

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

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In re:

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.,

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

Applicable Debtor.

**ORDER SUSTAINING PLAN TRUSTEE'S OBJECTION TO  
SCHEDULED CLAIM NO. S5875 OF KIMBERLY PORTER**

THIS CASE is before the Court for consideration upon the *Plan Trustee's Objection to Scheduled Claim Number S5875 of Kimberly Porter* [ECF No. 7840] (the "Objection") dated December 16, 2013, filed by Neil F. Luria as Plan Trustee (the "Plan Trustee") for the Taylor, Bean & Whitaker Plan Trust<sup>1</sup> (the "Plan Trust") pursuant to Local Rules 2002-4 and 3007-1. Pursuant to sections 550 and 547 and/or 548 of the Bankruptcy Code, the Plan Trustee brought avoidance actions against a number of parties, including those who held claims against the Debtors' estates, including scheduled claims, filed claims, and scheduled or filed claims subsequently transferred to a third party. The Plan Trustee objected to the Claim (as defined

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<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* [ECF No. 3240], August 10, 2011, the Debtors have been replaced for the most part by the Taylor, Bean & Whitaker Plan Trust.

below) set forth in the Objection on a number of grounds, including but not limited to reclassification, inconsistency with the Debtor's books and records, pending avoidance action, and overstated by some amount. The Plan Trustee represents that:

1. The Plan Trustee objected to Scheduled Claim No. S5875 (the "Claim") and asserted that the Claim must be disallowed pursuant to 11 U.S.C. § 502(d) because Kimberly Porter (the "Defendant" or "Claimant") received avoidable transfers under 11 U.S.C. §§ 547 and/or 548 of the Bankruptcy Code and failed to disgorge such transfers.

2. On August 23, 2011, the Plan Trustee sued the Defendant (Adv. Pro. 3:11-ap-00659-JAF) (the "Adversary").

3. On November 19, 2013, the Court entered a default judgment against the Defendant [ECF No. 21] in the Adversary.

4. The Objection was served upon all interested parties on December 16, 2013 [Certificate of Mailing, ECF No. 7849].

5. The Objection provided the right and opportunity to file a response to the Objection no later than 30 days from December 17, 2013. Accordingly, the deadline for responses to the Objection was January 16, 2014.

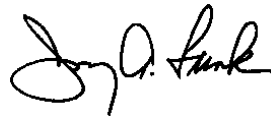
6. As of January 21, 2014, a review of the electronic entries docketed in this case confirms that no responses to the Objection have been filed with the Court.

The Court, having considered the Objection and the status of the Adversary, noting that no responses were entered on the docket from the Claimant in connection with the Objection, and being otherwise fully advised in the premises, thereupon

**ORDERS** as follows:

1. The Objection is hereby SUSTAINED.
2. Scheduled Claim No. S5875 in the amount of \$2,000.00 is DISALLOWED in its entirety.
3. The Court retains jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

DONE and ORDERED in Jacksonville, Florida, this 29th day of January, 2014



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Jerry A. Funk  
United States Bankruptcy Judge