

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CASE NO: 3:09-bk-07047-JAF
Chapter 11

In re
Taylor, Bean & Whitaker Mortgage Corp.

Debtor. _____ /

FIRST INTERNATIONAL BANK & TRUST'S
MOTION FOR RELIEF FROM STAY

First International Bank & Trust (hereafter "Movant"), pursuant to 11 U.S.C. Section 362(d), moves the Court for entry of an Order modifying the automatic stay against lien enforcement to permit Movant to enforce its Real Estate Deed of Trust in property, or in the alternative for adequate protection and says:

1. Debtor filed a Petition under Chapter 11 of the Bankruptcy Code.
2. On that date Debtor had an inferior mortgage interest in certain real property located at 17302 East Valloroso Drive, Fountain Hills, AZ 85268, described as:

Lot 9, Block 7, Fountain Hills Arizona Final Plat No. 107, according to Book 141 of Maps, page 18, records of Maricopa County, Arizona.
3. Movant holds a Real Estate Deed of Trust in the above described property dated March 30, 2006, a copy of which is attached to this Motion. Said Real Estate Deed of Trust is superior to any mortgage or other interest held by the Debtor in this property.

4. Debtor may claim some interest in said property because it has a mortgage interest in it. Said interest, if any, is inferior to that of the Movant, because this document was executed on July 6, 2006 and recorded on July 10, 2006. Movant's mortgage was recorded on March 31, 2006.

5. The mortgagor under Movant's Real Estate Deed of Trust, Helen Katchen, defaulted on said Real Estate Deed of Trust, causing Movant to initiate a foreclosure action which resulted in the scheduling of a non-judicial foreclosure for August 31, 2009. The filing of the Debtor's Petition under the Bankruptcy Code on August 24, 2009 has stayed Movant from foreclosing under the Real Estate Deed of Trust which it is now entitled to do.

6. That the entire balance due and owing on the Real Estate Deed of Trust is \$234,681.81 plus interest, costs and attorney's fees. It is the opinion of the Movant that the property has a value less than the total mortgage indebtedness.

7. Movant's interest in said property is not adequately protected. It is subject to deterioration and depreciation since this is occupied property.

8. The property is not necessary to any plan of reorganization that could be proposed by the Debtor.

WHEREFORE, Movant requests the Automatic Stay of Section 362 of the Bankruptcy Code be modified to permit Movant to enforce its rights to foreclose upon the property; that such relief be granted thirty days from the filing of this action unless the Court, after notice and a hearing, orders the Stay continued in effect pending or as a result of a final hearing; and if the Court has preliminary hearing within thirty days that the final hearing be commenced within thirty days after the preliminary hearing.

SCHUYLER·STEWART·SMITH

/s/ Schuyler Smith

Schuyler Smith
Attorney for Creditor
118 W. Adams St. #800
Jacksonville, FL 32202
Phone: (904) 353-5884
TollFree: (866) 353-5884
Fax: (904) 353-5994
Florida Bar #349240

CERTIFICATE OF SERVICE

I CERTIFY that a copy of First International Bank & Trust's Motion for Relief from Stay including attachments has been furnished either by electronic or first class mail on November 12, 2009, to: Taylor, Bean & Whitaker Mortgage Corp., Debtor, 315 N.E. 14th St., Ocala, FL 34470; Amy Denton Harris, Edward J. Peterson, III, Richard C. Prosser, Russell M Blain, Debtor's Attorneys, 110 E Madison Street, Suite 200, Tampa, FL 33602-4700; Office of the U.S. Trustee, 135 W Central Blvd, Suite 620, Orlando, FL 32801; Rule 1007-2 List of Unsecured Creditors per the attached Mailing Matrix.

SCHUYLER·STEWART·SMITH

/s/ Schuyler Smith

Schuyler Smith
Attorney for Creditor
118 W. Adams St. #800
Jacksonville, FL 32202
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