

FILED
JACKSONVILLE, FLORIDA

OCT 29 2012

CLERK, U.S. BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

In Re:) Chapter 11
)
TAYLOR, BEAN AND WHITAKER MORTGAGE CORP) Case No. 3:09-bk-07047-JAF
REO SPECIALISTS, LLC, and) Case No. 3:09-bk-100022-JAF
HOME AMERICA MORTGAGE, INC.) Case No. 3:09-bk-10023-JAF
)
) Jointly Administered Under
Debtors) Case No. 3:09-bk-07047
)
)
<u>APPLICABLE DEBTOR</u>)
)
TAYLOR, BEAN AND WHITAKER MORTGAGE CORP)
(Case No. 3:09-bk-07047-JAF))
)
)

**DEFENDANT MICHAEL AND DIANNA ELLIOTT RESPONSE TO NEIL LURIA,
PLAN TRUSTEE'S OBJECTION TO APPEAL DOC 6050 FILED AUGUST 23,2012**

WHEREFORE Defendant, creditor, victim Michael and Dianna Elliott et al hereby file this written Response to Neil Luria, Plan Trustee's Objection to appeal 6050 filed on the 23rd day of August 2012).

Whereas, the foregoing statements are representative of a written response to Taylor, Bean and Whitaker Corp.'s objection to appeal set forth herein.

1. On the 23rd of August, 2012 Docket No. 6050 was filed in said Court as was the NOTICE OF APPEAL, documents were filed in person and correct fees were paid. The issue comes in as there was a young girl taking the paper work who stated " she had never seen these

documents before and did not know what to do with them.” If NOA was misplaced by accident, perhaps filing procedures need to be addressed.

Ms. Perkins called looking for the NOTICE OF APPEAL. I then told her we had filed one and I could send her a copy of it, she let me know that it was OK, I then sent her a copy of the one we had filed in court, also wrote out another one in case wrote out an original one and dated it the date I wrote it.

2. I was appealing the entire bankruptcy court, and the treatment I have received as a VICTIM, TAX PAYER, and MIDDLE CLASS CITIZEN. I was trying to exercise my DUE PROCESS RIGHTS, and extend the olive branch once again. As a VICTIM I am trying to reveal the fraud that is no longer alleged but an on going crime scene, and resolve the problem as a VICTIM. Michael and Dianna Elliott et al was waiting for response or signed orders from the Honorable Judge Jerry Funk. As there are many issues that have not had a response . We, Michael and Dianna Elliott am requesting an open discussion of these matters on November 16, 2012, as it would better serve both parties to a win win situation.

As my loan was sold to multiply MBS all at the same time and this is a proven fact.

3. We the applicants are all pro se once again we are not class action ,EACH one of us stand alone pro se but as a group of VICTIMS, TAX PAYERS and MIDDLE CLASS AMERICANS. I like others have only been exercising my DUE PROCESS RIGHTS and to educate the Honorable Judge Jerry Funk as to the questionable relationships within this court as well as to the fraud that has occurred to the VICTIMS of Taylor, Bean & Whitaker

4. It appears this court and Neil Luria are afraid for this appeal to go forth to a higher court for review. Why has the reluctance of this court and Neil Luria stopped and tried to block

each and every appeal that has been filed? Therefore I place this court on notice of the proven fraud and the incestuous relationships that are present in this bankruptcy court.

It is of no accident that the players involved in this bankruptcy court, it obvious they have all have been chosen or involved in other business dealings, to profit off the victims if this bankruptcy court. Any jury would take into consideration the massive proven fraud and the fraud that has been settled in secret to see that justice was served. Maybe even to the extent of having a grand jury take a peek at some of the evidence might be more appropriate.

5. I ask for an additional 20 days to correct any errors I have been charged with, but the NOA was filed at time of filing. I have not had an issue filing documents with this court, and I appreciate Cathy Perkins, Gull Weaver, Ray Reddick for all their professional help. They have done an excellent job despite all the circumstances in this case 16^h 2012 as well as the 20 extension to respond to Neil Luria's statements.

6. Lending Process Services sits as chair person of creditors committee, yet they are not one of top creditors,. Lending Process Service/DOCX have and still under investigation for fraud, robo signing, and alleged fraud in soft ware accounting programs.

7. Paul S. Singermen involved in the the Bear Sterns bankruptcy.

Please see EXHIBT A

8. Bank of America and ALL of the of the subsidiaries including USA and overseas, of the following: JP Morgan Chase, US America bank, Deutsche Bank, Credit Sussie,FDIC, Freddie Mac, Fannie Mae, HSBC, BNP Paribas, Goldman Sacs , Merrell Lynch Citi bank, Barclays, have all been involved in alleged fraud .

