

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

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.

**ORDER SUSTAINING OBJECTION TO CLAIM
NUMBER 3499 FILED BY DARLENE AND JEFF GORRELL**

THIS MATTER came before the Court on June 26, 2013 at 1:30 p.m. upon (a) the Objection (the "Objection") [D.E. 5885] filed by Neil F. Luria, Plan Trustee for the Taylor, Bean & Whitaker Plan Trust, to Claim No. 3499 filed by Jeff and Darlene Gorrell (the "Gorrells") and (b) the Response [D.E. 6198] filed in opposition thereto by the Gorrells. The Court, having reviewed Claim No. 3499, the Objection and the Response, having considered the exhibits offered by the Plan Trustee and the arguments of counsel, and noting the Gorrells' failure to appear at the June 26th hearing, does thereupon find:

1. On August 10, 2012, the Plan Trustee filed the Objection to Claim No. 3499 based on a number of grounds. The Gorrells asserted a claim for \$1,000,000 purportedly relating to a "settlement agreement (filed)." However, the Gorrells did not attach a single supporting document to Claim No. 3499, including but not limited to the settlement agreement.

2. To the extent the Gorrells refer to a settlement proposal unilaterally submitted in adversary proceeding 3:11-ap-326-JAF (the “Purported Class Action”) commenced by the Gorrells and other *pro se* plaintiffs, the Plan Trustee also objected to Claim No. 3499 on the basis that no offer to settle the Purported Class Actions submitted by the Claimants was ever accepted by TBW and no settlement agreement was ever reached between the Gorrells and TBW with respect to the Purported Class Action. Finally, the Plan Trustee objected on the basis that Claim No. 3499 was filed after the June 15, 2010 deadline to file proofs of claim against the TBW estate.

3. The Gorrells filed the Response and described the procedural history for certain pleadings filed by the Gorrells and a number of other *pro se* claimants. In the Response, the Gorrells raised a number of questions wholly unrelated to Claim No. 3499, including but not limited to questions about the compensation of counsel for parties in the TBW bankruptcy case, questions about the effect of confirmation of the Plan, and other meritless claims. The Response does not, however, address the existence of any settlement agreement between TBW and the Gorrells. Finally, the Response also fails to address the untimely nature of Claim No. 3499.

4. The Court held a scheduling conference on November 16, 2012. On November 20, 2012, the Court noticed the Objection and Response for a final evidentiary hearing on June 26, 2013 [Notice, D.E. 6593].

5. The Gorrells received notice of the June 26, 2013 final evidentiary hearing [Certificate of Mailing, D.E. 6636] more than six months in advance, but waited until less than a week before the hearing to request a continuance [Motion, D.E. 7400]. The Plan Trustee filed a response in opposition [D.E. 7396] and the Court entered an order denying the Motion on June 25, 2013 [Order, D.E. 7407].

6. The Gorrells did not appear at the June 26th hearing. Accordingly, the Court finds that there is no basis in fact or law to allow a claim based on an offer to settle the Purported Class Action that was never accepted by TBW. The Gorrells are not entitled to an allowed claim for a settlement agreement that simply does not exist.

IT IS THEREFORE ORDERED AND ADJUDGED as follows:

1. The Objection, as it relates to Claim No. 3499 filed by Jeff and Darlene Gorrell, is **SUSTAINED**.
2. Claim No. 3499 is **DISALLOWED**.
3. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

DATED this 2 day of JULY, 2013, in Jacksonville, Florida.



Jerry A. Funk
United States Bankruptcy Judge

Copies to:

Alisa Paige Mason, Esq.

(Attorney Mason is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.)