

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Sandy S. Smith, Pro Se
et al & Others
Creditor/Defendant

FILED
JACKSONVILLE, FLORIDA

JAN - 7 2013

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

In re:

Chapter 11

TAYLOR, BEAN & WHITAKER §	CASE NO. 3:09-BK-7047-JAF
MORTGAGE CORP:	
HOME AMERICA MORTGAGE, §	CASE NO. 3:09-BK-10023-JAF
INC.	
REO SPECIALTIES, LLC §	CASE NO. 3:09-BK-10022-JAF

Debtors and
Debtors in Possession

JOINTLY ADMINISTERED
UNDER CASE NO. 3:09-BK-07047-JAF

**MOTION IN DISAGREEMENT TO docket #6701 APPROVING THE SETTLEMENT
AGREEMENT BY AND AMONG TAYLOR, BEAN AND WHITAKER MORTGAGE
CORP. PLAN TRUST AND U.S.DEPT.OF HOUSING & FEDERAL HOUSING
ADMINSTRATION**

Comes now, Sandy S. Smith, Pro Se, Pleading in disagreement with docket number 6701

This action comes before the court due to defendants (victim) having a vested interest in this transaction and settlement agreement . In the interest of my mortgage and other mortgages that have been and are still being part of a fraudulent conveyance. As repeatedly requested in this court for documents and transfers as well as who actually owned the loans. If there was not or has not been any fraud, or crime committed against home owners, tax payers or the this court

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why has documents not been produced? Is it the purpose of this court to hide the truth for failure to provide requested documents or to allow documents to be made up for the purpose of carrying out the fraud? LENDING PROCESS SERVICES sits as chair person of the creditors committee, even when questionable actions and relationships were presented at the beginning of this bankruptcy court. Erin Collins Cullaro Florida assistant attorney general admitted to robo signing documents for foreclosure mills, and now she lives in Texas quiet wealthy. LENDING PROCESS SERVICES the latest Lorraine Brown announced by Assistant Attorney General Lanny Breuer of the Justice Department Criminal Division admitted, plead guilty to a six year scheme to prepare and file more than one million fraudulently signed and notarized mortgage related documents with property recorders' offices, throughout the United States. LENDING PROCESS SERVICES Las Vegas, Nevada, Tracy Lawrence, November 28,2011 found dead in her home on the morning of her court appearance., to testify for the state of Nevada against LPS. Let us all not forget her. Tracy admitted also to massive foreclosure fraud, producing fraudulent documents to deprive people out of their homes all across the United States.

U.S. Bankruptcy court Jacksonville, FL Taylor,Bean & Whitaker trust paid for LENDING PROCESS COUNSEL, Baker,Hostetler,, even Judge Jerry A. Funk questioned this payment out of the bankruptcy trust. Not only was this law firm paid out of the trust , but Paul S. Singerman counsel for the creditors, now representing Neil Luria Chief Restructing Office for that trust, was also defending Lending Process Services.

Ponzi-scheme, Taylor,Bean & Whitaker Lee Farkas, Desiree Brown, Delton de Armas, Catherine Kissick, Raymond Bowman, Paul Allen and Treasa Kelly their plea agreements and actual criminal charges over 400 pages that have been filed in this court previously certainly prove ponzi scheme. Neil Luria and Paul S Singerman who also admitted to fraud and the ponzi

scheme that was played out on investors, home owners, tax payers. Neil Luria has filed multiple law suites that is to be in the best interest of the trust, but now declares a settlement that is fair. How can a settlement agreement be fair when the perpetrators knew and participated in the fraud, ponzi scheme? Under 11 U.S.C. 548 (a)(B) constructive fraud provision takes away all the profits from the investors in a Ponzi scheme and stripes away (even) principal from those who should have known things were awry. The Ninth Circuit has repeatedly held that the existence of a Ponzi scheme may be established by the Ponzi operator's admissions in a plea agreement or prosecution. Further more, other courts have held that the existence of a Ponzi scheme is sufficient to establish actual intent to hinder, delay or defraud creditors for the purpose of proving fraudulent transfer. This holding was recently applied in a proceeding involving Scott Rothstein. Therefore Paul S. Singerman was under investigation in this case, as he was a share holder in the Gibraltar,. This all occurred at the same time he made a statement on "American Greed" about fraud being committed in Taylor, Bean & Whitaker. This same holding was also used in the Bernie Madoff case.

