

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

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.

_____/

**MOTION TO CONTINUE OCTOBER 11, 2012 EVIDENTIARY
HEARING ON PLAN TRUSTEE’S OBJECTION TO
CLAIM NO. 707 FILED BY JOSE MONTERO**

Neil F. Luria as Plan Trustee for the Taylor, Bean & Whitaker Plan Trust¹ (the “Plan Trust”), by and through undersigned counsel, hereby requests that the Court continue the October 11, 2012 evidentiary hearing on the response [D.E. 5259] filed by Jose Montero in opposition to the *Forty Fifth Omnibus Objection to Claims* (the “Forty Fifth Objection”) [D.E. 5243] filed by the Plan Trustee. In support thereof the Plan Trustee states:

1. On May 4, 2012, the Plan Trustee filed the Forty Fifth Objection to a number of borrower related claims, including Claim No. 707 filed by Jose Montero, on the basis that the

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Amended Plan”), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors (“Committee”) have been replaced by the Plan Trust.

claims had been fully satisfied by the related investor and/or servicer pursuant to the borrower protocol approved in the *Order Establishing Protocol to Resolve Borrower Issues* (the “Borrower Protocol Order”) [D.E. 1079]. Jose Montero filed a response (the “Response”) [D.E. 5259] in opposition to the Forty Fifth Objection, which was then set for a final evidentiary hearing on October 11, 2012.

2. Since the Forty Fifth Objection was filed and the Response received, the Plan Trustee has been working diligently with the investor and/or current servicer of Mr. Montero’s mortgage loan in order to obtain data confirming Claim No. 707 has been paid pursuant to the Borrower Protocol Order. The Plan Trustee has not yet received all requested data in connection with Mr. Montero’s claim.

3. The Plan Trustee has attempted to contact Mr. Montero several times via telephone to discuss the Response and whether Mr. Montero would agree to continue the October 11, 2012 hearing, but Mr. Montero failed to provide an email address or telephone number on the Response and the Plan Trustee has been unable to locate a working telephone number for Mr. Montero to date.

4. Further, the Plan Trustee does not have any indication that Mr. Montero will actually appear at the October 11, 2012 evidentiary hearing, as it appears that he currently resides in Virginia.

5. Accordingly, the Plan Trustee submits that it is appropriate to continue the October 11th evidentiary hearing by at least sixty days in order to allow further time for the Plan Trustee to obtain the supporting data necessary to show that Mr. Montero’s claim(s) have been

satisfied and to hopefully work with Mr. Montero to resolve his claim without the need for an evidentiary hearing.

WHEREFORE the Plan Trustee respectfully requests an Order (a) continuing the October 11, 2012 evidentiary hearing by at least 60 days, or as the Court's schedule permits, on the response [D.E. 5259] filed by Jose Montero in opposition to the *Forty Fifth Omnibus Objection to Claims* [D.E. 5243]; and (b) granting any other relief that is just or necessary.

Dated: October 8, 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
Alisa Paige Mason
Florida Bar No. 084461
pmason@bergersingerman.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Federal Express, overnight service, upon Jose Montero, 590 Fletcher Road, Gore, VA 22637 on August 8, 2012.