

United States Bankruptcy Court  
Middle District of Florida

In re:  
Taylor, Bean & Whitaker Mortgage Corp.  
Metlife, Inc.  
Debtors

Case No. 09-07047-JAF  
Chapter 11

**CERTIFICATE OF NOTICE**

District/off: 113A-3

User: pathy  
Form ID: pdfdoc

Page 1 of 2  
Total Noticed: 1

Date Rcvd: Mar 22, 2013

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 24, 2013.

cr +Charles & Joni Cox- Tanner, 2403 Terrace Ave., Midland, TX 79705-7322

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 24, 2013

Signature:



District/off: 113A-3

User: pathy  
Form ID: pdfdoc

Page 2 of 2  
Total Noticed: 1

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The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 22, 2013 at the address(es) listed below:  
NONE.

TOTAL: 0

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

In re: Chapter 11 Case

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.,  
REO SPECIALISTS, LLC, and  
HOME AMERICA MORTGAGE, INC.,  
Debtors.

Case No. 3:09-bk-07047-JAF  
Case No. 3:09-bk-10022-JAF  
Case No. 3:09-bk-10023-JAF

Jointly Administered Under  
Case No. 3:09-bk-07047-JAF

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In re:

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.,  
Applicable Debtor.

Case No. 3:09-bk-07047-JAF

**ORDER GRANTING PLAN TRUSTEE'S MOTION TO STRIKE CLAIM NO. 3513  
FILED BY CHARLES TANNER AND JONI COX-TANNER AS (A) UNTIMELY  
FILED AND (B) FILED IN VIOLATION OF THE PLAN INJUNCTION**

THIS MATTER came before the Court at a hearing on March 15, 2013 at 10 a.m. on the *Motion to Strike Claim No. 3513 Filed by Charles Tanner and Joni Cox-Tanner as (A) Untimely Filed and (B) Filed in Violation of the Plan Injunction* [D.E. 6853] (the "Motion to Strike") dated January 17, 2013 and filed by Neil F. Luria as Plan Trustee ("Plan Trustee") for the Taylor, Bean & Whitaker Plan Trust<sup>1</sup> (the "Plan Trust") on behalf of the Debtor, Taylor, Bean & Whitaker Mortgage Corp. ("TBW") and the *Notice of Withdrawal of Claim No. 3513 (As Filed Incorrectly) by Court Clerk* [D.E. 7032] filed by Charles Tanner and Joni Cox-Tanner. The Court finds that:

<sup>1</sup> 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* (the "Plan") [D.E. 3240], August 10, 2011, the Debtors have been replaced for the most part by the Plan Trust.

1. The deadline to file a proof of claim against the TBW estate, unless otherwise extended for subsequently identified creditors, was June 15, 2010 (the "Claims Bar Date").

2. Charles Tanner and Joni Cox-Tanner (the "Claimants") filed Claim No. 3500 in the amount of \$1,000,000 on November 28, 2011 and Claim No. 3352 in the amount of \$507,975.82 on March 28, 2011. Claim No. 3352 is based on purported servicing fraud and wire fraud.

3. The Plan Trustee filed an objection (the "Objection") [D.E. 5877] to Claim Nos. 3352 and 3500 on a number of grounds, including, but not limited, to the fact that the Claim No. 3352 should be disallowed because it was amended by Claim No. 3500, the claims relate to an adversary proceeding commenced by the Claimants and other *pro se* plaintiffs that the Court dismissed, and the two claims are unsupported and baseless. Further, the Plan Trustee asserted that Claim Nos. 3352 and 3500 were untimely filed, as the deadline to file proofs of claim was June 15, 2010.

4. The Claimants subsequently withdrew Claim No. 3500 [D.E. 6118] and filed a response [D.E. 6942] with respect to Claim No. 3352. However, on September 6, 2012, the Claimants filed Claim No. 3513 (the "Claim") in the amount of \$15,464,526.12. The Claimants did not provide any additional supporting data other than general allegations as to TBW's acts of fraud allegedly damaging each member of the Claimants' family in an amount equal to \$5 million per person. Additionally, the Claimants requested compensation in connection with the Claimants' purported services.

5. The Claim was filed over a year after the filing of Claim No. 3352 and over two years after the expiration of the Claims Bar Date. The Claim also represents an increase in approximately \$15 million from the amounts claimed in Claim No. 3352. Furthermore, the Claim is based on entirely new legal theories than those asserted as a basis for Claim No. 3352.

6. The Court finds that as a result of the increase itself, in addition to the fact that the Claimants rely on completely new theories as a basis for the Claim, <sup>the claim</sup> ~~that it~~ does not actually amend Claim No. 3352 (or 3500 for that matter), but is an entirely new claim. See *In re Marineland Ocean Resorts, Inc.*, 242 B.R. 748, 753-54 (Bankr. M.D. Fla. 1999) (“[T]o be within the scope of a permissible amendment, the amended claim should not only be of the same nature as the original, but also reasonably within the amount to which the original claim provided notice....[h]owever, if the initial proof of claim does not ‘give fair notice of the conduct, transaction or occurrence that forms the basis of the claim asserted in the amendment’, then the amendment asserts a new claim and will not be allowed.”).

7. Have found that the Claim is an entirely new and separate claim from Claim No. 3352 or 3500, rather than an amendment to Claim No. 3352 or 3500, the Court also finds that the Claim is untimely because the Claim was filed without justification approximately two years after the Claims Bar Date.

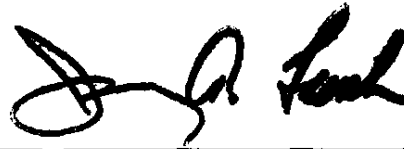
The Court, having considered the Motion to Strike, the arguments made by the Claimants and counsel for the Plan Trustee, and being otherwise fully advised in the premises, thereupon

**ORDERS** as follows:

1. The Motion to Strike is GRANTED.
2. Claim No. 3513 filed by Charles Tanner and Joni Cox-Tanner in the amount of \$15,464,526.12 is stricken.

3. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

**DATED** this 19 day of March 2013, in Jacksonville, Florida.

A handwritten signature in black ink, appearing to read "Jerry A. Funk". The signature is written in a cursive style with a large initial "J".

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Jerry A. Funk  
United States Bankruptcy Judge