Employees of Taylor, Bean & Whitaker, Erla Carter Shaw, et al has repeatedly signed or stamped mortgaged related documents to deed recording office through out the United State, causing illegal and wrongful foreclosure, Also Erla Carter Shaw has had property signed over to her by Lee Farkas as well as others this property should be brought back in as part of the trust!

7th Circuit Court of Appeals denied a debtor a discharge due to inaccurate information on the bankruptcy petition (Stamat v. Neary, 7th Cir. Mar.24, 2011). Lee Farkas, Taylor, Bean Whitaker, Home American Mortgage, Reo Specialists, had many affiliate companies, Bently Acceptance, Citrus Land Title llc, Cbol Inc et al, shell companies, and business' that had assets that were not listed on the bankruptcy petition. Platinum Bank, Maslow Insurance, Magnolia

Street Funding et al. The list goes on and on was this intentional or deliberate to keep creditors in the dark about these companies? The fixtures and art work as well as other items were not listed any where! Was this to omitted to deceive the court? The Bankruptcy code imposes an affirmative duty on a debtor to truthfully list all assets and other information required in the petition. This must be done under federal penalty of perjury. Not only can dishonesty in connection with a bankruptcy case result in the denial of a discharge pursuant to Bankruptcy Code section 727, but it can land the guilty party in jail. The U.S. Trustee's office has embarked upon a quest to sniff out bankruptcy abuse and bankruptcy fraud through its Civil Enforcement Initiative, it appears that an increasing number of those individuals who commit bankruptcy crime are being caught. The U.S. Trustee, which is a division of the Department of Justice also now has a Criminal Enforcement Unit.

Criminal procedure aspects of bankruptcy fraud are set out in Title 18 of U.S.C. Section 152 of that title states that whoever knowingly and fraudulently conceals assets, makes false oaths, presents false claims, receives property with the intent of defeating the provisions of the Bankruptcy Code, destroys records of the debtor, or withholds documents from a trustee, shall be imprisoned for up to five years or fined up to \$5000,00. The same statute also imposes liability upon any agent or officer of any person or corporation involved in such fraud. Another part of that title, section 3057, imposes a congressional directive to the district offices of the U.S. Attorney to become more active in the prosecution of bankruptcy fraud cases. Bankruptcy fraud can involve other federal statutes as well.

Another part of the Ponzi scheme. There are no loans because money that was advanced by investors, was subject to a set of documents supporting a bond in which the home owner(victim) was not the payor and where the home owner (victim) never signed those

documents. The home owner(victim) was subjected to a set of documents that failed to disclose the real party or the real terms of the entire transaction—a required rule in the requirement of Truth in Lending Laws.

The purpose of these transactions was for the investment banks to get money from investors and get a signature from the home owner without connecting the two. The real purpose of the transaction was an investment scheme wherein the intermediaries took everything-- the money the property and the gains from the credit default swaps, insurance and the government BAILOUTS. Thus the documents offered in a foreclosure are a fictitious trail were no money ever changed hands. The home owner (victim) without consent or knowledge, was converted from a borrower to a securities issuer and the investor was converted from being a part owner in a valid REMIC pool to being the alleged buyer of the security issued by the homeowner (victim). The right to rescission and damages arises not only from TILA but from the SEC rules and regulations. Borrower is actually entering into an undisclosed investment contract, not a loan. Thus creates fraud, which leads to illegal foreclosure which comes back to Taylor, Bean & Whitaker Ponzi scheme, to defraud .