See EXHIBIT B (this report is only in part due to the length over 600 pages)

9. I reserve the right to present full report at a latter date. I am requesting an open discussion at court on November 16th 2012, as to a resolution to said objection and response to produce a win win for both the trust and the victims. I pray this court clearly see the proof and the circumstances that produced the victims of Taylor ,Bean & Whitaker and then ask for additional 30 day extension, to respond claiming he just found the appeal. Court that an Amendment to Claim No. 3352, is filed at said time along with "Withdrawal of Claim No. 3500" to further liquidate Claim No. 3352 as per statement made forth above. All evidence of allegations of loss of monetary damages were provided to said court on the 7th of April, 2011 with Docket No. 2939 as well as with the above reference Docket No. 1557 as "Exhibit A" filed on the 15th of June, 2010.

5. Attached is "Exhibit B" (Financial Statements for Debtors Attorneys, Attorneys representing Lender Processing Services (Committee Chair) and/or any other referenced costs to said court on referenced Exhibit. Claimants wish to ask said Court as to why the Confirmation Plan entitles Creditors who have had money "misappropriated" and not accounted for by Debtors only a three (3) to four (4) cents on the dollar of their Claim when so much of the Creditor(s), unaccounted monetary losses have been disregarded by said Court would not wonder how said Claimant(s) can accept the fact that so much money has gone to the Debtor and Legal Council representing in said Bankruptcy Court (ie: over eighty eight million dollars (\$88,000,000.00) on legal and associated costs for t the Cmpany (Taylor, Bean and Whitaker Mortgage Corp.), in a Bankruptcy Court.

6. If said Litigants and Restructuring entities are paid such costly administrative costs, regardless of any legalities in which to avoid the payments of all homeowner litigation, why should not a Pro Se Claimant not be given the same allowance for

Administrative costs associated with challenging said court on behalf of themselves; which had become a burden of time and expenses to represent themselves from June of 2010. Claimants have attempted to retain legal council on several occasions, however, to the magnitude and the relationships between entities (Plan Trustee and Attorneys) representing themselves and such other entities as Lender Processing Services and Baker Hostetler The United States Trustee, Ms. Elena Escamilla filed an objection to the payment of Baker Hostetler as they were defending Lender Processing Services as a Creditor while as well as other litigation in which Berger-Singerman was also providing during the duration of bankruptcy court to Lender Processing Services in other Litigation throughout the course of Bankruptcy Case. It would be hard to rely on payment information and requests for payments of the involved entities, as it is a logical theory that any Litigant could have represented members of private litigation on behalf of the Creditor's Committee. The Creditor's Committee was put into place to assist with the Creditors involved as Claimants in said Court, however, there has been no such assistance for Claims associated with "misappropriated funds" on behalf of Class 8 Creditors.

7. Thus, Claimants request payment for their administrative costs as they have had Administrative costs associated with said Bankruptcy Case. This is a matter (regarding payment of Claim No. 3352) which should be allowed to be heard by the Judge in said court to determine if the costs associated are entitled to Claimants.

8. U.S.C. § 327 Employment of professional persons:

(c) In a case under chapter 7, 12, or 11 of this title, a person is not disqualified for employment under this section solely because of such person's employment by or representation of a creditor, unless there is objection by another creditor or

the United States trustee, in which case the court shall disapprove such employment if there is an actual conflict of interest, and;

(e) The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

(f) The trustee may not employ a person that has served as an examiner in the case. *Bankruptcy Rule Reference: 2014, 5002, 6005;*

Except as provided in section 327(c), 327(e), or 1107(b) of this title, the court may deny allowance of compensation for services and reimbursement of expenses of a professional person employed under section 327 or 1103 of this title if, at any time during such professional person's employment under section 327 or 1103 of this title, such professional person is not a disinterested person, or represents or holds an interest adverse to the interest of the estate with respect to the matter on which such professional person is employed. *Bankruptcy Rule Reference: 2002, 2013, 2014*

8. § 329. Debtor's transactions with attorneys:

(a) Any attorney representing a debtor in a case under this title, or in connection with such a case, whether or not such attorney applies for compensation under this title, shall file with the court a statement of the compensation paid or agreed to be paid, if such payment or agreement was made after one year before the date of the filing of the petition, for services rendered or to be rendered in contemplation of

or; in connection with the case by such attorney, and the source of such compensation.

(b) If such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive, to—

- (1) the estate, if the property transferred—
- (2) would have been property of the estate.

9. As per the revelation of the costs of Litigation and/or other costs associated with said Bankruptcy case, it is apparently alleged that said Court has allowed money to be used in the “Trust” to pay Creditors has been utilized for the benefit of Litigants, etc., rather to provide relief which was necessary to any/or all Class 8 Claimants. There are reportedly over 500,000 Creditors in this class that lost all monies paid to Taylor, Bean and Whitaker Mortgage Corp., inclusive of transferred accounts which show no payment history inclusive of any down payments, etc. It is a matter of principle by which even the laws protect a “Trust” from paying and/or denying all Class 8 Claimants.

