed a response in opposition [D.E. 5405].

2. On December 3, 2009, Deltacom filed Claim No. 623 in the amount of \$138,226.91. The Plan Trustee filed the Thirty Seventh Objection objecting to Claim No. 623 and Deltacom filed a response in opposition [D.E. 5320].

3. On July 13, 2012, the Court held a scheduling conference on the objections filed to Claim Nos. 623 and 162 and subsequently set the matters for a final evidentiary hearing on September 20, 2012.

4. Since the July 13, 2012 scheduling conference, the parties have continued to work together in an attempt to resolve the objections to Claim Numbers 623 and 162. The parties continue to work together to exchange data, but would request a continuance of the September 20, 2012 hearing in an effort to allow further time to hopefully resolve Deltacom's claims against the TBW estate.

5. In light of the foregoing, the Plan Trustee and Deltacom have agreed to continue the September 20, 2012 hearing on the objections filed by the Plan Trustee to Claim Numbers 623 and 162 filed by Deltacom by at least sixty days, or as the Court's schedule permits.

WHEREFORE the Plan Trustee respectfully requests an Order (a) continuing the September 20, 2012 evidentiary hearing by at least 60 days, or as the Court's schedule permits, on the following matters (i) Deltacom's Response [D.E. 5405] in opposition to the Fifty First Objection, which objected to Claim No. 162, and (ii) Deltacom's Response [D.E. 5320] in opposition to the Thirty Seventh Objection, which objected to Claim No. 623, and (b) any other relief that is just or necessary.

Dated: September 17, 2012

Respectfully submitted,

BERGER SINGERMAN LLP
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Taylor, Bean & Whitaker Plan Trust*
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