Page 6 Loan Purchasing & Servicing Agreement

On or prior to the related Closing Date (or, with respect to the Qualifying Documents, within the Required Delivery Period) and subject to Section 3.2(y) hereof, the Seller shall deliver the related Loan Documents not delivered to the Custodian (the "Servicing File") to the Servicer and the contents of each related Servicing File shall be held by the Servicer, as bailee, **for the benefit of the Purchaser, as owner, and the Collateral Agent as secured party; provided, however, that the failure of the Seller to deliver any Loan Document (other than a Qualifying Document, Mortgage Note, Mortgage or Assignment of Mortgage), which failure does not have a material and adverse impact on the value of a Mortgage Loan, shall not constitute a breach of this Purchase Agreement; provided, further, that all Qualifying Documents, Mortgage Notes, Mortgages and Assignments of Mortgages shall be delivered to the Custodian, as bailee, initially for the Purchaser and then for the Collateral Agent, as provided in the first two sentences of this Section 2.2(b).** The possession of each Servicing File by the Servicer is at the will of the Purchaser or the Collateral Agent, as applicable, for the sole purpose of servicing the related Mortgage Loan and such retention and possession by the Servicers in a custodial capacity only. Upon the sale of the Purchased Assets to the Purchaser, the ownership of each related

Qualifying Document, Mortgage Note, Mortgage, Assignment of Mortgage and the remainder of the Mortgage Loan File shall vest immediately in the Purchaser, and the ownership of all other records and documents with respect to the related Mortgage Loan prepared by or which come into the possession of the Servicer shall vest immediately in the Purchaser and shall be retained and maintained by the Servicer at the will of the Purchaser and the Collateral Agent and only in such custodial capacity. **Each Servicing file and the Servicer's books and records shall be marked appropriately to reflect clearly the sale of the related Mortgage Loan to the Purchaser** and whether such Mortgage Loan is a Series 2005-1 Mortgage Loan or a Series 2008-1 Mortgage Loan.

B. The parties hereto agree that the Mortgage Loans in which the Buyer is purchasing a Participation Interest hereunder shall either be closed and funded contemporaneously with the payment by the Buyer

of the purchase price for the Participation Interest in such Mortgage Loan or shall have been closed and funded by the Seller prior to the Buyer's payment of the purchase price for the Participation Interest in such Mortgage Loan. Payment of the purchase price for a Mortgage Loan may be made before delivery to the Buyer of all of the Required Documents (as defined in Section 5 hereof) related to such Mortgage Loan (a "**Wet Mortgage Loan**") or after the Required Documents are delivered to the Buyer or its designee (a "**Dry Mortgage Loan**"). A Wet Mortgage Loan shall become a Dry Mortgage Loan immediately upon delivery of all of the Required Documents to the Buyer or its designee. The Buyer may purchase a Participation Interest in a Dry Mortgage Loan if the Required Documents are delivered to the Buyer prior to such purchase. The Seller irrevocably agrees that (i) payment of the purchase price for the Participation Interest in a Wet Mortgage Loan shall be made directly to an approved payee and closing agent ("**Approved Payee**" and "**Closing Agent**") designated by the Seller and acceptable to the Buyer, which Closing Agent shall also be responsible for closing and funding such Mortgage Loan, and (ii) payment of the purchase price for the Participation Interest in a Dry Mortgage Loan shall be made to the Seller or, if such Dry Mortgage Loan is purchased by the Seller from a third party correspondent who originated such Dry Mortgage Loan, then to the warehouse lender of such third party correspondent, by remitting or transferring such funds to an account designated in writing by the Seller or by such warehouse lender in its bailment letter, as the case may be. In order for a Person to be designated an Approved Payee and Closing Agent with respect to purchase price proceeds to be used to fund any Wet Mortgage Loan, the following conditions shall apply:

These statements are taken out of the agreements signed by TBW and others, and it appears that no one can even comply to their own contracts, as written laws and rules.

18 U.S.C. 152 (3) "The policy behind false oath/false declaration portion of sect. 152, is that the Debtor has a duty to produce honest, complete financial records." These records have not been produced as of to date . Neil Luria CRO has filed law suite against Deloitte & Touche for fraud and and producing false records in accounting. The FDIC has filed suite, Bank of America has filed suites all involving fraud and deception. Now a collusion has been agreed upon behind closed doors with no regards to home owners, victims, tax payers or to this court.