10. § 152. Concealment of assets; false oaths and claims;

A person (ie: Plan Trustee) who—

knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title

28, in or in relation to any case under title 11;

knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor, shall be fined under this title, imprisoned not more than 5 years, or both.

11. § 154. Adverse interest and conduct of officers

A person who, being a custodian, trustee, marshal, or other officer of the court—
knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;
knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or
knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge, shall be fined under this title and shall forfeit the person's office, which shall thereupon become vacant.

12. On November 19, 2010, Claimant Joni Cox-Tanner appeared in said Court as a hearing was scheduled due to request for In Camera Inspection and Request for all documentation pertaining to said Taylor, Bean and Whitaker Mortgage Corp. Documents. At such hearing, the Honorable Judge Funk demanded all documentation to be sent to Claimant(s) The documents requested were for purposes of validating the fraud by Vice President of TBW, Erla Carter-Shaw, who is also being questioned with her role by other parties of interest pertaining to said Court. On the 18th of November, 2010, a Limited Omnibus Objection to Motion for In Camera Inspection and to Compel Production of Documents. Paragraph 1 states the following:

“As a preliminary matter, the Debtor will provide to each of the Movants (both whom have defaulted on their mortgages) copies of their loan filed in its possession, custody, and control. The loans for both Ms. Smith and Ms. Cox-Tanner have been service

released, and the subsequent servicers may be in possession of additional documents, including the originals of the loan files.

Paragraph 4 states the following: “Additionally, an in camera inspection is not necessary or appropriate. Indeed, TBW is willing to make copies of the loan files available to the Movants”.

13. At this time, Claimant(s) request an in camera inspection of all documents provided to Claimant(s) post filing of Court Docket No. 2160, as well as in camera inspection of Court Docket No. 2939 filed in said court on the 7th of April, 2011 as Request for review of documentation by the said court pertaining to Claim No. 3352.

14. Without all documentation from inception of loan date as well as a payment history which was not provided by either Debtors or the stated transfer of servicer, it is questionable of how someone with a legal background does not question where the documentation is versus “we will just make sense of this by covering up by pointing the finger at the Creditor”.

15. A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge’s proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected. Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review

under section 158 of this title. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

16. § 159. Bankruptcy statistics:

(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the "Director").

(b) The Director shall—

- (1) compile the statistics referred to in subsection (a);
- (2) make the statistics available to the public; and
- (3) not later than July 1, 2008, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

(c) The compilation required under subsection (b) shall—

- (1) be itemized, by chapter, with respect to title 11;
- (2) be presented in the aggregate and for each district; and
- (3) include information concerning—

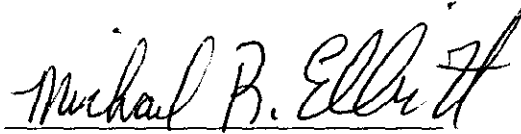
the total assets and total liabilities of the debtors described in subsection, and in each category of assets and liabilities, as reported in the schedules

prescribed pursuant to section 2075 of this title and filed by debtors.

17. Claimant(s) Charles Tanner and Joni Cox-Tanner, (Joni Cox-Tanner signing on behalf of herself and husband Charles Tanner) hereby request a hearing to be representative of Claim No. 3352 and hereby request that Debtors provide said Court with an in camera inspection of the above request(s) to provide pertinent information and the records of Taylor, Bean and Whitaker Mortgage Court pertaining to Claimant(s) payment history and all "wet" loan documentation, Respectfully. Claimants further request that all relevant information pertaining to signatures of Erla Carter-Shaw, who has been inclusive of other documents filed in said court and has been requested to be in Court, that it be revealed to The Honorable Judge Jerry Funk as to identify the many other Claimants/Creditors who have similar documents.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served United States Bankruptcy court Bryan- Court hous 300 North Hogan St Jacksonville Fl.32202



Michael Elliott
133 Elliott Lane
Tollesboro, Ky. 41189
606-798-5968



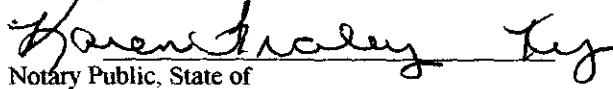
Dianna Elliott
133 Elliott Lane
Tollesboro, Ky. 41189
606-798-5968

AFFIDAVIT

STATE OF KENTUCKY §

COUNTY OF LEWIS §

This instrument was acknowledged before me on the 26 day of Oct 2012 by
_____ in the capacity stated therein.


Notary Public, State of