1. As per 1641(f)(2) of the Truth in Lending Act, which requires a Servicer to identify the holder of the debt.
2. A copy of any mortgage Pooling and Servicing Agreement and all Disclosure statements provided to any investors with respect to any mortgage-backed security trust or other special purpose vehicle related to the said Agreement and any and all Amendments and Supplements thereto.
3. If a copy of the Pooling and Servicing Agreement has been filed with the SEC, provide a copy of SEC Form 8K and the Prospectus Supplement, SEC Form 424b5.
4. Whoever knowingly executes, or attempts to execute, a scheme or artifice- to defraud any person in connection with any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o (d)); or
5. to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any commodity for future delivery, or any option on a commodity for future delivery, or any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934.

A Claimant has the right to have final orders in a non core matter entered only after a *de novo* review by a District Judge: As once again I ask for a de nova review upon this

court as it has the appearance of fraud up on the court, and a lot of unanswered legal questions pertaining to property, and the ponzi scheme to deprive home owners (victims) of that property, with out due process of law.

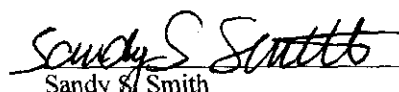
Bankruptcy Judges do not exercise "the Judicial Power of the United States" but only perform duties delegated to them by The United States Federal Judge, including US Circuit Judge and the US Supreme Court Justices. Claimant's right to trial by jury in any proceeding so triable in this case. Claimant's right to have a District Court withdraw the reference in any matter subject to mandatory or discretionary withdrawal or any other rights, claims, actions, defenses, set offs or recoupments to which claimant is or may be entitled under agreements in law, in equity, or otherwise all of which claims or actions defenses set offs and recoupments claimant expressly reserves.

I Sandy Smith et al, and others similarly situated circumstances, have provided this court with proven evidence of fraud, and patterns of fraudulent conduct and questionable relationships within this court as it relates to this on going crime scene. Therefore why is Taylor, Bean and Whitaker allowed to continue in this bankruptcy ? Ocala Funding allowed to file bank ruptcy? With all these factor having been presented to this court and others I object to this bankruptcy and to the Ocala Bankruptcy proceeding.(Please see attached documents)

It is believed and alleged that there have been many unforeseen variables which have been overlooked by said Bankruptcy Judges, as this is an on going crime scene,Claimant, creditor (victim) reserves the right to appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed United States Bankruptcy court 300 North Hogan St. Jacksonville, FL 32202. mail to: Elena Escamilla, Trial Attorney, Office of the United States Trustee. U.S. Department of Justice Florida Bar No: 898414, 135 W. Central Blvd., Suite 620 Orlando FL. 32801 and served to via mail to: Edward J. Peterson, III (FBN 014612) **STRICHTER, RIEDEL, BLAIN & PROSSER, P.A., (Attorneys for the Debtor)** 110 East Madison Street, Suite 200 Tampa, FL 33602, and to Jeffrey W. Kelley (GABN 412296) **TROUTMAN AND SANDERS LLP, (Special Counsel to Defendants)** 600 Peachtree Street, Suite 5200, Atlanta, Georgia 30308 Berger-Singerman 1450 Brickell Ave Suite 1900 Miami, FL 33131-3453 US Attorney General Eric Holder US441 4th St. NW Washington D.C. 20001 Solicitor General Donald B. Verrilli Jr. 950 Pennsylvania Ave. NW Washington D.C. 20530 Criminal Enforcement Unit 29 Massachusetts Ave. NW Suite 8000 Washington D.C. 20530

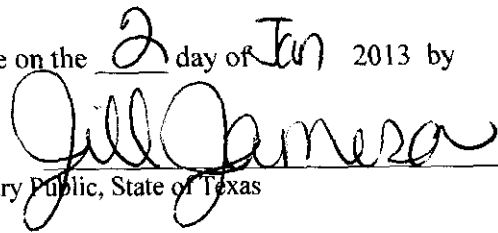

Sandy S. Smith
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Stephenville, TX 76401
254-977-4731

AFFIDAVIT

STATE OF TEXAS §

COUNTY OF ERATH §

This instrument was acknowledged before me on the 2 day of Jan 2013 by Sandy S. Smith in the capacity stated therein.


Notary Public, State of Texas

